OVERCOMING INTRACTABILITY:
IDENTITY AND INTERGROUP RECONCILIATION IN
TRANSITIONAL JUSTICE

by

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Abstract

Drawing upon an interdisciplinary synthesis of literature from political science, social psychology, and peace and conflict studies, this dissertation seeks to construct a theoretical framework capable of tracing the complex linkages between identity, transitional justice, and intergroup reconciliation in the post-conflict environments of deeply divided societies. An innovative ‘social learning’ model of this complex interrelationship is introduced, one which suggests that transitional justice strategies will be most successful in promoting intergroup reconciliation to the degree that they are able to catalyze crucial processes of instrumental, socioemotional, and distributive learning amongst former antagonists by promoting contact, dialogue, truth, justice, and the amelioration of structural and material inequalities – all factors identified in existing scholarship as necessary, if not sufficient, conditions for post-conflict reconciliation in divided societies.

Employing a methodology of theoretically oriented systematic process analysis, this social learning model is tested through a critical examination of the very different transitional justice approaches adopted in South Africa and Northern Ireland. In South Africa, transitional justice centered on the highly regarded Truth and Reconciliation Commission, designed to address apartheid-era abuses committed between black and white South Africans. In Northern Ireland, a much more ‘decentralized’ approach has combined discrete government programs with an array of ‘bottom-up’ civil society initiatives to deal with the legacy of violence between Nationalist and Unionist communities committed during the ‘Troubles.’

Through extensive desk research and four months of qualitative field research conducted in 2008 (which included 85 in-depth expert interviews), suggestive evidence is found to support the underlying supposition that, at least in deeply divided societies, the causal relationship between transitional justice and reconciliation remains heavily mediated by the politics of identity. More specifically, in both Northern Ireland and South Africa, the transitional justice strategies employed appear to have been successful in contributing to post-conflict reconciliation to the extent to which they have been able to successfully promote a combination of the instrumental, socioemotional, and distributive forms of learning identified in the theoretical model. This study concludes by considering the policy implications of this analysis for ‘best practices’ in the design of future transitional justice strategies in deeply divided societies.
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Chapter I

Introduction:
Identity, Reconciliation, and Transitional Justice

The field of transitional justice has emerged in recent years as a distinct area of scholarship concerned with the study of the processes and mechanisms used by local communities, states, or international actors to provide justice and accountability in the wake of gross violations of human rights. While the modern roots of transitional justice can be traced back to the Nuremberg Trials following the Second World War, the growth in scholarly interest in these mechanisms only began in earnest following an exponential increase in their use in the early 1990s.¹ No longer subject to the exigencies of Cold War politics, a number of states began ‘transitioning’ away from histories of government repression and internal conflict towards new societies committed – at least in theory – to democracy and sustainable peace. A key component of these transitions for many states involved finding new and innovative ways to deal with issues of accountability for the legacies of violence, gross human rights abuses, and acts of ‘mass atrocity’ carried out in the past – legacies which, in many cases, involved the commission of

‘extraordinary crimes’ such as mass murder, forced ‘disappearances,’ systematic rape, acts of genocide, and other ‘crimes against humanity.’

In part, the drive to deal with these crimes was a function of an emerging ‘norm of accountability’ within the international community following the Second World War, one linked to the formation of the United Nations and the creation of an international human rights regime based on the concept of universal human rights. In essence, this new norm of accountability placed both a moral and a legal duty on states, obligations increasingly codified over time in an emerging body of international human rights law, to take action to end impunity and provide justice for those individuals who committed gross human rights abuses within their borders. Where states were unable or otherwise unwilling to take up this task, the international community itself increasingly assumed this responsibility, as evidenced both by the United Nations’ founding of the International Criminal Tribunals for the Former Yugoslavia and Rwanda during the 1990s and the more recent establishment of the International Criminal Court in 2002.

However, the increase in the use of transitional justice strategies has also been tied to a growing consensus among both scholars and practitioners in the field that such strategies have a crucial part to play in supporting processes of reconciliation in transitional societies. More specifically, it has been increasingly recognized that these justice mechanisms are key to achieving sustainable peace in post-conflict societies, as they can help to prevent past abuses from serving as the basis for future returns to violence and can aid processes of societal reconciliation by helping those divided by past violence to put aside their antagonisms and begin

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to build new, more conciliatory relationships with one another. Nonetheless, while there is virtual consensus that a relationship exists between transitional justice, reconciliation, and sustainable peace, to date the actual processes underlying this relationship have been left surprisingly unspecified and undertheorized in the literature. Indeed, reflecting on the current state of the field, Audrey Chapman notes that “systematic research on [societal] reconciliation is just beginning…we do not yet have clear procedures for how to achieve reconciliation, or even for measuring and evaluating the success of efforts to that end.” In particular, insufficient consideration has been given to specifying and studying empirically the linkages between these institutional mechanisms and the social and psychological changes that are ultimately necessary to facilitate processes of reconciliation in post-conflict societies. As a direct result, there still exists no clear understanding of what ‘best practices’ might be drawn from existing strategies and adapted to guide policy in future societies seeking to use transitional justice mechanisms to facilitate reconciliation. This study begins to address these critical gaps.

I contend that these gaps can be attributed to two interrelated factors. First, I argue that a shortcoming of much of the existing transitional justice literature is that it tends to overlook the collectivized nature of the mass violence, repression, and gross human rights violations to which transitional mechanisms respond. As legal scholar Mark Drumbl has noted, the extraordinary crimes for which transitional justice mechanisms provide accountability are extraordinary not just for the scope of their violence, but for the fact that they are inherently tied to group membership and committed on the basis of collective religious, ethnic, or national identity. In fact, such violations are almost exclusively carried out against “large numbers of individuals based on their actual or perceived membership in a particular group that has become selected as a

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target on discriminatory grounds.” However, when most of the studies in the field consider the appropriate design of justice strategies for addressing these crimes, and, more specifically, the ways in which these institutions might contribute to reconciliation in deeply divided societies, attention to the ‘communality’ of mass violence seems to wane. While the literature focuses on how large-scale violence might demand different structural designs and strategies than those normally employed for the ‘rule-breaking’ behavior of ‘ordinary’ domestic crime, rarely does it reflect on the role that these justice mechanisms must play in directly challenging collective animosities to move groups divided by past violence toward reconciliation and sustainable peace. Accordingly, I contend that what is required by way of uncovering the relationship between transitional justice and reconciliation is a reconsideration of institutional design that begins by engaging the fundamental issues of collective identity at the root of gross human rights violations, and that considers how the strategies employed by transitional institutions might contribute to overcoming antagonisms linked to group identifications that might otherwise threaten to incite future returns to violence.

Second, and in direct relation, I suggest that the inherently comparative and institutional focus of much of the existing transitional justice literature may have itself inadvertently prevented fruitful engagements with other disciplines that have closely investigated issues of

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5 Mark A. Drumbl, *Atrocity, Punishment, and International Law* (Cambridge: Cambridge University Press, 2007). Here one can think of the mass killings carried out against members of the Jewish faith during the Holocaust, the violence those defined ethnically as Tutsi during the 1994 Rwandan genocide, the ‘ethnic cleansings’ of national groups throughout the Former Yugoslavia during the Balkan conflicts of the early 1990s, or the entrenched system of racial discrimination that permeated the apartheid era in South Africa. These were all crimes targeted against individuals not as individuals per se, but based solely on their inclusions as members of a broader ‘group identity.’

identity and reconciliation. In particular, there exists to date very limited dialogue between transitional justice scholars (the majority of whom come from traditions of legal scholarship and human rights advocacy, as well as from practitioner backgrounds) and the growing body of ‘conflict transformation’ scholarship developed by academics working in the related disciplines of political science, peace and conflict studies, and social psychology that engages directly with the complex dynamics of how post-conflict societies are able to move towards more reconciled relations. In particular, recent conflict transformation work has highlighted the central role that group or ‘collective’ identities play in the commission and perpetuation of ethnonational violence within the state, and has suggested the need to transform these identities and their antagonistic relationships in pursuit of intergroup reconciliation and sustainable peace. However, to date no attempt has yet been made to synthesize the structural and institutional insights of transitional justice and the social and psychological theories of identity and intergroup reconciliation recently developed in the conflict transformation literature. This study contends that such theoretical cross-fertilization and interdisciplinary analysis will ultimately prove necessary to tracing the causal path between transitional justice and reconciliation in post-conflict societies.

A SOCIAL LEARNING MODEL OF TRANSITIONAL JUSTICE

By bringing these two bodies of literature into dialogue with one another, this study aims to contribute to the burgeoning field of transitional justice by developing a new and innovative


theoretical framework that seeks to open the ‘black box’ surrounding existing understandings of the causal relationship between transitional justice and reconciliation in societies that have been deeply divided by a history of violence between collective identity groups. In so doing, it will also help to provide a much-needed ‘baseline’ by which the relative utility of different justice strategies might be assessed. In particular, following on the work of conflict transformation scholars, the underlying contention of this theoretical model is that the crucial connections between transitional justice and reconciliation can be uncovered by analyzing how transitional mechanisms interact with the ‘politics of identity’ in post-conflict societies; namely, how the processes and mechanisms employed by these strategies can work to impede or impel the transformation of the antagonistic identifications and relationships between former enemies ultimately required for intergroup reconciliation and sustainable peace.\(^9\)

More specifically, through this model it is hypothesized that the causal path connecting transitional justice and reconciliation is dependent on the ability of these strategies to serve as catalysts for ‘social learning’ in transitional societies. Social learning is defined here as the set of social and psychological processes by which former enemies come to reassess the hostile perceptions and negative beliefs they once held about one another and to create a more positive system of relationships governing their interactions.\(^10\) These processes, I argue, serve as the crucial ‘lynch-pins’ in the causal path linking transitional justice and intergroup reconciliation, offering the means for former antagonists to be brought together to condemn past violence and to challenge – and potentially transform – the entrenched mistrust, hostility, and prejudice that might otherwise threaten to incite future returns to violence. Building on its synthesis of the


\(^10\) See also Bar-Siman-Tov, "Dialectics between Stable Peace and Reconciliation."
conflict transformation and transitional justice literatures, this model focuses on a set of key mechanisms of social learning that are widely identified as being necessary, if perhaps not sufficient, conditions for fostering intergroup reconciliation in post-conflict environments. It is these mechanisms of social learning that are therefore proposed as the central causal processes mediating the link between transitional justice and reconciliation – essentially, the contents of the ‘black box.’

The social learning framework was derived through a substantial period of engagement with existing scholarship from conflict transformation and transitional justice and represents a distillation of the main points of consensus consistently identified in these literatures as the crucial factors necessary to promoting intergroup reconciliation in deeply divided societies transitioning from legacies of past conflict.11 While this social learning model is taken up in much greater detail in Chapter II, the key causal mechanisms it proposes essentially fall into three broad categories.12 The first, ‘instrumental learning,’ refers to interventions that focus on rebuilding relationships and mindsets between formerly divided groups in the present. The foremost of these instrumental learning mechanisms is the promotion of new forms of positive contact between former antagonists. In large part, this argument draws on insights from the long-standing ‘contact hypothesis’ in social psychology that suggests how renewed interaction can facilitate reconciliation by helping to rebuild trust, reduce prejudice, and challenge misperceptions about former enemies. I therefore hold that providing opportunities for sustained

11 While these claims will be discussed in much greater detail as this study unfolds, see Richard D. Ashmore, Lee Jussim, and David Wilder, eds., Social Identity, Intergroup Conflict, and Conflict Reduction (Oxford: Oxford University Press, 2001); Bar-Siman-Tov, ed. From Conflict Resolution to Reconciliation; Daniel Bar-Tal, "From Intractable Conflict through Conflict Resolution to Reconciliation: Psychological Analysis," Political Psychology 21, no. 1 (2000); Miles Hewstone and Rupert Brown, eds., Contact and Conflict in Intergroup Encounters (Oxford: Oxford University Press, 1986); John Paul Lederach, Building Peace: Sustainable Reconciliation in Divided Societies (Washington: United States Institute of Peace Press, 1997).

12 As discussed in Chapter II, the labels for these three ‘types’ of social learning are adapted from Arie Nadler and Nurit Shnabel, "Instrumental and Socioemotional Paths to Intergroup Reconciliation," in The Social Psychology of Intergroup Reconciliation, ed. Arie Nadler, Thomas E. Malloy, and Jeffrey D. Fisher (Oxford: Oxford University Press, 2008). See also Aiken, "Learning to Live Together."
positive contact is the first step in moving divided groups in post-conflict societies away from polarized ‘Us versus Them’ identities towards a more inclusive ‘We’ in which more cooperative relationships can become the norm. The second of these mechanisms is often directly tied to contact, and involves interventions to renew meaningful dialogue and communication across group boundaries. Nearly all conflict transformation scholars agree that dialogue is vital for breaking down negative beliefs among former enemies and for developing a more inclusive sense of shared identification.

The next broad category of social learning processes falls under what I call ‘socioemotional learning’ – efforts centered on reducing grievances, anger, and negative beliefs between groups tied to past violence, including interventions to provide both ‘justice’ and ‘truth.’ These interventions must aim to reduce the sense of injustice caused by past abuses by acknowledging the worth of victims and the wrongness of the harms done to them, and by in some way also taking action to prevent impunity by holding perpetrators accountable for their actions. In addition to justice, there is a growing consensus that social learning also requires efforts to establish a mutually acceptable – or at least mutually tolerable – ‘truth’ about what actually transpired during past violence in order to counter any myths or biased memories that may have developed between former antagonists. This is a key step in breaking down the kinds of polarized identifications and beliefs about the past and about the ‘Other’ that might otherwise sustain societal divisions and provide a ready basis for future violence.

Finally, the third broad category is ‘distributive learning,’ which involves interventions designed to ameliorate existing structural and material inequalities that may continue to exist between divided groups in post-conflict societies. Distributive learning is tied to the recognition that the social and psychological aspects of social learning must also be matched by concrete changes in the daily lives and lived experiences of former antagonists. These kinds of
interventions might include provisions for reparations or compensation for those who experienced severe disadvantage in the past, or broader recommendations and reforms designed to work towards reducing inequality. Left unaddressed, continued social, economic, or political inequalities in divided societies have been shown to preclude opportunities for meaningful contact and communication, to serve as a source of continued feelings of victimization and injustice, and to prevent against the development of social learning and intergroup reconciliation.

To sum, the theoretical framework developed in this study proposes that those transitional justice strategies most successful in promoting intergroup reconciliation and sustainable peace in divided post-conflict societies will be those that actively serve to catalyze instrumental, socioemotional, and distributive processes of social learning through interventions designed to promote the key mechanisms of contact, dialogue, ‘truth,’ ‘justice,’ and the amelioration of material inequalities. Importantly, this model also proposes that these three ‘types’ of social learning processes are deeply interrelated and are mutually dependent upon and mutually constitutive of one another. Put otherwise, this study hypothesizes that the interventions designed to advance these three crucial aspects of social learning are the necessary causal processes by which transitional justice is able to contribute positively to reconciliation, and therefore that all three of these different ‘types’ of interventions must ultimately be facilitated concurrently either within or alongside transitional justice strategies to successfully advance processes of intergroup reconciliation in divided societies.

**THE STRUCTURE OF THE STUDY: RESEARCH DESIGN AND METHODOLOGY**

While this contribution to theory development remains important, the principal aim of this study is to empirically test the utility of the social learning framework as a theoretical tool capable of shedding new light on the causal linkages between transitional justice and intergroup
reconciliation in deeply divided societies. Accordingly, the majority of this study is given over to testing the social learning model through a qualitative assessment of the case studies of Northern Ireland and South Africa, one that combines elements of both within-case and cross-case analysis. This particular form of theory-oriented small-n analysis is appropriate to this investigation for a number of reasons. First, it has been increasingly recognized that conventional quantitative or statistical methods can prove unwieldy in attempting to trace the complicated causal structures at work in intricate processes such as societal reconciliation where direct claims about correlation are easily confounded by interaction effects and elements of path dependence. The study of the relationship between transitional justice and societal reconciliation is likely to involve both convergent and interacting causal variables that do not exist independently of one another, and it therefore may remain better suited to a more in-depth mode of analysis. Secondly, as there currently exists little agreement as to the actual causal linkages connecting transitional justice to reconciliation, limiting the scope of analysis to a smaller number of cases allows for a more intense and in-depth examination of the causal processes at work and may offer greater opportunity for causal inferences to be drawn. As George and Bennett note, the combination of within-case and cross-case analysis allows the researcher both the chance to explore cases in the kind of depth required for modeling and

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13 Indeed, there is a growing consensus among comparative scholars that the strongest means available for drawing inferences from a small-n study may lay within a combination of within-case analysis and cross-case comparison. See Alexander L. George and Andrew Bennett, Case Studies and Theory Development in the Social Sciences (Cambridge: MIT Press, 2004), 18. More recently, this has been advocated as a particularly useful tool for the empirical study of the societal impact of transitional justice institutions. See David Backer, "Cross-National Comparative Analysis," in Assessing the Impact of Transitional Justice: Challenges for Empirical Research, ed. Hugo van der Merwe, Victoria Baxter, and Audrey R. Chapman (Washington: United States Institute of Peace Press, 2009).


15 For an excellent summary of the various conceptions of the relationship posited to exist between transitional justice and reconciliation and suggestions on appropriate research methodologies to study this link in transitional justice, see Chapman, "Approaches to Studying Reconciliation."
assessing complex causal relations, and the opportunity for a contextualized comparison through which contingent generalizations can be drawn in a preliminary way from the theory being tested.  

Moreover, as this study is primarily interested in testing whether the social learning model helps to explain the causal mechanisms linking transitional justice and intergroup reconciliation in divided societies, a research methodology of process-tracing is employed. This is the most relevant methodology for this study, as instead of simply establishing a simple correlation between two variables, process-tracing “attempts to identify the intervening causal process – the causal chain and causal mechanisms – between an independent variable (or variables) and the outcome of the dependent variable.” As George and Bennett note, this methodology is therefore an indispensable tool for inquiry when the goal is theory development and testing as it affords the depth of analysis necessary for the researcher to connect a wide range of observations in specific causal paths in order to more fully explain the outcome under question. In particular, this study utilizes a distinct form of the broader process-tracing method known as ‘theoretically-oriented systematic process analysis’ that is recognized as being particularly well-suited to assessing and testing complex causal theories through small-n case study designs.  

As Peter Hall outlines, there are several discrete steps required for the successful use of theory-oriented systematic process analysis, including theory formation, deriving predications, making observations and, ultimately, drawing conclusions. These steps form the basic underlying structure of the study, and are addressed in greater detail in the following sections.

16 George and Bennett, *Case Studies and Theory Development*, 19, 32.

17 Ibid., 206.

18 Ibid., 207.

19 See Hall, "Systematic Process Analysis."
Chapter II: Building Theory and Deriving Predictions

Theory-oriented systematic process analysis begins by “formulating a set of theories that identify the principal causal variables said to conduce to a specific type of outcome to be explained as well as an accompanying account...about how those and other variables interact in the causal chain that leads to the outcome.”\(^{20}\) This initial stage of theory development is taken up in Chapter II, in which the ‘social learning’ model is introduced. As discussed, this model proposes that instrumental, socioemotional, and distributive social learning processes are the primary causal pathways through which transitional justice strategies are linked to intergroup reconciliation in the post-conflict environments of deeply divided societies. More specifically, it is the relative ability of transitional justice strategies to foster each of these types of social learning by way of the mechanisms of contact, dialogue, truth, justice, and the amelioration of structural and material inequalities that the model identifies as the necessary intervening variables contributing to the dependent variable of intergroup reconciliation. Importantly, the model presented in Chapter II also proposes that these three processes of social learning have strong interaction effects as they remain highly interdependent and mutually constitutive of one another. Accordingly, it is hypothesized that all three of these forms of learning must be facilitated either within or alongside transitional justice strategies that will be capable of promoting intergroup reconciliation.\(^ {21}\)

In addition to outlining the theoretical model, Chapter II also suggests several predictions about the expected causal patterns that should appear in the observations drawn from the cases being studied in order to ascertain whether the proposed theoretical model holds validity. In other words, the chapter responds to the question, “What evidence would need to be drawn from

\(^{20}\) Ibid., 6.

\(^{21}\) On these types of causal claims based on conjunction, see George and Bennett, *Case Studies and Theory Development*, 26.
the cases under study to lend credence to the explanatory power of the proposed social learning model? Briefly summarizing its findings, the observed evidence would first need to substantiate the claim that the five key mechanisms of social learning outlined in the model were necessary, if not sufficient, contributors to the processes of post-conflict reconciliation in the cases being studied. Second, it would also have to show a related correlation between the ability of the transitional justice strategies in the cases being studied to facilitate each of the three identified broader types of social learning processes and a relative increase/decrease in observable measures of intergroup reconciliation between groups. While Chapter II engages in a deeper study of the ‘content’ of reconciliation, for now it suffices to say that observable increases in intergroup reconciliation are indicated by the presence of mutual trust, reduced prejudice, a greater recognition of shared ‘moral worth’ and equal entitlement to basic human rights, the creation of a broader sense of collective identification that supersedes existing group divisions, and a mutual expectation that future conflicts will be settled by means short of violence. Finally, observable evidence would also need to be drawn from case studies to indicate the existence of both a high level of interdependence between the three different types of social learning processes identified in the theoretical model and the necessity that all three be promoted in conjunction by transitional justice studies capable of successfully promoting intergroup reconciliation.

Conversely, what observations might be drawn which would question the validity of the proposed social learning model? First, the validity of the theoretical model would be strongly challenged if the mechanisms of social learning identified as necessary to intergroup reconciliation were found to be strongly present in a transitional justice strategy being studied that did not lead to greater reconciliation or, alternatively, were absent in one that did. Second, the model would be called into question if the relative presence or absence of transitional justice
strategies was shown to be unrelated to processes of intergroup reconciliation. Third, the model would be problematized if group identity was not shown by available evidence to be an important factor in the causal link between transitional justice and reconciliation in divided societies. Fourth, the underlying hypothesis of the social learning framework would itself be shown to be insufficient if there was a demonstrable absence of interaction effects between the three types of social learning processes identified in the model, or if it was shown that they did not necessarily need to be advanced in conjunction to achieve intergroup reconciliation.

**Chapters III and IV: The Case Studies of Northern Ireland and South Africa**

In Chapters III and IV, the predictions made within the theoretical model are tested against empirical observations drawn from a within-case and cross-case comparative assessment of the key case studies of Northern Ireland and South Africa. It should be noted that the methodological nature of process-tracing, which relies on drawing inferences not from the correlative terms of the conventional comparative method but from a detailed examination of the causal chain at work within a particular context, is not dependent to the same extent upon the need to select ‘representative’ cases for study. However, as George and Bennett note, if contingent generalizations are to be drawn from such studies, it is doubly important that the cases be representative of a clearly defined ‘type’ or ‘subtype’ of cases that exist within the broader phenomena being studied. Accordingly, case selection was therefore self-consciously limited at the outset to deeply divided, post-conflict societies that have implemented some form of transitional justice strategy to deal with their legacies of past violence.

Both Northern Ireland and South Africa fit the scope of these relatively limited conditions by serving as instances in which (very different) transitional justice mechanisms were

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employed in the deeply divided post-conflict environment to promote reconciliation and address a past history of ‘identity-based’ violence. While the scale and scope of past violence differs greatly between the two cases, both nonetheless have histories of protracted conflict and gross human rights violations enacted along the lines of relatively clearly-defined ‘group identities.’ In Northern Ireland, for instance, the violence of its ‘Troubles’ was committed between two main communities divided by a set of overlapping religious and national identifications – namely, Catholics/Nationalists and Protestants/Unionists. In South Africa, under the system of apartheid and the ensuing liberation struggle, societal divisions fell along legally defined categories of racial identity, with the starkest lines being drawn between communities of ‘white’ and ‘black’ South Africans.

Further, both of these cases involve ‘post-conflict’ societies in which the commission of large-scale overt violence between identity groups has now largely ceased and has been replaced by at least a ‘negative peace’ following negotiated peace processes carried out during the 1990s. This choice therefore necessarily brackets for the purposes of this study similarly divided countries in which at least a tacit cessation of overt intergroup violence has not occurred and which may be involved in earlier stages of conflict management or resolution. In addition, and perhaps most importantly, following their respective peace agreements, both Northern Ireland and South Africa employed transitional justice strategies which engaged in sustained attempts to come to terms with the legacy of past violence within their country with the explicit aim of fostering sustainable peace and reconciliation amongst formerly divided communities. As Chapter III will discuss, in Northern Ireland, this has taken the form of a largely ‘decentralized’ transitional justice approach that has combined a series of discrete government programs with a widespread base of ‘bottom-up’ efforts by civil society and local community actors. In contrast, in the case of South Africa discussed in Chapter IV, the transitional justice process has centered
almost exclusively on the South African Truth and Reconciliation Commission (TRC), a highly centralized truth-recovery initiative undertaken by the government to investigate the history of human rights abuses committed during the apartheid era.

Further, as this study represents the initial development and first testing of the proposed theoretical framework through process analysis, further pragmatic considerations were placed on case selection. The first is that these cases were chosen in part because they appear to share a particular outcome on the dependent variable. Indeed, both Northern Ireland and South Africa are widely considered to have achieved at least some level of societal reconciliation following the interventions of their different transitional justice strategies. In other words, these countries were selected as they represented ‘most-likely’ cases in which the proposed causal relation between transitional justice and reconciliation might hold. While this does raise concerns of ‘selection bias,’ as this study is primarily concerned with tracing the variables in the causal path between transitional justice and reconciliation rather than with simple correlation, during this early stage of theory development and testing this selection remains justifiable. Furthermore, it has increasingly been recognized that selecting (at least in part) on the dependent variable may in fact be entirely appropriate for small-n case studies if the purpose is “identifying the potential causal paths and variables leading to the dependent variable of interest” or testing which variables are not necessary or sufficient conditions in the causal chain leading to the selected outcome.

In addition, Northern Ireland and South Africa were chosen because there exists a wealth of primary and secondary information on each of these cases. In both countries, issues surrounding coming to terms with past abuses and the movement towards a sustainable peace

23 See George and Bennett, Case Studies and Theory Development, 121-22.

through intergroup reconciliation have received considerable attention following their respective peace processes, and have led to a veritable ‘cottage industry’ of publications by academics, nongovernmental organizations, and government officials. Both cases therefore provide the opportunity for ready access to the depth and breadth of data ultimately required for successful process tracing. Further, it should be noted that the decision to limit the scope of this study to two cases was itself also reflective of a pragmatic decision made based on available time and resources weighed against the voracious data requirements of an effective use of the process-tracing methodology. Finally, it should be noted that the case study of Northern Ireland was selected, in particular, because it offers the additional opportunity to gain insight as to how a ‘decentralized’ transitional justice program might impact prospects for reconciliation in post-conflict divided societies. Indeed, Northern Ireland has received little attention to date in the transitional literature as a result of the field’s tendency to focus on the use of more ‘centralized’ or ‘institutionalized’ justice mechanisms like trials, tribunals, or truth commissions. By including Northern Ireland as one of the two initial case studies to test the proposed theory of social learning, this study also offers the heuristic chance to gain new knowledge about how such decentralized approaches might serve to impede or impel post-conflict reconciliation. That said, it is hoped that this initial study will be only the first ‘building block’ of a larger research project within the field of transitional justice, and that future studies will be able to test this causal model against cases in which there is greater variation both on the dependent variable and on the ‘type’ of transitional justice approach used. Suggestions for directions in future research are taken up at greater length in Chapter V.

Making Structured and Focused Observations

The observations drawn from the case studies of Northern Ireland and South Africa were intended to achieve two interrelated goals. First, these observations were designed to provide a
qualitative test of the social learning framework presented in Chapter II by examining whether the causal processes and interactions the model predicted were evident in each of these cases. In essence, the observations derived as part of a within-case analysis of each individual case study were intended primarily to help “establish whether the causal chain that [the] theory anticipates is present in the cases [under study]”\(^{25}\) However, as previously mentioned, a secondary aim of this study was to attempt to draw contingent generalizations through cross-case comparisons about the causal relationship between transitional justice and intergroup reconciliation as a way to help inform ‘best practices’ for future justice interventions in deeply divided societies. Accordingly, it became doubly important to ensure that the empirical observations made within each case were both ‘structured’ and ‘focused.’\(^{26}\) This meant that a set of standardized general questions focused on ascertaining the presence/absence and relative impact of the social learning mechanisms under study were asked of each case to help ensure that comparable data was acquired to allow for accurate cross-case analysis on these independent variables. In addition, where possible, attempts were also made to garner similar information on the dependent variable of intergroup reconciliation by focusing data collection on the standardized set of ‘markers’ outlined in Chapter II taken to indicate the presence of ‘successful’ intergroup reconciliation. By conducting observations in this manner, it was hoped that not only could the findings be used to draw contingent generalizations from the cases currently under study, but also to provide a stable platform for the cumulative development of knowledge through potential future studies of transitional justice and reconciliation in other deeply divided societies.\(^{27}\)


\(^{26}\) George and Bennett, *Case Studies and Theory Development*, 69.

\(^{27}\) Ibid.
The observations themselves were drawn from two main sources. The first was desk research, which consisted of a review of the wide range of primary and secondary materials available in both Northern Ireland and South Africa, many of which engage with topics directly related to this study’s interests in transitional justice, identity, and reconciliation. This existing research proved to be an invaluable resource for this study, particularly as much of it has addressed – albeit in a discrete and often disconnected fashion – the presence and impact of what this study categorizes as the key causal variables of instrumental, socioemotional, and distributive social learning. In fact, a number of prominent academic and governmental studies have utilized empirical survey work to measure the relative impact of aspects of these different transitional justice strategies on reconciliation in both Northern Ireland and South Africa. Additionally, numerous publications have also addressed the status of intergroup reconciliation in each of these countries, which greatly assisted in helping to provide a solid qualitative measure of the dependent variable. A key resource in this regard was the ready availability of longitudinal survey data in both cases on key indicators of intergroup reconciliation. When coupled with the findings of more qualitative assessments, access to this survey data allowed for an important degree of ‘methodological triangulation’ that served to further strengthen the validity of these findings.

The second key set of observations was derived through periods of field research carried out in both Northern Ireland and South Africa in 2008. In Northern Ireland, this fieldwork was conducted during a two month period spread between February and April 2008 and was based primarily in the cities of two month period of research was carried out in South Africa between June and July 2008, centered largely around the cities of Cape Town, Johannesburg, and

28 See, in particular, Gibson, Overcoming Apartheid.

Pretoria. In both cases, in addition to engaging in a limited amount of archival research, the primary purpose of this fieldwork was to carry out a series of expert interviews with those select academics, government officials, civil society representatives, former combatants, and non-governmental community leaders in each country best positioned to provide a solid qualitative measure of the contribution that their country’s transitional justice program has made to ongoing processes of intergroup reconciliation between divided communal groups.

Interviewees were selected via a ‘key informant’ purposive sampling, a nonprobability sampling method which “targets individuals who are particularly knowledgeable about the issues under investigation” and who therefore are uniquely positioned to provide substantial insight into the causal processes under study. Efforts were made to select these interview subjects to meet Herbert and Irene Rubin’s three main guidelines for selecting informants as part of a purposive sampling strategy, namely that they were “knowledgeable about the cultural arena or situation or experience being studied,” that they were “represent[ative of] the range of points of view,” and they were “willing to talk.” The selection of interview subjects also involved an element of ‘snowball sampling’ in which interviewees themselves helped to identify other potential contacts. In total, 85 in-depth expert interviews were carried out as part of this study, 43 regarding Northern Ireland and 42 regarding South Africa. In each country, in the interest of securing a degree of representativeness and limiting bias, these samples included international observers as well as individuals drawn from nationalist and unionist backgrounds (Northern Ireland) or who identified as ‘white’ or ‘black’ (South Africa). Overall, while conducting additional interviews is always desirable, the numbers collected in each case were deemed


sufficient to approximate the desired level of ‘completeness’ (‘an overall sense of the meaning of a concept, theme or process’) and ‘saturation’ (‘that you are learning little that is new from subsequent interview[s]’) desired in qualitative interviewing.\textsuperscript{33}

The interviews themselves were conducted for approximately 1.5 hours each and, with few exceptions, were audio recorded. The interviews involved a semi-structured series of questions designed to gauge individual qualitative assessments of the relative importance of each of the mechanisms of social learning identified in the theoretical model to the process of intergroup reconciliation and also of whether the related instrumental, socioemotional, and distributive forms of social learning were impeded or impelled by the transitional justice strategy employed in each country. Where appropriate, interviewees were also asked to discuss what ‘interaction effects,’ if any, they saw occurring between these types of social learning. Further, if a certain identified ‘type’ of social learning was deemed to have been advanced by the transitional justice program, interviewees were asked to identify what specific processes or mechanisms they considered to have had the greatest impact on this learning (alternately, if a type of learning was deemed to have been ‘blocked’ or otherwise retarded in a particular case, what specific reason they adduced to this). This line of inquiry included targeted questions designed to assess the presence or absence of the five key social learning mechanisms outlined in the theoretical model (namely contact, dialogue, truth, justice, and the amelioration of distributive equality) and the related impact on intergroup reconciliation.

Using the key definitional ‘markers’ of reconciliation identified in Chapter II, interviewees were also asked a series of questions designed to assess their individual perceptions regarding levels of intergroup reconciliation both before and after the implementation of their country’s transitional justice strategy. Finally, interviewees were asked to provide a broader

\textsuperscript{33} Rubin and Rubin, \textit{Qualitative Interviewing}, 73.
evaluation of the relative impact, or lack thereof, of these transitional justice initiatives on advancing intergroup reconciliation. This included several ‘open-ended questions’ designed to assess perceptions of what the most positive and negative aspects of these strategies had been in regards to intergroup reconciliation, as well as what future challenges remain to be addressed. Importantly, these questions allowed for the possible heuristic identification of new crucial intervening variables or hypotheses that had not previously been identified in the proposed theoretical model – an important component for the testing and refining of new causal theories through the case study approach.\textsuperscript{34}

The information derived from these interviews was then transcribed and analyzed. This initially involved coding the data gathered into key ‘thematic’ categories centered around each of the distinct areas of questioning listed above.\textsuperscript{35} Data within each of these categories was then further analyzed and organized according to strong points of consensus which emerged in interviewees’ assessments of levels of societal reconciliation, the relative importance of each of the various processes/mechanisms identified in the model and, finally, the overall ability of each country’s justice intervention to advance intergroup reconciliation. These findings were then recorded and used to supplement other evidence obtained through existing primary and secondary sources. Where appropriate, selected direct quotations are included throughout each case study chapter to serve as illustrative or representative examples of these points of consensus. Overall, the information gained through these expert interviews offered an invaluable source of new data on the causal processes at work between transitional justice and intergroup reconciliation in the cases under study, providing insiders’ insights about these relationships that would likely have been inaccessible through desk research alone.

\textsuperscript{34} George and Bennett, \textit{Case Studies and Theory Development}, 20.

\textsuperscript{35} Rubin and Rubin, \textit{Qualitative Interviewing}, 203.
Chapter V: Drawing Conclusions

The final stage of systematic process analysis involves drawing conclusions based upon a comparison between the data obtained through observations and the predictions made by the theoretical framework being tested in the study. These findings are presented in two locations. First, individual within-case conclusions based on the application of the social learning model to the transitional justice processes in both Northern Ireland and South Africa are presented in Chapters III and IV respectively. These conclusions include assessments of both the relative importance of instrumental, socioemotional, and distributive social learning mechanisms in each case, as well as analyses of the ability of each country’s transitional justice strategy to advance these learning processes and the consequent implications for intergroup reconciliation.

Finally, building from a cross-case comparison of the findings drawn from both Northern Ireland and South Africa, Chapter V concludes with a consideration of the potential importance of the social learning model presented in this study and its implications for the broader field of transitional justice. In particular, it is argued that the social learning model offers a new set of common guidelines that could help to inform ‘best practices’ in the design of future justice strategies, while at the same time retaining the ability to be eminently adaptable to the unique context and contours of each country’s transition. This study therefore joins with others that have recently emerged within the field to suggest the need to move beyond existing institutional debates about the primacy of any single approach – be it restorative or retributive, truth commission, trial, tribunal or otherwise – as a ‘one-size-fits-all’ solution to every post-conflict situation. Indeed, the literature’s recognition of the highly contextualized nature of conflict, and its consensus that no one model of transitional justice will be universally effective, already inherently limits the utility of such approaches. Instead, as the findings from Northern Ireland and South Africa appear to indicate, what remains more important is whether transitional justice
strategies serve to catalyze the key elements of instrumental, socioemotional, and distributive learning necessary to intergroup reconciliation in societies deeply divided by a past history of identity-based violence. By refocusing our attentions from structure to process and concentrating on what these institutions do rather than what they are, we might gain greater insight into how transitional justice interacts with the politics of identity in post-conflict societies, and how it therefore directly impacts the potential for reconciliation and sustainable peace among former enemies. More broadly, it is hoped that the findings presented in this study may help to underscore the utility of bringing the field of transitional justice into more extensive dialogue with conflict transformation scholars working in the related fields of political science, peace studies, and social psychology who have potentially enormous contributions to make to our current understanding of the intricacies of these processes.

However, it is also important to underscore the inherent limitations of the conclusions reached in the following pages. It is readily recognized that much more work – both qualitative and quantitative – remains to be done before it will be possible to speak conclusively about the validity of the social learning model presented here. Accordingly, while this study offers an important first step towards opening the ‘black box’ that currently surrounds the causal relationship between transitional justice and reconciliation, at this early stage no claims are made to the definitiveness of these findings. Instead, as an early first analysis of these issues, it should be made clear that the conclusions presented herein regarding the causal processes linking transitional justice to intergroup reconciliation remain only highly suggestive. That said, it is on to the generation of a new theoretical framework that begins to model these processes to which the study now turns in the following chapter.

36 Indeed, in many ways these findings would seem to support earlier calls from scholars such as Wendy Lambourne who have argued for the need for more ‘transformative’ models of transitional justice to achieve reconciliation and sustainable peace in divided societies. See Wendy Lambourne, "Transitional Justice and Peacebuilding after Mass Violence," The International Journal of Transitional Justice 31, no. 1 (2009).
Chapter II

Theoretical Framework:
A Social Learning Model of Transitional Justice

In this chapter, the social learning model of the relationship between transitional justice, identity, and intergroup reconciliation in deeply divided societies is developed and outlined. What follows is organized into the following sections. First, there is a discussion of theories from social psychology and related disciplines that point to the central role played by perceptions of ‘group’ or ‘collective’ identity in both the creation and evolution of mass violence within the state. It is argued that these group identities, polarized over the course of ‘intergroup violence,’ contribute to the protracted and seemingly intractable nature of many of these conflicts. However, drawing on recent constructivist theories from political science, it is contended that the potential for the transformation of these identities and the creation of more peaceful and reconciled relationships between former antagonists always remains open. Importantly, constructivist scholars stress the crucial role that institutions can play in the processes of ‘social learning’ necessary to such transformations, acting as sites in which former enemies are brought together to challenge and potentially transform the nature of their relations. This is introduced as a point of entry for beginning to theorize the relationship between transitional justice institutions and intergroup reconciliation in divided societies. Second, the concept of ‘reconciliation’ and its relationship to identity is explored in detail. Building on the work of ‘conflict transformation’ scholars working in the field of peace and conflict studies, this includes a discussion of both the
processes required for this kind of intergroup reconciliation and what the outcome of such reconciliation would entail. Ultimately, it is argued that understanding the causal linkages between transitional justice institutions, social learning, and intergroup reconciliation requires both a synthesis of insights from constructivists and conflict transformation theorists and the opening of a new line of dialogue between this work and the field of transitional justice.

The third section then explicitly takes up the question of how it is that institutions of transitional justice might contribute to the processes of social learning required for intergroup reconciliation in deeply divided societies. In short, it is argued that transitional justice mechanisms capable of promoting reconciliation will need to advance three key broad ‘types’ of social learning: instrumental, socieoemotional, and distributive. The final sections of the chapter then turn to outlining a set of five distinct mechanisms or interventions housed under these broader categories that are considered to be the necessary, if not sufficient, interventions required of any transitional justice strategy capable of advancing processes of intergroup reconciliation in divided societies. These mechanisms include contact, dialogue, truth, justice, and the amelioration of material inequalities. Before turning to an examination of the case studies of Northern Ireland and South Africa, the chapter concludes by summarizing the main aspects of the social learning model and offering some preliminary thoughts as to the implications of this framework for the field of transitional justice.

THE POLITICS OF IDENTITY

The concept of ‘social,’ ‘group,’ or ‘collective’ identity has become increasingly prominent over recent years within political science, and is now considered one of “the most normatively significant and behaviourally consequential aspects of politics,” and a key variable in explaining
the complex dynamics of peace and conflict both internationally and within the state. While such studies have drawn upon various understandings of collective identity to account for political behaviour, consensus is emerging as to the utility of adapting the prominent Social Identity Theory (SIT) approach from social psychology to political science. SIT focuses on studying “the group in the individual,” looking at the ways in which individuals come to define a significant portion of their identities in terms of their social group memberships. ‘Social identity’ is understood here as “the individual’s knowledge that he belongs to certain social groups together with some emotional and value significance to him of the group membership,” whereas ‘social groups’ themselves are defined as “two or more individuals who share a common social identification of themselves, or...[who] perceive themselves to be members of the same social category.” As Michael Hogg and Dominic Abrams have noted, the Social Identity approach views group belonging as largely a psychological state that forms part of personal cognition, but one that ultimately isn’t reducible to the individual; rather, social identities are held to extend beyond the individual to the society around them to confer a “shared or collective representation of who one is and how one should behave.” Indeed, these identities not only provide a sense of belonging, but also imply conformity to a set of normative guidelines which both describe the criteria tied to one’s inclusion and prescribe rules of ‘acceptable’ or


4 Hogg and Abrams, Social Identifications, 3.
‘appropriate’ behaviour – guidelines that are binding to the extent that an individual considers herself to be part of that collective identity.\(^5\) This kind of categorization has been shown to be a universal cognitive tool used by individuals to help make sense of the world around them, effectively providing parsimonious shorthands via schemas and stereotypes and holding members of one’s ‘ingroup,’ the ‘Self,’ in comparison to all those belonging to an ‘outgroup’ or externalized ‘Other.’\(^6\) Further, SIT centrally contends that, due to an individual’s innate psychological need for self-affirmation, there is also a strong tendency for individuals to extend positive perceptions of themselves to all members of the social group of which they are a part. This, in effect, creates a “benign cycle of positive affect” in which mutual regard, trust, empathy, and more cooperative relations come to be shared amongst all those belonging to the ingroup.\(^7\) However, while these findings of ingroup positivity are frequently taken to assume a converse correlation of hostility and negative regard for the outgroup – a kind of virulent ‘universal ethnocentrism’ – more recent studies have established that this is not the case.\(^8\) Rather, the content of intergroup perceptions of the Other and their subsequent relations have been shown to be heavily dependent on structural, environmental, and situational conditions, and also, most importantly, on the nature of social interactions which characterize intergroup relations or have

\(^{5}\) Ibid., 159, 170.


\(^{7}\) Brewer, “Intergroup Identification and Intergroup Conflict,” 22-23.

\(^{8}\) For the foundational discussion of ethnocentrism, see William G. Sumner, Folkways: A Study of the Sociological Importance of Usages, Manners, Customs, Mores, and Morals (Boston: Ginn, 1906). While Tajfel’s ‘Minimal Group Paradigm’ is often held to show that the simple act of categorization necessitates relative gains seeking, ‘negative Othering,’ and intergroup conflict, more recent studies have shown that while categorization may lead to a positive interpretation of the Self or ingroup, this does not necessarily lead to relations of antagonism and competition with the Other in the absence of negative affect. See Brewer, "Intergroup Identification and Intergroup Conflict.", Brewer and Campbell, Ethnocentrism and Intergroup Attitudes. Importantly, this literature seems to refute related suppositions by authors such as Jonathan Mercer who use SIT to argue for a more cognitive ‘first image’ basis for self-help assumptions based on an ‘inherent’ drive for intergroup competition. See Jonathan Mercer, "Anarchy and Identity," International Organization 49, no. 2 (1995).
done so in the past. Therefore, as these studies have illustrated, intergroup hostility is only one of many options that exist on the “continuum of possible relations between groups,” with potentials ranging from trust, friendship, and altruism to extreme suspicion, enmity, and violence.

In this way, while SIT is helpful for explaining the basis of collective identity, it must be supplemented with other theories in order to help analyze the dynamics of conflict and reconciliation in societies suffering from entrenched ‘ethnic,’ national, or religious identity cleavages. While SIT does illustrate that there may be a universal drive to define oneself as a group member and to divide the world into ‘Us/Them’ or ‘Self/Other’ dichotomies, it remains a fundamentally ‘hollow’ theory, unable to explain the ‘content’ of these identities, who is defined within or outside the group, or the quality of the relations existing between them. Scholarship that does elaborate these crucial elements of group identity suggests that they are the products of social construction, the ongoing and constantly evolving results of directed human agency – an agency itself influenced and mediated by existing societal structures and experiences of social

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interaction with members of the Other. Klaus Eder and others have labelled these processes the "politics of identity," "the construction of the symbolic boundaries and collective identities which provide the cognitive basis for normative order and social integration." Indeed, recent work within the discipline of political science engaged in the study of collective identities either internationally or with 'ethnonational' groups at a substate level (including both 'critical' and 'constructivist' scholars in international relations (IR) and 'nationalist' or 'ethnic conflict' scholars from comparative politics) has reached a consensus that such identities are not 'essential' or 'primordial' entities. Rather, these collectivities are fluid and malleable

11 This is also reason to suggest that SIT might usefully be supplemented with insights from sociological scholarship, such as from Symbolic Interactionist Sociology (SIS) which has focused more extensively on the role of social interaction in identity (re)construction. Indeed, while two distinct schools of thought, recent studies have shown that (SIT) and (SIS) may in fact be complementary. While both theories address the nature of the Self as constituted by society, SIT emphasizes the Self in the social group and the constitution/categorization of identity as members within the group, while SIS focuses more on changes to conceptions of the self via processes of interaction with others and the symbolic meaning assigned to particular situations. On the benefits of working with a synthesis of these theories, see Bruce Cronin, Community under Anarchy (New York: Columbia University Press, 1999). For foundational texts on SIS theory, see Herbert Blumer, Symbolic Interactionism: Perspective and Method (Englewood Cliffs: Prentice-Hall, 1969); George H. Mead, Mind, Self, and Society (Chicago: University of Chicago Press, 1934).

12 Eder et al., Collective Identities in Action, 4. This is echoed in Eriksen’s conception from social psychology. See Eriksen, "Ethnic Identity," 42-43.


The comparative politics tradition also evidences a rejection of conceptions of ethnic and national identities as immutable or "primordial" attachments, a sentiment echoed by prominent scholars working throughout the 'constructivist,' 'ethno-symbolist,' 'instrumentalist,' and rational choice paradigms. In particular, see Benedict Anderson, Imagined Communities (New York: Verso, 1997); Paul R. Brass, Ethnicity and Nationalism (New Delhi: Sage, 1994); Walker Connor, Ethnonationalism (Princeton: Princeton University Press, 1994); Adrian Hastings, The Construction of Nationhood: Ethnicity, Religion, and Nationalism (Cambridge: Cambridge University Press, 1997); Eric Hobsbawm and Terence Ranger, eds., The Invention of Tradition (Cambridge: Cambridge University Press, 1983).
creations, often founded by the intentional actions of elites or ‘entrepreneurs’ and subsequently molded by ongoing ‘contestation’ about the meaning of group identity among members of the Self, by the structural and normative influences of the society in which that group exists, and by comparisons against, and relations with, members of the Other. This is not to say that these identities are entirely fictive or that they are easily invented and changed. Indeed, national and ethnic identities can have an inordinately strong pull on the hearts and minds of individuals as they are often based around a shared sense of kinship and are frequently tied to territorial belonging.14 Accordingly, while they may be based almost entirely on mythologized constructions, they are often perceived by group members to be self-evident ‘truths’ or ‘social facts.’15 Similarly, the nature of the relations between identity groups and the perceptions these groups hold of one another are also recognized as being socially determined constructions, with intergroup animosity being triggered by certain ‘conducive conditions.’16 These conditions can include the active efforts of elites, ‘entrepreneurs,’ or ‘ethnic activists’ to foster intergroup tensions either through appeals to shared identity by way of banding a group together to compete


for resources and other instrumental gains, or through an active vilification of the Other carried out through processes of propaganda, negative labelling, or discriminatory narrative.\textsuperscript{17} Further, structural and material threats to the basic human needs of group members and the experience of ‘difficult life conditions’ have been recognized as strong contributors to the potential for intergroup enmity, as has the breakdown of centralized authority structures in ‘weak’ or ‘failed’ states.\textsuperscript{18} Finally, the experience of hostility or threat in prior interactions or a past history of intergroup domination, injustice, or violence can contribute to antagonistic perceptions of the Other.\textsuperscript{19} However, like the identities of the groups themselves, the nature of their relations can take on a seemingly self-fulfilling quality as the experience of negative interaction leads to the creation of schemas, stereotypes, and prejudices about the Other that colour all future exchanges with expectations of hostility. This can initiate a “cycle of reciprocal behaviour” that “reinforces adversary images by providing allegedly confirming evidence of hostile intentions.”\textsuperscript{20}

Further, the onset of overt physical violence marks a new stage of polarization between identity groups and a deepening of the antagonistic system of relations between them, frequently resulting in the creation of protracted and seemingly intractable ‘communal identity conflicts.’\textsuperscript{21}

\textsuperscript{17} For a good statement on the role of elites in constructing identities in ethnonational conflict, see Fearon and Laitin, “Violence and the Social Construction of Ethnic Identity.” Notably, intergroup tensions can also be exacerbated by processes of intragroup ‘outbidding’ where elites seek power by being more extreme in their exclusivity than their competitors. See Alvin Rabushka and Kenneth Shepsle, Politics in Plural Societies: A Theory of Democratic Instability (Columbus: Charles R. Merrill, 1972).


\textsuperscript{20} Gross-Stein, “Psychological Explanations of International Conflict,” 294.

It is through such violence that societies become ‘deeply divided,’ with entrenched ethnonational identities taking on a ‘monolithic quality’ and permeating all facets of social, economic, and political life. Divided societies are characterized by the perception of incompatible goals, values, and ideologies between groups, as well as by intergroup relationships marked by deep distrust, threat, animosity, and an underlying devaluation of the Other which can serve to legitimize future violence. Indeed, the initiation of physical violence and the creation of these deep divisions provide the basic framework for identity conflicts to evolve into ever-worsening cycles of violence, moving along a “continuum of destruction” in which each act of violence makes future aggression more likely. Over time, this evolution can culminate in acts of ‘intergroup mass violence,’ including large-scale killing, genocide, ‘ethnic cleansing,’ or other gross human rights violations carried out by “individuals who injure, kill and murder” on the basis of group membership. Such acts of mass violence have been recognized as representing “intergroup behaviour at its most horrific extreme,” with people being targeted not because of any individual characteristic, but solely because of their inclusion in an identifiable and maligned social category. The initiation of physical violence facilitates such extreme action in several key ways. First, violence breaks down the levels of ‘social capital’ that exist between identity groups, causing the decline of meaningful contact and communication across group boundaries as well as the destruction of essential networks of trust and generalized reciprocity that enable


22 Coleman, “Polarized Collective Identities.”

23 See, for example Stephen Ryan, Ethnic Conflict and International Relations (Aldershot: Dartmouth, 1995).


25 Ibid., 710.

26 Hogg and Abrams, Social Identifications, 1.
more cooperative intergroup interactions. A rise in segregation among identity groups is a frequent correlate to the onset of violence, as individuals seek to distance themselves from the threat posed by the Other and to ‘band together’ for safety with members of their own community. This distance, in turn, effectively limits any potential for groups to challenge their negative perceptions of the Other “by fostering mutual ignorance and suspicion, maintaining prejudice and negative stereotypes, and reinforcing group boundaries.” Second, the dynamics of violence render it increasingly difficult to empathize or identify meaningfully with the Other, as groups develop ‘ideologies of antagonism’ in which all members of the Other come to be viewed as mortal enemies responsible for the suffering of the Self and therefore justifiable targets for violence. In essence, the Other becomes ‘dehumanized’ and excluded from the ‘moral universe’ governing acceptable behaviours and obligations among the ingroup, with the result that “principles of morality no longer apply to them and moral restraints against killing are more readily overcome.” Indeed, this dehumanization and the associated disruption of the

27 The theoretical language of ‘social capital’ may prove useful here in delineating the nature or “quality” of intergroup contact. Nat Colletta and Michelle Cullen frame social capital as “the norms, values, and social relations that bond communities together, as well as the bridges between communal groups and the state.” See Nat J. Colletta and Michelle L. Cullen, Violent Conflict and The Transformation of Social Capital (Washington: The World Bank, 2000), 4. Significantly, Robert Putnam emphasizes the distinction between forms of social capital that “bond” homogenous groups together by means of exclusivity, and more inclusive forms of social capital that “bridge” or build ties between diverse, heterogeneous groups. In societies deficient in “bridging” social capital, groups may lack the trust or desire to work towards shared goals through mutual collaboration; individuals come to identify with their own group (the Self) while shunning all other societal groups (the Others). See Robert Putnam, Bowling Alone: The Collapse and Revival of American Community (New York: Simon and Schuster, 2000), 22. Effectively, in nations in which levels of bonding social capital exists to the exclusion of bridging forms of social capital, society comes to be marked by ethnocentrism.


‘moral order’ between groups have been widely recognized within the literature as necessary permissive conditions for the escalation of mass intergroup violence and repression. Third, over the course of protracted violence, groups develop ‘antagonistic myths,’ ‘collective memories’, or ‘communal narratives’ which reinforce heavily biased conceptions of the Self as a victim of injustice while portraying the actions of the Other as those of an intractably evil enemy, effectively glossing over any complicity that the ingroup may have had in past violence. These myths about the nature of the Other and the Self can therefore further polarize perceptions of identity and ossify hostile relationships, blocking the potential for the future development of empathy and reinforcing existing fears, prejudices, and stereotypes. Further, such beliefs are actively socialized among new generations, and even in the absence of overt conflict, they may

of the ‘civilian ethic’ protecting the human security of non-combatants is abrogated and can allow for the commission of mass violence. See Hugo Slim, Killing Civilians: Method, Madness, and Morality in War (New York: Columbia University Press, 2008), 121-81.


provide the necessary legitimization for future violence and cycles of revenge. Finally, protracted intergroup violence inevitably retrenches material disparities as group identity gains increasing salience in discriminatory distributions of social, economic, and political power – factors which may themselves have been central to the initial development of intergroup hostility. Additionally, the devastation wrought by mass violence can not only provide another basis for antagonism by increasing the difficult life experiences of identity groups, but may also shrink the total ‘resource pie’ available to a society and thereby increase the likelihood of future conflict and competition over diminished supply.\textsuperscript{34}

While all these factors contribute to making identity-based conflicts in deeply divided societies notoriously difficult to resolve, this does not mean that these animosities are inevitable or that they can’t be replaced by more peaceable relations – indeed, as Tarja Vayrynen and other scholars have argued, since identities are constructions which are constantly created and recreated by social practices, the “space for innovation” for their transformation is never fully closed.\textsuperscript{35} What this analysis does suggest, however, is that any effort at reconciliation and positive peacebuilding among enemies who have been engaged in protracted cycles of conflict will need to directly address, and significantly alter, antagonistic perceptions of group identity and the hostile system of relationships dividing Self from Other. However, within the discipline of political science, little attention has been paid to this kind of ‘transformative potential’ in the resolution of ethnonational identity conflicts in divided societies. For instance, scholars from the field of IR who have applied their theoretical insights about conflict and security within the state have tended to import concepts from the ‘rationalist’ traditions of IR theory, such as the ‘logic of


\textsuperscript{35} Vayrynen, “Socially Constructed Ethnic Identities,” 139. Further, it is empirically the case that ethnonational conflicts with strong components of identity have indeed been historically resolved to more peaceful relations. See William J. Long and Peter Brecke, \textit{War and Reconciliation: Reason and Emotion in Conflict Resolution} (London: MIT Press, 2003).
anarchy’ and the ‘balance of power,’ in order to explain the rise of intrastate conflict following the end of the Cold War.\textsuperscript{36} One of the first scholars to attempt this ‘cross-fertilization’ of scholarship was Barry Posen, who posits that a collapse of domestic order in certain states following the end of the Cold War left competing identity groups within those states in a condition of “emergent anarchy” – effectively, lacking a legitimate sovereign, ethnonational groups became trapped in the same pessimistic cycles of egoistic self-help, relative gain, and violent competition traditionally held to govern relations between states.\textsuperscript{37} Since Posen, a number of other IR scholars have similarly applied the concept of the ‘security dilemma’ to explain communal conflict at the intrastate level, each emphasizing how the structural condition of real or ‘approximated’ anarchy has caused ethnonational groups to mirror the pattern of relations expected in the international system by forcing them to compete for security and survival.\textsuperscript{38} Accordingly, just as at the international level, this literature adopts a limited outlook on the prospect for intrastate actors to move beyond self-reinforcing patterns of conflict and competition; while violence might be temporarily managed by ‘ethnic balances of power’ and provisional institutional arrangements, the fears and insecurities motivating the conflict

\textsuperscript{36} Many of these arguments draw on conceptions of “weak” or “failed” states in which governments lose their internal legitimacy to rule or legitimate claim to the sole use of force inside the state – in essence, creating conditions of ‘emergent anarchy’ of anarchy within the state. On the concept of “weak states” and its relation to internal (in)security, see Mohammed Ayoob, "The Security Problematic of the Third World," \textit{World Politics} 43, no. 2 (1991); Barry Buzan, \textit{People, States, and Fear} (Brighton: Harvester Wheatsheaf, 1991); Kalevi Holsti, \textit{The State, War, and the State of War} (Cambridge: Cambridge University Press, 1996); Homer-Dixon, \textit{Environment, Scarcity, and Violence}; Brian Job, ed. \textit{The Insecurity Dilemma} (Boulder: Lynne Rienner Publishers, 1992).


ultimately remain irresolvable short of external intervention and the foreign imposition of sovereign order.\footnote{While inherent in all the above literature on the intrastate security dilemma to some degree, the ‘pessimistic’ assumption that “we can only hope to contain ethnic fears, not permanently eliminate them” is most explicitly stated in Lake and Rothchild, “Containing Fear,” 57.} Indeed, while many of the authors in this tradition explicitly dismiss explanations of intrastate violence as the result of ‘primordial ethnicity’ or ‘ancient hatreds’ between ethnonational groups, and often go to great lengths to stress the socially constructed nature of group identity and intergroup conflict, their rationalist theoretical treatment ultimately considers the identities and interests of the actors under study to be fixed and exogenous in the post-conflict moment – effectively ruling out any potential for their positive transformation.\footnote{For a seminal ‘constructed rationalist’ account, see Fearon and Laitin, “Violence and the Social Construction of Ethnic Identity.” Significantly, by utilizing the construction of identity and the concept of ‘societal security’ introduced by the Copenhagen School of IR theory, Roe comes closest to the transformative argument made here. However, by treating identity primarily as structure rather than process, the Copenhagen theorists largely overlook the transformative potential inherent in identity. On the constructivist turn in the Copenhagen School, see Ole Waever, \textit{Identity, Migration, and the New Security Agenda in Europe} (London: Pinter, 1993). For a critique similar to my own regarding the need to view identity as process, see Jef Huysmans, “Revisiting Copenhagen: Or, on the Creative Development of a Security Studies Agenda in Europe,” \textit{European Journal of International Relations} 4, no. 4 (1998); Bill McSweeny, "Identity and Security: Barry Buzan and the Copenhagen School," \textit{Review of International Studies} 22, no. 1 (1996).}

A similar pattern is evidenced in comparative politics scholarship examining the dynamics of ethnicity and nationalism. Indeed, while this literature explicitly recognizes that communal identity exists as a mutable product of social construction which may be ‘activated’ or otherwise manipulated by elites to mobilize intergroup conflict and competition, it overlooks the reverse potential for the creation of more peaceable relations among ethnonational groups by ‘intentionally’ transforming antagonistic identities.\footnote{See in particular, Brass, \textit{Ethnicity and Nationalism}; Fearon and Laitin, "Violence and the Social Construction of Ethnic Identity."; Lake and Rothchild, "Containing Fear."; Joseph Rothchild, \textit{Ethnopolitics} (New York: Columbia University Press, 1991). For example, and Terence Ranger argue how the modern nationalism is a singularly important example of “social engineering” and mass socialization undertaken by elites. See Hobsbawm and Ranger, eds., \textit{The Invention of Tradition}. Similarly, other authors have noted the impact that colonial ‘divide and rule’ policies have had in the creation and entrenchment of antagonistic ethnic identities, such as those created by Belgian colonial practices in Rwanda. See Gerard Prunier, \textit{The Rwanda Crisis 1959-1994} (London: Hurst & Co., 1995).} In many ways, this ‘primordial paradox’ mirrors IR’s rationalist accounts of ethnonational conflict: while the identities and interests
comprising social groups and forming the basis for their competition are viewed as inherently constructed, fluid, and malleable, these same identities are then reified and treated as essentially static structures for the purposes of determining viable mechanisms for the amelioration of conflict. Accordingly, much of this scholarship revolves around debates as to which institutional designs—electoral reform, or constitutional arrangements such as devolution, federalism, or consociationalism—might best accommodate elites and manage the inherently zero-sum competitive aims of ‘permanent’ ethnonational majorities and minorities operating in a democratic framework. Further, these designs are frequently recognized as having limited effects on the underlying ‘non-negotiable’ issues of group identity that continue to thwart the creation of more sustainable relations of peace among divided groups. Moreover, many of these institutional ‘solutions’ have the consequence of further instantiating perceptions of divided group identities. In essence, these institutions are held to serve only to regulate

42 While this concept of a ‘primordial paradox” is my own, the idea is inspired by a similar critique from Fearon and Laitin of purely ‘discursive’ theories of ethnic conflict, which they claim approximate the arguments of defunct primordial theorists by holding that individuals are pawns of existing discourse and that a need to differentiate from the Other necessarily entails the need for violence independent of any material basis for hostility. See Fearon and Laitin, “Violence and the Social Construction of Ethnic Identity,” 851-52.

43 With an early statement of this position, Eric A. Nordlinger explicitly rejects the creation of cross-cutting identities or superordinate communities among divided groups, advocating instead for institutional arrangements to prevent situations of ‘permanent’ minorities and majorities. See Eric A. Nordlinger, Conflict Regulation in Divided Societies (Cambridge: Harvard University Press, 1972). Donald Horowitz also has written extensively on the danger of the exclusion of ‘permanent’ minorities under democracy and the need for decentralization, federal arrangements, and carefully designed electoral rules to reduce communal polarization. See Horowitz, "Ethnic Identity."; Donald Horowitz, "Democracy in Divided Societies," in Nationalism, Ethnic Conflict, and Democracy, ed. Larry Diamond and Marc Plattner (Baltimore: Johns Hopkins University Press, 1994); Horowitz, Ethnic Groups in Conflict.


44 On the importance of such ‘symbolic politics’ to ethnonational identity and conflict, see for example Francis Fukuyama and Shlomo Avineri, "Comments on Nationalism and Democracy," in Nationalism, Ethnic Conflict, and Democracy, ed. Larry Diamond and Marc Plattner (Baltimore: John Hopkins Press, 1994); Kaufman, Modern Hatreds; Rothchild, Managing Ethnic Conflict in Africa.
inherently conflictual patterns of relations among groups by providing the possibility for cooperation and collaboration in areas of mutual self-interest; the more constitutive roles they might play in altering identities or establishing more amicable perceptions of identity relations are, for the most part, neglected.  

One notable exception to these ‘rationalist’ traditions in political science can be found in the recent ‘social constructivist’ paradigm of IR theory. Drawing upon sociological and social psychological theory, as well as more ‘critical’ perspectives from postmodernism, feminism, and critical social theory, social constructivist theory has emerged since the early 1990s as a direct challenge to the rationalist presumptions dominating international relations. This challenge has revolved around four distinct but interrelated critiques of traditional political science scholarship. First, constructivism recognizes the importance of identity to the endogenous constitution of actors’ interests and behaviours, and discusses of the ways in which such identities are informed by, and themselves inform, their normative and cultural environments. Second, by problematizing and ‘denaturalizing’ identities and interests, constructivism challenges directly the reified, ahistorical assumptions of rationalist theories. By framing identities as social constructions – structures constantly formed and reformed through the processes of social interaction – constructivism provides for the potential transformation of both the identities of

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45 For a similar critique of these literatures, see Vayrynen “Socially Constructed Ethnic Identities,” 125-144. On the important difference between ‘regulative’ and ‘constitutive’ rules as part of the constructivist challenge to rationalist conceptions, see Hopf, “The Promise of Constructivism,” 172-173; Ruggie, “What Makes the World Hang Together,” 871-872;

46 This is not to claim, however, that constructivism has emerged as an entirely homogenous field, most notably being divided between ‘conventional’ and ‘critical’ perspectives. Importantly, however, both ‘streams’ of research aim towards a denaturalizing of the social world and a recognition that institutions and identities are products of human agency and social construction, and therefore stress the potential for transformation and change. For an excellent discussion, see Hopf, “The Promise of Constructivism” as well as Price and Reus-Smit, “Dangerous Liaisons?”

47 On the role of identities, norms, and their role in interest formation, see Ruggie, “What Makes the World Hang Together?”
actors and their systems of interaction over time.\textsuperscript{48} Indeed, constructivists have noted that just as identities might be manipulated by elites by way of inciting conflict, so too might they similarly be self-consciously and strategically targeted in trying to move towards more peaceful relations.\textsuperscript{49} Third, by emphasizing the importance of identity and the potential for its transformation, constructivist theory introduces the very real impact that an expansion of collective identification through the formation of a more inclusive sense of community – understood as shared perceptions of identity, “we-ness,” or friendship – might have in ameliorating or potentially eliminating the inevitability of conflict among actors.\textsuperscript{50} Fourth, and perhaps most important for the argument forwarded here, constructivists stress the crucial role that institutions can play in this transformative process, effectively acting as the main sites of socialization in which former enemies can begin to alter their antagonistic conceptions of identity and form more peaceable relations.\textsuperscript{51} More specifically, these authors have argued that

\textsuperscript{48} In this regard, social constructivism draws heavily on ‘critical’ veins of IR scholarship which have highlighted the need for theories of ‘historicism’ and historical change in international relations, and have emphasized the transformative potential of the state and the character of relations between states. See Walker, "History and Structure."

\textsuperscript{49} In particular, Wendt suggests that intractable conflict might be “amenable to quite a different logic of transformation, one driven more by self-conscious efforts to change structures of identity than by unintended consequences.” See Wendt, "Anarchy Is What States Make of It," 418-19. For similar arguments, see also Emanuel Adler and Michael Barnett, eds., Security Communities (Cambridge: Cambridge University Press, 1998); Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Politics Change," International Organization 52, no. 4 (1998).

\textsuperscript{50} In a number of ways, these arguments draw on earlier recognitions made by theorists working in the ‘English School’ of IR scholarship about the role that shared identity in an ‘international society’ could play in regulating the interactions of states in the international system. For instance, see Hedley Bull, The Anarchical Society (New York: Columbia University Press, 1977). For a more recent social constructivist perspectives, see Ruggie, “What Makes The World Hang Together”; Alexander Wendt, “Anarchy is What States Make of It”; Wendt, “Collective Identity Formation and the International State”; Wendt, Social Theory of International Politics; Adler and Barnett, eds., Security Communities; Cronin, Community Under Anarchy.

\textsuperscript{51} It is important here to note that this study uses the term ‘institution’ throughout to refer more to the processes and mechanisms utilized by ‘formal organizations’ as opposed to more ‘informal’ types of social institutions which might refer simply to a regularized pattern of interactions. On this important distinction, see Emanuel Adler and Michael Barnett, "A Framework for the Study of Security Communities," in Security Communities, ed. Emanuel Adler and Michael Barnett (Cambridge: Cambridge University Press, 1998), 41-42. However, it should also be noted that in the context of transitional justice this study doesn’t limit the use of the term ‘institution’ to refer only to ‘formal’ justice structures such as trials and truth commissions. Instead, ‘institution’ is used interchangeably with ‘strategy,’ and is taken to encompass “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice,
by fostering growth in social networks of trust and communication and facilitating reciprocal interactions among actors, institutions can serve as sites of ‘social learning’ – a process whereby actors learn to identify positively with one another, developing a sense of collective identitification or ‘we-feeling’ to the extent that they “no longer fear the use of violence as a means of statecraft and to settle their disputes.” This suggests the ability of institutions to foster a more inclusive sense of moral and political community among former enemies, one that doesn’t require the “elimination of existing cultural and ethnic loyalties and identities,” but rather facilitates the “creation of regions of social cognitive and normative bonds that can encourage peoples to identify, and to expect their security and welfare to be intimately intertwined, with those that exist on the same side of spatial and cognitive borders.” In making this argument, Adler and Barnett join other prominent constructivist scholars in marking an important ‘paradigm shift’ in the study of political science, namely:

the intellectual conjecture that violent conflict can be mitigated and even eliminated by the development of mutual identification among peoples…. [essentially] the possibility that peaceful change might be established through the institutionalization of mutual identification, transnational values, intersubjective understandings, and shared identities.


53 Ibid., 59. As an example of this idea of ‘nested’ identities, Canada’s inclusion as a member of a North American security community does not exist to the necessary exclusion of its ‘Canadianess’ or national identity, nor does it preclude identifying with a broader community such as through Canada’s inclusion among liberal democracies or as a member of international society.

54 The notion of a ‘paradigm shift’ in constructivist conceptions of international security is borrowed from Adler and Barnett, Security Communities, 59. Interestingly, a similar ‘paradigmatic shift’ is advocated at the intrastate level by noted peace and conflict studies scholar John Paul Lederach, who notes a conflict between ‘realist’ theories of IR and the more social psychological approach of conflict resolution and the resultant failure of ‘statist’ realpolitik applications to resolving conflict inside the state. In short, he argues against an exclusive focus on rational and mechanical processes of conflict regulation in favour of an emphasis on the potential for “transformation” in the restoration and building of relationships in intractable conflicts. See Lederach, Building Peace, 24-25.
However, the insights of social constructivism about the seminal roles of identities and institutions in building more peaceable relations among enemies have yet to be applied at the intrastate level, though it seems that a ‘cross-fertilization’ of these theories could have particular resonance for the resolution of ethnonational ‘identity’ conflicts in divided societies.\textsuperscript{55} As I contend, applying this constructivist logic to the post-conflict environments of societies rebuilding in the wake of mass intergroup violence can provide a vital entry point for theorizing how institutions of transitional justice might work towards the transformations of identity required for reconciliation and the stabilization of peace in divided societies. Indeed, I argue that transitional justice institutions are of crucial importance to reconciliation efforts in these contexts, as their structures can encourage the socialization and ‘social learning’ through which ethnonational groups can alter antagonistic identifications formed during past violence and develop a more inclusive sense of collective identity characterized by amity and relations of sustainable peace. However, before investigating the specific contributions that transitional justice strategies might make in such processes, a closer examination of the concept of reconciliation and its role in deeply divided societies is essential. I consider below the ways in which intergroup reconciliation is linked to the politics of identity, and how the creation of morally inclusive and non-violent relations between ethnonational groups is itself dependent upon the transformation of antagonisms dividing Self from Other.

\textsuperscript{55} Some exciting recent work in line with this ‘cross-fertilization’ does exist. See Neal G. Jesse and Kristen P. Williams, \textit{Identity and Institutions: Conflict Reduction in Divided Societies} (New York: SUNY Press, 2005). These authors have focused on how international institutions might help ameliorating ethnonational conflict in divided societies through the creation of more common identifications. Unfortunately, the impact these authors see institutions as having on identities is limited to being ‘regulative’ or ‘functional’ as it is based on neoliberal ‘rationalist’ theories of common interest. A more constitutive role for institutions in shaping identity, while strongly hinted at, is left unrealized.
INTERGROUP RECONCILIATION

‘Reconciliation,’ understood both as a theoretical concept and an empirical goal, has attracted increased attention throughout the wider body of literatures engaged in the study of the dynamics of peace and conflict, and has gained particular prominence among scholars concerned with the ways in which former enemies might be brought to live peacefully together following the conclusion of protracted conflict. However, as a concept, reconciliation has tended to remain ‘murky’ and notoriously resistant to clear definition, with every author having slightly different understandings of what exactly needs to take place during processes of reconciliation, what the ‘successful’ outcome of reconciliation processes would look like, and whether it is a concept to be applied at the interpersonal, intergroup, or intersocietal level.\textsuperscript{56} Despite this variability, it is generally accepted that, at a minimum, reconciliation requires the cessation of violence and the establishment of more cooperative relations among former enemies. Further, it is also recognized that reconciliation entails a movement beyond the mere absence of conflict and situations of ‘thin’ or ‘negative’ coexistence, requiring deeper changes to the underlying ways in which former enemies perceive one another and their relationship.\textsuperscript{57} Indeed, it is these ‘thicker’ changes associated with reconciliation at the social, psychological, and structural levels that are commonly acknowledged as the elements ultimately needed for the foundation of lasting and sustainable peace among former enemies, as they create the opportunity for relations of insecurity and animosity to be replaced by those of cooperation, mutual respect, and a

\textsuperscript{56} Franklin Oduro, \textit{What Do We Understand by 'Reconciliation?' Emerging Definitions of Reconciliation in the Context of Transitional Justice} (Ottawa: International Development Research Centre, March 2007).

commitment to settling future conflicts without recourse to violence.\(^{58}\) There is therefore an emerging agreement that reconciliation remains an essential component of post-conflict peacebuilding processes, based on the recognition that neither the initial termination of hostilities nor the formal peace agreements decided upon by elites will themselves be enough to “overcome the bitterness and grievances inherent in a protracted conflict, nor the perceptions and mutual fears” these conflicts engender among former enemies – factors that will otherwise continue to prevent more cooperative relations and could bring about a renewal of violence.\(^ {59}\) In other words, there is an explicit acknowledgement that the entrenched animosities among former enemies will not fade easily with the passage of time but rather will require active reconciliatory efforts to challenge and overcome them.\(^ {60}\) Accordingly, nowhere are such reconciliation efforts more necessary than in the context of divided societies seeking to overcome legacies of mass intergroup violence between heavily polarized identity groups – especially if the goal is to have these former enemies peacefully reintegrated and living together in a single state, as is often the case.

In its most basic form, reconciliation might then be defined as the act of creating or rebuilding “friendship and harmony between rival sides after resolution of a conflict, or transforming the relations between rival sides from hostility and resentment to friendly and harmonious relations,” a long-term process which will require former enemies to “form new relations of peaceful coexistence based on mutual trust and acceptance, cooperation, and


consideration of each other’s needs.”  

Understood in this way, reconciliation is a fundamentally transformative process, one which requires “changing the motivations, goals, beliefs, attitudes, and emotions of the great majority of society members regarding the conflict, the nature of the relationship between the parties, and the parties themselves.”  

This conception forms the underlying thesis of a growing body of ‘conflict transformation’ literature from the fields of political psychology, conflict resolution, and peace studies that examines the role of reconciliation after periods of protracted and intractable ethnonational violence in divided societies. Often drawing heavily on studies in sociology and social psychology, these scholars argue that successful reconciliation in such cases must involve an element of ‘identity negotiation:’ the process of engaging former enemies in redefining the antagonistic identities and belief systems motivating past violence and (re)creating a more positive system of relations governing their interactions. Indeed, as the distinguished social psychologist Herbert Kelman has argued, given that collective identity has been recognized as a prime contributor to intergroup conflicts in divided societies, so too will it have a central role to play in any successful process seeking their reconciliation. As he contends, “identities have to change, at least tacitly, if protracted identity conflicts are to be settled and, certainly, if they are to be resolved in a way that transforms the relationship and opens the way to reconciliation.”  

Further, as the political psychologists Ervin Staub and Daniel Bar-Tal note, there must also be a

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61 This first definition is borrowed from Bar-Siman-Tov, “Dialectics,” 72. The second definitional quote on reconciliation is taken from Bar-Tal, “From Intractable Conflict,” 355.


corresponding change to the antagonistic ‘societal beliefs’ that enemies hold about one another and that reinforce their relations of enmity. In particular, they emphasize the crucial need to transform the corrupted ideologies, normative structures, and value systems developed over the course of conflict which, if left unaddressed, will continue to reinforce a devaluation or ‘delegitimization’ of the Other and maintain perceptions that the outgroup is a justifiable target for violence.  

Finally, by drawing attention to the inherently relational nature of conflict, noted peace scholar John Paul Lederach suggests that the key to reconciliation lies in altering the system of social and psychological relationships existing between identity groups, arguing in favour of an approach to post-conflict peacebuilding that “transforms a war-system characterized by deeply divided, hostile, and violent relationships into a peace-system characterized by just and interdependent relationships with the capacity to find non-violent mechanisms for expressing and handling conflict.”

Importantly, however, it has been recognized that these transformative processes cannot be limited to decision-makers or elites alone if they are to be successful in effecting the deep transformations required in heavily divided societies for reconciliation and sustainable peace, although such high-level ‘strategic learning’ has been noted as an important first step in this direction.  

Rather, as Yaacov Bar-Siman-Tov and others have noted, it is necessary that these changes “penetrate deep into the societal fabric” and effect a broader ‘societal reconciliation’ “involving the whole society or at least a majority in the reconciliation process.”

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66 Lederach, Building Peace, 84.


68 Ibid., 73.
Beyond this work on the processes of reconciliation in divided societies, there is also a growing recognition among conflict transformation theorists as to what the content of reconciliation, understood as an ‘outcome,’ would entail. While by no means an exhaustive list, five widely accepted indicators of ‘successful’ reconciliation outcomes in formerly divided societies are identified and briefly considered in turn here. However, it should be noted that these elements are considered largely interrelated and mutually constitutive and that I am advancing no claims as to their primacy.

First, reconciliation is marked by the presence of mutual trust among former enemies. The creation of such trust centers on the replacement of past feelings of fear, threat, and suspicion of the Other with the belief that future relations will be governed by a system of amicable reciprocity and reasonable expectations of cooperative interaction.69 While largely marked by cognitive and affective change, this trust is a direct product of social interaction, built up over time through sustained experiences of positive and reciprocated contact and communication with the Other. Notably, the creation of mutual trust is also necessarily tied to reduced levels of discriminatory bias and prejudice, as well to the amelioration of negative stereotypes that reproduce simplistic, and often hostile, misperceptions about the Other’s actions, intentions, and inherent ‘trustworthiness.’70


70 See Gross-Stein, "Psychological Explanations of International Conflict."
Second, there must also be an extension of perceptions of the boundaries of moral community among former antagonists such that members of the Other are effectively ‘rehumanized’ and no longer considered legitimate targets for violence. In effect, this entails the creation of a more equitable moral order that recognizes the value of difference but is also marked by perceptions of a common humanity amongst former enemies – the notion that Self and Other should be accorded equal moral worth and are therefore entitled to the same normative and ethical considerations.\textsuperscript{71} Most notably this includes the replacement of the previous ‘culture of violence’ with a new ‘culture of human rights’ in which both Self and Other are perceived to possess an equal entitlement to fundamental human rights protections.\textsuperscript{72} Also central to this process of ‘rehumanization’ is a broadening of empathy beyond the boundaries of the ingroup to incorporate members of the Other and reverse the patterns of moral exclusion tied to past conflict.

Third, built upon the extension of mutual trust and rehumanization, reconciliation involves the creation of a broader sense of collective identification in which the cognitive boundaries of the Self are expanded to include the Other, and in which previous divisions are


\textsuperscript{72} See Aiken, "The (Re)Construction of a Culture of Human Rights."
replaced with a shared sense of shared identity, friendship, trust, and common interest. To be clear, this doesn’t entail the elimination of difference among group identities as such, but is rather a process of ‘identity widening’ that moves towards a more inclusive perception of ‘superordinate’ or ‘transcendent’ identity within which common normative structures apply.

This point is succinctly made by Terrell Northrup, who has noted that reconciliation entails replacing the rigid divisions of Self and Other which defined past conflict with a more inclusive sense of common identity in which a “sense of ‘we’ replaces the ‘us/them’ split.” However, as she notes, “this does not imply that the parties become like each other but that they accept their differences [and] possibly even value them.”

Fourth, successful reconciliation is distinguished by perceptions of the illegitimacy of violent conflict or an ‘unthinkability of violence’ among former enemies, “a situation in which the probability of war is so small that it does not really enter in to the calculations of any of the people involved.” To be sure, this is not to assert that no conflict and competition will exist in


74 This concept of ‘identity widening’ is borrowed from Donald G. Ellis, Transforming Conflict: Communication and Ethnopolitical Conflict (New York: Rowman & Littlefield, 2006). Among others, see also Kelman, "Reconciliation as Identity Change."; Northrup, "The Dynamic of Identity."


77 Kenneth Boulding as quoted in Bar-Siman-Tov, “Dialectics,” 63. This point is also raised in Kriesberg, “Intractable Conflicts,” 337.
their relationship or that reconciliation entails an overly optimistic goal of perfect harmony. Rather, based on a foundation of mutual trust, shared moral order, and a more inclusive and amicable sense of common identification, the kind of reconciliation envisioned here entails a mutual expectation that all future conflicts will be settled peacefully and by means other than violence – in effect, reflecting that former enemies “have become integrated to the point that there is a real assurance that the members of that community do not fight each other physically, but will settle their disputes in some other way.”

Fifth, and finally, reconciliation also requires attention to structural and material elements, as reconciled relations between former enemies can’t continue to be marked by “gross disparities in economic well-being” or inequitable access to social and political rights. This attention has widely been recognized as essential both for creating the perception of equality needed for collective identification and for ensuring that these disparities don’t serve as points of contention that could provide the basis for future conflict. While reconciliation would be unlikely to make for exact symmetry between groups on these fronts, more equitable relations serve to improve chances for reconciliation, while gross and systematic disparities between

78 See Jean Bethke Elshtain’s definition of reconciliation as “bringing matters into a framework within which conflicts can be adjudicated short of bloodshed…one no longer begins with the deadly a priori assumption that the majority or a sizeable portion of one’s fellow countrymen and women are outsiders and enemies. Rather we are all enclosed within a single socio-political frame and enfolded within a common politico-ethical horizon.” Jean Bethke Elshtain, “Politics and Forgiveness,” in Burying the Past: Making Peace and Doing Justice after Civil Conflict, ed. Nigel Biggar (Washington: Georgetown University Press, 2001), 53. This is reflected in Bar-Siman-Tov’s own perception of reconciliation and stable peace as the “non-thinkability” and “non-calculation” of violence between former enemies. See “Dialectics,” 63. This directly reflects the constructivist conception of sustainable peace at the international level and the “dependable expectation of peaceful change” within such collective identities. See Adler and Barnett, “A Framework for the Study of Security Communities,” 7.

groups will be more likely to prevent opportunities for more reconciled relations between former antagonists.\textsuperscript{80}

As they draw on similar backgrounds, in many ways the work of these conflict transformation theorists on intergroup reconciliation at the intrastate level parallels that of social constructivists on building amicable and non-violent communities internationally. Both groups highlight the necessity of transformative processes of ‘social learning’ about identities, beliefs, and behaviour among former enemies to facilitate reconciliation and create the basis for sustainable peace. Further, both illustrate the particular importance that forming a more inclusive sense of collective identification that extends the boundaries of moral and political community to include the Other might have for reconciliation, including the capacity of such collectivity to create relationships in which violence is no longer considered a legitimate means of settling conflict. However, by placing their primary emphasis on the social and psychological changes required for reconciliation, for the most part conflict transformation theorists have tended to overlook the seminal role that institutions might play in providing the space in which former enemies can intentionally be brought together to initiate these kinds of social learning processes – a key contribution of the constructivists. Constructivist scholars, on the other hand, have yet to apply their insights about institutional strategies to post-conflict reconciliation contexts at the intrastate level – ethnonational violence has to date been the purview of conflict transformation scholars from political psychology, conflict resolution, and peace studies. Further, while constructivists stress the importance of interaction and communication to social learning and the impact this learning has on creating more peaceful collective identities, in large part the substantive social and cognitive processes by which this learning takes place go unexplained;

\textsuperscript{80} Bar-Siman-Tov, “Dialectics,” 65. Notably, the definition of reconciliation here shares many common points with a similar five part model of reconciliation developed in Brandon Hamber and Grainne Kelly, \textit{A Place for Reconciliation?: Conflict and Locality in Northern Ireland} (Belfast: Democratic Dialogue, 2005).
once again, these facets are more closely explored by the social psychological theories of transformation scholars. Theorizing the connection between institutions, intergroup reconciliation, and sustainable peace may therefore require synthesizing these two literatures. Indeed, Yaacov Bar-Simian-Tov, a pioneer in this regard, has noted that ‘structural-institutional’ changes may be indispensable precursors to the ‘learning’ that both constructivists and conflict transformation scholars have argued is necessary to reconciliation – a learning that opens the initial opportunity among former enemies “for the active process of redefinition or reinterpretation of reality – what people consider real, possible, and desirable – on the basis of new causal and normative knowledge.” In essence, Bar-Simian-Tov contends that structural alterations and the creation of joint institutions can provide a crucial ‘first space’ for renewed interaction and communication among former enemies, and that these social learning mechanisms, in turn, provide the ‘new knowledge’ needed to trigger the reconciliatory processes that transform identities, beliefs, and relationships. However, my research focuses on theorizing the causal connection between institutions of transitional justice and reconciliation in divided societies, an additional line of dialogue will also have to be opened between these literatures and the recent academic discipline of transitional justice.

TRANSITIONAL JUSTICE AND THE POLITICS OF IDENTITY

The term ‘transitional justice’ refers to “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation.” In recent years, the field of transitional justice studies has emerged a distinct area of scholarship concerned with the study of

the various judicial and non-judicial strategies that have been used by community, state, and international actors to provide accountability for gross human rights violations in societies transitioning away from a past legacy of internal conflict and/or state repression. To date, these strategies have included a wide range of institutional responses, including domestic trials, international tribunals, truth commissions, amnesties, reparations programs, and more ‘traditional’ justice methodologies. For the most part, the body of transitional justice scholarship has centered largely on a series of comparative institutional analyses of the various approaches that have been used to account for past abuses within different countries as a way of helping these countries successfully transition towards democracy and sustainable peace.

83 ‘Transitional justice’ can be considered either broadly or narrowly. Broadly, it includes the full range of interlinked processes and mechanisms used by a society to address the legacy of past human rights violations and promote the goals of accountability and reconciliation. Narrowly, it refers only to the formal institutions used in these strategies, such as trials or truth commissions. The approach taken here is in line with broader interpretations, focusing on how broader strategies, and not just formal institutions, might be designed to facilitate crucial social learning mechanisms (though such institutions will likely form the central element of any related strategy). This opens the potential for considering more ‘piecemeal’ approaches to transitional justice, such as that undertaken in Northern Ireland, or to strategies which employ multiple institutional mechanism, such as in Rwanda. On Northern Ireland’s ‘piecemeal’ approach, see Christine Bell, "Dealing with the Past in Northern Ireland," Fordham International Law Journal 26, no. 1 (2002-2003). On this distinction between ‘broad’ and ‘narrow’ interpretations, see Naomi Roht-Arriaza, "The New Landscape of Transitional Justice," in Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice, ed. Naomi Roht-Arriaza and Javier Mariezcurrena (Cambridge: Cambridge University Press, 2006), 2. She defines ‘transitional justice’ in a similar way to the definition here as “that set of practices, mechanisms and concerns that arise following a period of conflict, civil strife, or repression, and that are aimed directly at confronting and dealing with past violations of human rights and humanitarian law.”

consensus exists within this scholarship that the unique context of each society’s transition means that no ‘one-size-fits-all’ strategy can be usefully employed across all cases, the field itself has nonetheless been largely defined by a series of debates as to which institutional strategies might best achieve the goals of justice and reconciliation in transitional societies.  

The first of these debates is that of ‘trials’ versus ‘truth’ – a recurring disagreement between those scholars who advocate criminal prosecutions or other legal sanctions against the perpetrators of violence and gross human rights violations as an essential means of re-establishing law and order in transitional societies, and those proponents of ‘truth-recovery’ or ‘truth-telling’ frameworks who hold that the full acknowledgement and explication of past conflict are more essential elements of justice and reconciliation.  

A second, and closely related, debate over ‘retributive’ and ‘restorative’ approaches – an argument regarding the underlying philosophy of justice that should inform accountability for past violence, and one usually drawn in rather stark contrast – has further divided the transitional justice literature. Very broadly, proponents of retributive justice argue for punishment as a response to mass violence, emphasizing the need for deterrence, individual criminal liability, and the reestablishment of the rule of law, processes which may require legal sanctions and criminal prosecutions to be carried out in national and international courts.  

Advocates of restorative justice, on the other hand, argue that legal punishments sought against perpetrators must be limited in favour of rebuilding social connections and relationships that may have been damaged over the course of the conflict and involving victims and perpetrators of past violence as cooperative partners in reparative

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86 See, for instance, the body of contributions to Rotberg and Thompson, eds., Truth v. Justice. See also Borer, ed. Telling the Truths; Hayner, Unspeakable Truths; Minow, Between Vengeance and Forgiveness.

87 For a critical review of retributive processes, see Druml, Atrocity, Punishment, and International Law.
processes. Finally, there exist long-standing debates in the literature surrounding the most effective locations, mandates, and compositions of transitional justice institutions. These arguments take up the relative efficacy of pursuing justice and accountability primarily through indigenous or community-based mechanisms, national institutions, and international organizations, and ask whether the ultimate authority and responsibility for these transitional justice approaches should rest with local, national, or international officials. Recently, however, these debates have evolved, as a growing number of transitional justice scholars have sought to move beyond this kind of diametrical thinking and to explore the potential benefits of more ‘holistic’ institutions – mechanisms that combine elements from each of these traditional debate axes. Institutionally, this has been reflected in the design of ‘hybrid’ strategies involving combinations of both national and international structures and officials, ‘mixed’ mechanisms, which incorporate both restorative and retributive aspects of truth and trial processes, and even ‘mixed/hybrid institutions,’ which combine components of all of these strategies in some complementary or sequential arrangement.

However, despite the existence of these debates regarding institutional design, scholars and practitioners working within the field remain united in their agreement that transitional justice is an integral component of post-conflict reconciliation efforts in societies struggling to

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89 For an overview of this debate, see Roht-Arriaza, "The New Landscape of Transitional Justice."

90 On this point, see the body of contributions to Roht-Arriaza and Mariecurrena, eds., Transitional Justice in the Twenty-First Century.

91 Ibid.
overcome legacies of past violence, and is crucially important to facilitating processes of reconciliation among former enemies. Indeed, a recent survey of transitional justice literature undertaken by the Canadian International Development Research Centre (IDRC) concludes that reconciliation, in tandem with justice, remains a fundamental aim of almost all transitional justice processes, and that preventing the recurrence of violence and stabilizing a post-conflict peace are the “ultimate goals” of transitional justice. Further, recent studies have suggested that the use of some form of transitional justice strategy for past atrocities may be a necessary component of the development of sustainable peace in post-conflict societies, particularly in societies which have been deeply divided along lines of entrenched ethnonational identity. However, despite the strong connection drawn in the literature between transitional justice, reconciliation, and lasting peace, the causal processes underlying these assumptions are left largely unspecified and undertheorized. For instance, while proponents of truth commissions and other restorative mechanisms argue that bringing former enemies together and revealing truths about past events can help to heal broken relationships, and advocates of trials and retributive justice strategies forward the necessity of criminal punishment for societal reconstruction, to date insufficient consideration has been given to theorizing and studying empirically how these institutional components actually contribute to the psychosocial processes of intergroup reconciliation.

Building on the insights developed by constructivists and conflict transformation scholars, I therefore argue that what may be required by way of uncovering the relationship

\[92\] Oduro, *What Do We Understand by 'Reconciliation'?*.


between transitional justice and reconciliation is a reconsideration of institutional design that begins by engaging the fundamental issues of collective identity at the root of mass violence, and that considers how the specific strategies employed by these institutions might contribute to transforming underlying antagonisms linked to identity that might otherwise threaten to incite future returns to violence. This reconceptualization offers an opportunity to move beyond traditional comparative examinations of transitional justice mechanisms based on assessments of structure and arguments as to the efficacy of various institutional designs in providing justice and reconciliation in divided societies. Indeed, the literature’s recognition of the highly contextualized nature of conflict, and its consensus that no one model of transitional justice will be universally effective, already inherently limit the utility of such approaches. This argument, on the other hand, seeks to change the terms of transitional justice debates; ultimately, asking whether any one kind of institution – be it indigenous, retributive, or hybrid – is intrinsically ‘better’ than another seems less important than asking whether the processes and mechanisms employed by such strategies serve to impede or impel the transformation of communal identities and relationships ultimately required for reconciliation. To be clear, this is not to make the claim that transitional justice is ‘all relative’ or that institutional design is unimportant. In fact, quite the opposite – it may be that institutional design is of greatest importance in determining whether a transitional justice strategy is able to contribute positively to reconciliation in post-conflict societies. Rather, the argument advanced here is that by refocusing our attentions from structure to process and concentrating on what these institutions do rather than what they are, we can gain greater insight into how transitional justice interacts with the politics of identity in post-conflict societies, and how it directly impacts thereby the potential for reconciliation and sustainable peace among former enemies.
The argument that institutions of transitional justice can have a causal effect on promoting intergroup reconciliation is one predicated on the transformative logic underpinning recent identity-based theories of social constructivism in international relations and echoed by conflict transformation theorists in political psychology, conflict resolution, and peace and conflict studies. These theories assert that neither the content of collective identities nor the nature of relations between them exist as reified structures, but are rather social creations, constructed and reconstructed through ongoing processes of social interaction. Following from this premise, a ‘transformative potential’ for the creation of more peaceful relations among even the most intractable of former enemies can exist if antagonistic conceptions of Self and Other are challenged by new patterns of social interaction and identification. However, to make the argument that identities are socially constructed, always in process, and therefore that conflictual relations can be transformed, is not to assert that this is an easy task or that it might even be a viable possibility during all stages of intergroup conflict. As has been discussed, due to the ways in which the commission of violence retrenches group boundaries, mutual vilification, and perceptions of the Other as enemy, it remains unlikely that more peaceable collective identities can be developed during periods of overt conflict. Hostile relations tend to be path-dependent, and during protracted conflicts, in particular, the identification of the Other as an externalized enemy may come to be viewed as a solidified ‘social fact’ or virtual objective truth governing intergroup relations. The argument made here therefore self-consciously brackets cases of ongoing violence to focus on practices of reconciliation in post-conflict societies, forwarding the

95 While this point is made by a number of authors, but see in particular Kelman’s argument for ‘strategic optimism’ in transforming protracted and intractable identity conflicts. As he notes, “social psychological evidence suggests that they can change, and historical evidence shows that they do change.” See Herbert C. Kelman, "Social-Psychological Dimensions of International Conflict," in *Peacemaking in International Conflict: Methods and Techniques*, ed. I. William Zartman and J. Lewis Rasmussen (Washington: United States Institute of Peace Press, 1997), 222-23.

96 On the very real effect of ‘social facts’ on restraining actor behaviour, see Ruggie, "What Makes the World Hang Together?"; Wendt, "Anarchy Is What States Make of It."
more limited claim that if divided societies exist in a minimal state of ‘negative peace’ in the aftermath of intergroup violence, the potential exists for the reconstruction of identity and the development of a more ‘positive’ and sustainable peace.\textsuperscript{97}

In fact, the end of widespread violence marking the beginning of the post-conflict period may be intrinsically tied to the ability of transitional justice institutions to effect the changes in the politics of identity necessary for reconciliation. A number of recent scholars have noted that the systemic change, societal upheaval, and altered relationship dynamics associated with the post-conflict environment mark an ‘innovative space’ in which existing social structures can be challenged.\textsuperscript{98} In other words, the initial cessation of overt conflict can bring with it a unique ‘transformative moment’ for divided societies during which the ‘facts’ associated with collective identities and their antagonistic relations can be redefined. Specifically, the ‘transformative moment’ provides a narrow window for actors to engage in active processes of critical self-reflection, re-examine old ideas about Self and Other, denaturalize existing perceptions, and consider the possibility of redrawing the bounds of moral and political community. Transitional justice strategies can intervene during this transformative period, often providing the initial forum in which former enemies are brought together to confront the legacies of past violence and to reconsider the nature of their relations with the Other. As I contend, institutions of transitional justice may therefore be uniquely situated to serve as sites of critical ‘social learning’ in the post-conflict environment, providing the seminal space in which former enemies can challenge, and potentially overcome, the polarized identifications and antagonistic relationships at the root of


\textsuperscript{98} Coleman illustrates this potential to overcome the intractability of identity antagonisms when he notes that “[t]he oppositional identity groups that emerge are meaningful and durable, but can change under certain conditions such as crises, historical shifts in intergroup relations, power shifts, and changes in group leadership.” See Coleman, "Polarized Collective Identities," 8; Eder et al., \textit{Collective Identities in Action}; Monroe, Hankin, and Vechten, "The Psychological Foundation of Identity Politics.", Vayryen, "Socially Constructed Ethnic Identities.", Wilmer, \textit{The Social Construction of Man, the State, and War}. 
intergroup conflict. To be clear, this is not to make the overly ambitious claim that transitional justice represents a ‘magic bullet’ which, in and of itself, will be able to foster lasting intergroup reconciliation. Indeed, reconciliation is an ongoing and multifaceted process likely to require other elements operating outside of the limited timelines and mandates covered by formal transitional justice strategies. Rather, it is argued that these institutions, if properly designed, can serve as crucial catalysts of social learning through which former enemies can come to reimagine the nature of their relations and obligations to one another, and through this reimagining, begin to create the conditions necessary to reconciliation and positive peace.99

This still leaves questions, however, as to how exactly these institutions can contribute to transforming entrenched hostilities in divided societies and to building the more inclusive conceptions of collective identity and moral community linked to reconciliation. As has been noted, recent constructivist scholarship from the field of international relations has developed perhaps the most sophisticated theories as to the roles that structures and institutions can play in the construction of non-violent communities among former enemies, and therefore seems the best place to begin unpacking this relationship. These constructivist theories were originally developed to explain the formation of ‘zones of peace’ in the international system, such as those found in the ‘democratic peace,’ in ‘security communities,’ or in the expansion of regional identities such as the European Union, but I contend that their insights can be fruitfully applied to analyses of reconciliation within the state.

For instance, constructivist scholars have highlighted how institutions can play integral roles in building non-violent relationships among former enemies by working both directly and indirectly to transform the ‘social facts’ of collective identities and the hostile patterns of

99 This notion of transitional justice institutions acting as “catalysts for reconciliation” has been similarly noted by Beth Rushton, “Truth and Reconciliation: The Experience of Truth Commissions,” *Australian Journal of International Affairs* 60, no. 1 (2006): 138.
interaction which previously informed intergroup enmity. In particular, these authors have noted the importance of institutions as forums in which actors are brought together to engage in increased interaction and communication – two elements considered critical to facilitating the ‘social learning’ processes by which actors come to “[re]discover their preferences, to reconceptualize who they are, and to reimagine their social bonds.”100 Indeed, as Adler and Barnett have noted in their work on the formation of security communities in the international system, “because identities are created and reproduced on the basis of knowledge that people have of themselves and others, learning processes that occur within and are promoted by institutions can lead actors to develop positive reciprocal expectations and thus identify with each other.”101 In essence, by providing the initial sites in which renewed socialization and learning about the Other take place, institutions help actors to renew their trust in one another through the experience of more positive interaction, to develop more compatible systems of beliefs and values, and ultimately “to identify with those who were once on the other side of cognitive divides” by adopting a more inclusive sense of collective identity.102 However, it is important to note that while institutions may be a necessary means of bringing actors together through interaction and communication, they cannot in and of themselves create the sense of ‘we-feeling,’ foster the seeming ‘unthinkability of violence,’ or instantiate the future expectations of stable peace which are the hallmarks of a developed security community. Rather, it is the psychosocial processes of social learning that these structures serve to promote that remain the ‘lynch-pin’ for redefining divisive identities and transforming relationships from ones of conflict and hostility to those of friendship and cooperation.

101 Ibid.
102 Idem., 45.
Further, other constructivist authors have stressed the importance of institutions as the “organizational platforms” needed for the articulation, transmission, and socialization of the normative structures that inform the ‘content’ of new identities and set limits on the behaviours governing their relations. In this way, beyond serving as a focal point around which a new sense of common identity and attachment can coalesce, institutions can also help to disseminate new sets of moral values and ethical rules among members of the burgeoning collectivity. In so doing, institutions draw upon their accumulated reserves of authority and legitimacy in an attempt to encourage the emergence of a new normative culture, using their structures to pressure and persuade actors to challenge their existing beliefs and to internalize new moral values and related standards of ‘appropriate’ behaviour. While to date, constructivist scholars have reserved such theories for tracing the roles of institutions in norm dynamics at the international level, their application to intrastate processes of post-conflict peacebuilding and transitional justice seems similarly apt. Indeed, transitional justice institutions tend to attract tremendous public attention in post-conflict environments as potent symbols of social breaks with divisive past violence. Further, these institutions are often explicitly tasked by transitional authorities with creating more reconciled societies based on the values of democracy, human rights, and shared commitment to the rule of law and the non-violent resolution of future conflict. As Ruti Teitel has argued in her seminal treatise on the role of justice in transition, a central contribution of all such institutions is their marking of a fundamental “normative shift” in post-conflict societies by condemning the fear, divisiveness, and injustice that characterized past violence and

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105 Teitel, *Transitional Justice*
promoting a reconstituted sense of collective rights and responsibilities that cuts across racial, ethnic, and religious lines.\footnote{Ibid., 225.}

**SOCIAL LEARNING AND TRANSITIONAL JUSTICE**

However, while constructivist theories may offer a useful point of entry for theorizing the causal effect of institutions on the formation of collective identities and the central place of social learning in this process, they still fall short of providing a clear account of both the operative social and cognitive mechanisms of these learning processes and of the ways in which different institutional designs might mediate their effects. As Jeffrey Checkel has noted in his recent critique of such learning theories, these authors have frequently failed to operationalize the psychosocial “micromechanics” behind processes of norm persuasion and social learning, including specifying the conditions under which learning will be more or less effective and outlining the specific ways in which an actor’s “interests and identities are shaped through and during interaction.”\footnote{Jeffrey T. Checkel, “Why Comply? Social Learning and European Identity Change,” *International Organization* 55, no. 3 (2001).} Further, as these constructivist theories were originally developed to help explain the interactions between corporate state actors at the international level, they will inherently require some supplementation when applied to post-conflict intrastate environments and to the specific requirements of transforming relationships between highly polarized identity groups after legacies of protracted and intractable violence.

This supplementation – an effort to understand the complex causal chains linking institutions of transitional justice to the psychosocial processes of reconciliation in divided societies – involves, I argue, three distinct theoretical innovations. First, it requires an operationalization of the social learning processes necessary to identity transformation and
intergroup reconciliation that combines the structural-institutional focus of constructivist theory with the more sophisticated social and cognitive theories of identity politics developed in sociology and social psychology. Second, it must attend to insights derived from recent scholarly work by conflict transformation scholars from the fields of peace studies, conflict resolution, and political psychology as to the unique barriers to intergroup reconciliation in divided post-conflict societies that social learning processes must address if they are to be effective in altering antagonistic identities and their relationships. Finally, it should consider how the particular design of transitional justice institutions and the strategies by which they are conducted might serve to impede or impel these mechanisms of social learning and, in so doing, either detract from or contribute to a society’s potential for reconciliation and sustainable peace.

However, this still leaves a number of questions as to what forms of social learning are needed for reconciliation in divided societies and, more specifically, what role transitional justice strategies might play in advancing these processes. Within the broader conflict transformation scholarship, the field of social psychology has advanced perhaps the farthest in its understanding of the kinds of social learning required for reconciliation in divided societies, and it therefore provides a useful starting point in searching for answers. Indeed, a recent ‘state of the art’ collection of social psychological work on intergroup relations suggests that reconciliation ultimately requires initiatives to effectively promote three distinct processes of social learning in post-conflict environments. The first of these processes, *instrumental social learning* refers to the use of strategies designed to engage former antagonists in sustained cooperative interaction, through which they can begin to transform their relationships with one another and “gradually learn to replace enmity with trust and negative with positive perceptions of the Other.”

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Socioemotional social learning, on the other hand, involves interventions designed to directly confront the emotional and perceptual legacies of past conflict as a means of breaking down obstacles to reconciliation caused by existing feelings of victimization, guilt, distrust, and fear between groups. These two processes of social learning are distinct from one another both in the interventions required for their development and in the temporal contexts towards which they are focused. As Arie Nadler and Nurit Schnabel illustrate, “socioemotional reconciliation is focused on the past of the conflict and asserts that the key to a reconciled future lies in a constructive confrontation with the painful past [whereas] efforts of instrumental reconciliation are focused on the present and are based on the premise that ongoing cooperation between the adversaries in the present will result in a reconciled future.” The authors note that both of these social learning processes will ultimately be required if a society divided by intrastate violence is to be reintegrated and successfully reconciled. Indeed, the two kinds of social learning are highly interdependent: the trust and cooperation built through instrumental learning provide the basis for a successful engagement with the past, while acts of socioemotional social learning help societies to overcome the emotional and psychological barriers to interaction which otherwise militate against the development of more positive – and peaceful – intergroup relations. Finally, it is also clear that the relative ability of socioemotional and instrumental initiatives to contribute to intergroup reconciliation will be heavily mediated by related efforts to

109 Ibid., 5.


111 Indeed, Nadler and Shnabel suggest that a ‘two-staged process’ may be required for reconciliation based on the need to build trust through instrumental reconciliation to pave the way for a second stage of socioemotional reconciliation to be implemented. However, while not explicitly stated in their work, they also make it clear that this interdependence might also function as a two-way street by detailing how the presence of feelings of victimization and injustice can lead to social, moral, and emotional distancing – all of which would significantly impede the possibility for positive interactions and the rebuilding of trust.
promote more positive processes of social learning about the Other through *distributive social learning* – sustained attempts to reduce structural and material inequalities and limit perceptions of inequitable power relations between former antagonists. As the collection’s editors note, alongside instrumental and socioemotional social learning, “the move to peaceful intergroup relations hinges on ensuring that the adversarial groups perceive equality of opportunities to procure material and social resources.”

To date, studies in transitional justice have tended to focus almost exclusively on socioemotional learning, that is, how different justice institutions or mechanisms are able to address the injustices of the past in assigning responsibility for past violence and reduce feelings of victimization and related desires for revenge that could otherwise serve to reignite conflict. While these efforts remain vitally important, insights from social psychology suggest that such initiatives will necessarily need to follow, or work in tandem with, longer-term interventions designed to promote intergroup trust and cooperation and distributive equality if they are ultimately going to be successful in building reconciliation and providing the foundation for sustainable peace. In unpacking the relationship between transitional justice and reconciliation, what may therefore be needed is a broader interpretation of transitional justice itself, one which gives consideration as to how instrumental and distributive aims must be incorporated alongside – or indeed within – the institutions and mechanisms designed to provide accountability for the past. In essence, such a reinterpretation suggests that the relative success of any transitional justice strategy in contributing to intergroup reconciliation will depend on its ability to promote instrumental and distributive processes of social learning alongside the socioemotional or, at the very least, be designed so as to work in tandem with other ongoing societal efforts to rebuild trust, cooperation, and equality between former enemies.

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That said, while the distinction between instrumental, socioemotional, and distributive social learning processes offers a useful entry point for investigating the link between transitional justice and reconciliation, it still falls short of operationalizing the specific mechanisms within these broader categories that may be required to promote intergroup reconciliation in deeply divided societies. This operationalization remains crucial to considering how the particular design of transitional justice institutions and the strategies they employ might serve to impede or impel mechanisms of social learning and, in so doing, either detract from or contribute to a society’s potential for reconciliation and sustainable peace. Drawing again on insights derived from recent work in conflict transformation scholarship, five subcategories of mechanisms within the broader strands of instrumental, socioemotional, and distributive processes of social learning approaches emerge as points of consensus in these literatures as necessary, if not sufficient, elements of intergroup reconciliation. The final sections of this chapter apply these innovations, identifying and briefly consider five interrelated and mutually supporting mechanisms of social learning that appear to be central components of any transitional justice institution seeking to successfully promote intergroup reconciliation. I argue that not all justice institutions are created equal in their ability to facilitate intergroup reconciliation in divided societies, and that their capacity to do so depends, in large part, upon whether or not the design of the strategies they employ can engender these crucial processes of social learning.

**Instrumental Learning**

The first form of social learning, ‘instrumental learning,’ refers to interventions that focus on rebuilding relationships and fostering less antagonistic perceptions between formerly divided groups in the present. The ability for an institution of transitional justice to facilitate renewed positive interaction and communication across group boundaries is the first, and perhaps most crucial, process of social learning necessary for intergroup reconciliation. However, a review of
the literature indicates that an increase in the quantity of intergroup interactions, while important, simply does not prove a potent enough challenge to polarized identifications and entrenched animosities formed through past conflict. What matters most, scholars suggest, is the nature and quality of the interactions and communication that takes place and the societal context in which this occurs. Ultimately, then, the constructivist assertion that an increase in the ‘dynamic density’ of interactions between actors can transform the antagonistic social facts surrounding identities seems significant here, though this argument requires a far greater degree of theorization and specification in order to be practically applicable.113

**Positive Intergroup Contact**

The argument that increased contact can lead to better relations among groups in conflict is the central assertion underlying the longstanding ‘Contact Hypothesis’ in social psychology. In its most basic incarnation, this theory holds that an increase in intergroup contact, if undertaken under certain conditions and in specific contexts, will lead to an improvement in intergroup relations by reducing misperceptions and negative stereotypes of the Other.114 More specifically, to be ‘positive’ and to have a beneficial impact on group relations, contact must be of a non-adversarial quality, must take place between groups afforded equal status in society, must ideally be conducted over an extended period of time, and must be undertaken in the pursuit of cooperative or superordinate goals which actively aim to transform group divides. Additionally,

113 See Adler and Barnett, *Security Communities*.


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to be of greatest effect, such contact must take place in a context marked by supportive institutional structures, the agreement of relevant authorities, and a broader social and normative climate conducive to improved intergroup relations.\textsuperscript{115} Drawing on insights from Social Identity Theory, more recent studies have also indicated that group identity must remain salient during periods of contact in order for reductions in prejudice and stereotype to be ‘generalized’ across all members of a group, rather than being limited to the specific and possibly ‘exceptional’ individuals engaged in interaction.\textsuperscript{116} Even outside of these optimal conditions, however, scholars have indicated the potential benefits of developing personal friendships and initiating even ‘superficial’ or ‘indirect’ positive contact across group boundaries, suggesting that these efforts might have ‘ripple effects’ that can spread throughout a group.\textsuperscript{117} Indeed, a substantial body of experimental and empirical research undertaken by social psychologists indicates that positive contact can have a reliably independent effect on improving intergroup relations, as it directly reduces prejudice, challenges misperceptions, and breaks down rigidified perceptions of the Other as a monolithic and inherently hostile group.\textsuperscript{118}

Further, this kind of positive contact has been directly linked within the social psychological literature to the formation of inclusive collective identities – a process that greatly reduces discriminatory bias and prejudice. Indeed, the work of Samuel Gaertner and his colleagues on the ‘Common Ingroup Identity Model’ shows that the experience of positive contact can help to “transform members’ cognitive representations of their memberships from separate groups to one more inclusive group…[essentially] from ‘us’ and ‘them’ to a more

\textsuperscript{115} Hewstone and Brown, \textit{Contact and Conflict}.

\textsuperscript{116} Ibid., 16. This isn’t to say interpersonal contact isn’t important in this regard – in fact, it may be a valuable supplement to intergroup contact processes. For instance, some scholars have noted the positive effects of personal cross-group friendships on reducing prejudice. See Stephan and Stephan, \textit{Improving Intergroup Relations}.

\textsuperscript{117} Hewstone et al., “Intergroup Contact,” 19.

\textsuperscript{118} Kenworthy et al., “Intergroup Contact,” 7; Gibson, \textit{Overcoming Apartheid}; Hewstone and Greenland, “Intergroup Conflict.”; Stephan and Stephan, \textit{Improving Intergroup Relations}. 
inclusive ‘we’” in which positive feelings, equal moral standards, and cooperative behaviour prevail. These findings may be of particular importance to efforts at reconciliation in severely divided societies, not only because they show the possibility of forming more inclusive identities through positive contact and highlight the favourable impact this can have on intergroup relations, but because they also indicate that the benefits derived from identification with a common superordinate identity would not require individuals to forsake those derived from attachment to their own ethnic identities. In effect, this model illustrates the possibility of a ‘hierarchical dual identity’ which “capitalizes on the benefits of common ingroup membership as well as those accrued from mutual differentiation between the groups.” Similarly, insights from sociology’s Symbolic Interactionism (SIS) suggest that any successful transformation of identity must go beyond a purely cognitive reinterpretation of Self and Other to be reflected in new patterns of behavioural interaction between groups; indeed, the theory of ‘reflected appraisals’ holds that the most important initial element in the (re)production of identity is the manner in which actors treat each other in new interactive contexts. As Alexander Wendt argues, the creation of cooperative patterns of behaviour is crucial to the formation of a more inclusive sense of collective identity governed by shared norms:

By showing others through cooperative acts that one expects them to be cooperators too, one changes the intersubjective knowledge in terms of which their identities are defined... By teaching others and themselves to cooperate...actors are simultaneously learning to identify with each other – to see themselves as a “we” bound by certain norms.

119 Gaertner et al., “The Contact Hypothesis,” 22. See also Brewer and Gaertner, ”Toward Reduction of Prejudice.”; Gaertner and Dividio, Reducing Intergroup Bias; Gibson, Overcoming Apartheid; ———, ”Do Strong Group Identities Fuel Intolerance?.”
120 See Brewer and Gaertner, “Toward Reduction of Prejudice,” 462-463.
121 Wendt, “Collective Identity Formation,” 390. Wendt also raises a similar argument based on SIS theory in Wendt, “Anarchy is What States Make of It,” 421-422.
Beyond its own independent role as a means of overcoming prejudice and hostility, the restoration of contact is also widely theorized as a primary process upon which other factors integral to reconciliation rely. For instance, the opportunity for meaningful intergroup dialogue and communication is intrinsically dependent on renewed interaction between groups. Similarly, a renewal of positive contact seems an essential starting point for the development of mutual trust between former enemies following the end of violence. Indeed, the formation of lasting trust requires a history of positive reciprocal interaction that allows actors to develop reasonable expectations of the Other’s future behaviour – patterns that themselves depend on the initial renewal of contact and the extension of more constructive relations beyond group boundaries. Other authors have cited the renewal of positive ‘encounters’ as the primary way in which former enemies can come to understand one another’s perspectives and develop the shared sense of empathy necessary to restoring an equitable moral community in the wake of mass violence. In effect, such encounters become the vital first step in processes of ‘rehumanization,’ means by which enemies begin to see members of the ‘Other’ as people entitled to the same rights and protections as the ‘Self,’ and to challenge the “reversal of morality” that legitimized the use of violence in the past and could threaten to do so again if left unaddressed.

122 Staub refers to contact as the “avenue to reconciliation.” See Staub, “Reconciliation After Genocide,” 887.
123 Adler and Barnett, Security Communities.
Therefore, it is of key importance that transitional justice institutions incorporate mechanisms of positive contact into their strategies in order to promote the changes to antagonistic identities required for reconciliation. In particular, the strategies employed by these institutions may need to allow for periods of direct or indirect encounter between former enemies during which as many of the conditional and contextual conditions of positive contact as possible can be met. Notably, this means that justice strategies should avoid overly ‘individualizing’ or downplaying the collective dimensions of the conflicts for which they are accountable, ensuring that the benefits of positive contact can be felt throughout both groups. This observation is particularly salient in responding to cases of mass violence, as given the scope of such violence, it is often impossible to include all of those who participated in past conflict in the justice process and ‘representative’ examples or cases must necessarily be selected.126

It is equally imperative that these strategies create a relatively supportive or at least neutral environment in which such encounters can take place, as studies show that contact which is adversarial, threatening, or initiated under conditions of high anxiety is extremely unlikely to reduce prejudice and negative stereotype and may in fact even serve to reinforce such biases.127 Additionally, if the interactions these strategies produce among former enemies are predominantly adversarial instead of cooperative, it is doubtful whether this contact will be of the type conducive to building mutual trust, rehumanizing the Other, and patterning the kind of relations on which a more collective sense of identity can be based. Finally, to satisfy the ‘equal

126 On truth commissions and the establishment of ‘macro truth’ see Martin Imbleau, "Initial Truth Establishment by Transitional Bodies and the Fight against Denial," in Truth Commissions and Courts: The Tension between Criminal Justice and the Search for Truth, ed. William A. Schabas and Shane Darcy (Dordrecht: Kluwer, 2004). On the inherent ‘selectivity’ of trials in the wake of mass violence, see Minow, Between Vengeance and Forgiveness. Here one can think of criminal trials in post-conflict societies and the decision to frequently prosecute fully only those ‘most responsible’ for past crimes, or, conversely the decision by the South African Truth and Reconciliation Commission to focus on the testimony of only a ‘representative fraction’ of the submissions it received.

127 Kenworthy et al., "Intergroup Contact.\"; Stephan and Stephan, Improving Intergroup Relations; Tausch et al., "Cross-Community Contact."
status’ requirement needed for positive contact, transitional justice strategies may have to ensure that they also in some way seek to address severe intergroup disparities in socioeconomic or sociopolitical status – disparities often tied to past conflict – either before or in tandem with provisions for encounter. Indeed, several studies have shown that in societies where such disparities align with group cleavages and remain heavily divisive, the potential for meaningful intergroup contact remains severely limited, and where it does occur, it has very little lasting impact on changing existing identities or beliefs.\textsuperscript{128}

\textit{Transformative Dialogue}

As important as renewed interaction might be for providing a basis on which new identities and more cooperative relationships can be built, it is clear that simple contact, while significant, is only a first step towards meaningful reconciliation. What is of equal importance is the content of such interaction and, in particular, whether it can ultimately provide the basis for a second stage of meaningful dialogue and communication extending across group boundaries.\textsuperscript{129} The breakdown of meaningful intergroup communication over the course of conflict limits opportunities for dialogue and understanding and provides an environment in which biases, misconceptions, and cognitive distortions about Self and Other can flourish.\textsuperscript{130} Accordingly, a renewal of this kind of ‘bridging’ communication among former enemies in the post-conflict environment has been cited as a key mechanism underlying the potential for future

\textsuperscript{128} Don Foster and Gillian Finchilescu, "Contact in a 'Non-Contact' Society: The Case of South Africa," in \textit{Contact and Conflict in Intergroup Encounters}, ed. Miles Hewstone and Rupert Brown (Oxford: Blackwell, 1986); Stephan and Stephan, \textit{Improving Intergroup Relations}; Tausch et al., "Cross-Community Contact."

\textsuperscript{129} However, it should be noted that several studies have suggested that the same conditions and contexts needed for positive forms of contact may be the same requisite for meaningful dialogue as well. See Ellis, \textit{Transforming Conflict}; Stephan and Stephan, \textit{Improving Intergroup Relations}.


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reconciliation.131 As Adler and Barnett have noted, while an increase in both the quality and quantity of intergroup interaction may be important for expanding the boundaries of moral and political community, it is the kind of learning about the Other gained through the experience of positive communication that is an essential “factor[y] of shared identification;” ultimately, only processes of meaningful communication “enable a group to think together, to see together, and to act together.”132 However, while constructivist scholars indicate the importance of institutions in fostering intergroup dialogue and have highlighted the role that communication plays in building the inclusive normative structures necessary for the ‘unthinkability’ of future violence, for the most part they tend to leave the actual social and psychological processes by which communication is linked to transformed identities and improved relations largely untheorized.133

A number of scholars working within the political psychology field who have studied the dynamics of protracted and intractable conflicts in divided societies have argued for the importance of intergroup dialogue in challenging the antagonistic perceptions of the Other developed over the course of past violence. Jay Rothman, for instance, notes the particular need for engaging former enemies in processes of “reflexive dialogue” in order to render intractable


132 Adler and Barnett, Security Communities, 7. See also Linklater, The Transformation of Political Community, 79; Finnemore and Sikkink, “Taking Stock,” 402. See also Ellis, Transforming Conflict on the role of communication in ‘identity widening.’

133 It should be noted that while Emanuel Adler and Michael Barnett have done groundbreaking work in this regard in their work on Security Communities, the argument here is that more work needs to be done to identify the ‘micromechanics’ at work in the social learning processes linking things like institutions and increased interactions and communication to greater trust, collective identity, and sustainable peace. See Adler and Barnett, “A Framework For the Study of Security Communities,” 37-57.
“identity conflicts” tractable by allowing the Self to begin viewing the Other as a valid partner for future cooperation. He argues that an essential element of reconciliation in such contexts is the creation of opportunities for renewed communication in which prior combatants are able to reframe their understandings of their own and each other’s identities, suggesting that this fosters ‘we-feeling’ and empathy – a sense of similarity between Self and Other in terms of basic values and needs.\(^\text{134}\) Similarly, Donald Ellis has argued in favour of “transformative communication” in the wake of intractable conflict to “widen the circle of identity inclusion,” reduce entrenched biases and prejudice, and promote the kind of “moral growth” in which moral exclusion and practices of delegitimization are replaced by feelings of empathy and a mutual recognition of the Other’s humanity.\(^\text{135}\) Finally, other scholars such as Lewis Mehl-Madrona and Tamar Hermann have argued that a precondition for reconciliation is “the need to open channels, or space, for direct and candid communication between the protagonists,” or the creation of a “conversational” or “dialogical space” in which former enemies are brought together and given the opportunity to critically reassess the images they hold of one another and the nature of their shared relationship.\(^\text{136}\)

Ultimately, what all of these authors share is a recognition of the crucial importance of this kind of transformative intergroup dialogue to the processes of ‘identity negotiation’ needed

\(^{134}\) Rothman, “Resolving Identity-Based Conflicts,” 234.

\(^{135}\) Ellis, *Transforming Conflict*. On the role of communication in promoting empathy and humanizing outgroups, see also Stephan and Stephan, *Improving Intergroup Relations*, 117-120. Ervin Staub, in particular, has argued the importance of dialogue groups for former enemies to redevelop a sense of empathy in the wake of mass violence. As he notes “by bringing members of different groups together…people can write and talk to each other about what has happened to them. They can talk about their pain, sorrow, loss, and anger. As they listen to each other and respond with empathy, pain, which has been a source of disconnection, can become a source of connection.” Staub, “Individual and Group Identities,” 176.

for reconciliation in the aftermath of protracted identity conflicts.\textsuperscript{137} In effect, they hold intergroup dialogue to be the necessary mechanism through which groups can begin to ‘unfreeze’ the rigidified, monolithic, and ethnocentric perceptions about the Other that informed past conflict, and the means by which former enemies might come to transform these understandings and construct more inclusive and more peaceable conceptions of their identities.\textsuperscript{138} Empirically, these assertions have been largely borne out by authors testing the impact of ‘Interactive Conflict Resolution’ strategies, ‘dialogue groups,’ and problem-solving workshops,’ all programs that have achieved some success in bringing together former enemies to engage in processes of critical communication.\textsuperscript{139}

Much like provisions for positive contact, there are, however, conditions and contexts in which this kind of reflexive dialogue is more likely to be effective in transforming entrenched perceptions. These factors are of particular importance in considering how the benefits of communication could be incorporated into transitional justice strategies. As has been noted, a number of the same basic conditions needed for positive contact have also been shown to apply to processes of transformative communication; again, these interactions should ideally take place among equal status participants, in supportive environments marked by limited threat or anxiety, in contexts where group identity remains salient, in pursuit of a shared goal to overcome group


\textsuperscript{138} On an early treatment of how conflict leads to ‘rigid’ identities and the need to ‘unfreeze’ these cognitions to stop the perpetuation of violence, see the work of the psychologist Kurt Lewin. See Kurt Lewin, \textit{Resolving Social Conflicts} (New York: Harper and Row, 1948).

divides, and over extended periods of time.\textsuperscript{140} In particular, the quality of the interaction is especially significant, because if the communication facilitated by the transitional justice process is of an antagonistic or adversarial nature, it will likely not work to positively transform existing identities and expectations. This suggests the importance of supportive inbuilt forums in institutional structures for encouraging reconciliatory forms of communication. Indeed, dialogue processes between recent enemies should be carefully mediated and monitored – what Ellis refers to as “controlled communication” – and it is therefore critical to design justice strategies around providing opportunities for these appropriately facilitated encounters.\textsuperscript{141} However, to date these insights have not explicitly been considered in the design of transitional justice institutions.

Finally, it is clear that these processes cannot be limited to a handful of individuals if they are to have a sustainable impact on reconciliation at wider group or societal levels, so transitional institutions may therefore require sequential or simultaneous interventions throughout the target society, including in local communities, between elites, or at a broader societal level.\textsuperscript{142} Again, however, this element is typically missing from the design of transitional justice institutions. Further, the recognition that communication must occur over a longer period of time suggests that provisions be included to secure ongoing dialogue after the often limited ‘one-off’ timeframes of formal justice institutions themselves are complete. As Norbert Ropers has argued in his meta-analysis of dialogue strategies in divided societies, while it remains vital to begin by anchoring such processes in an institutional structure, to ensure the stability of future peace it

\textsuperscript{140} Ellis, \textit{Transforming Conflict}; Stephan and Stephan, \textit{Improving Intergroup Relations}; Tausch et al., "Cross-Community Contact."

\textsuperscript{141} On ‘controlled communication’ in transformative communicative relationships and the importance of structure for facilitating this communication, see Ellis, \textit{Transforming Conflict}, 143,165. A similar point is raised in Stephan and Stephan, \textit{Improving Intergroup Relations}, 112.

\textsuperscript{142} See Kaufman, \textit{Modern Hatreds}; Lederach, \textit{Building Peace}; Weinsten and Stover, eds., \textit{My Neighbor, My Enemy}.
may be of equal importance to also establish enduring and self-sustaining processes of communication.\textsuperscript{143}

\section*{Distributive Learning}

It is, however, clear that the social learning required for reconciliation cannot be limited to changes in social interactions, cognitive perceptions, or understandings of the past. Indeed, a strong consensus has emerged among scholars of identity conflict and its resolution that these psychosocial transformations must be matched by the learning processes that arise through concrete material and structural changes in the day-to-day lives of individuals in post-conflict societies.\textsuperscript{144} Severe challenges to basic human needs, the experience of living under difficult conditions, and, in particular, acute inequalities in the distribution of economic wealth, social status, or access to political power have all been cited as significant contributing factors around which protracted and intractable identity conflicts can coalesce.\textsuperscript{145} Further, the overt physical violence of conflict experienced in divided societies is often underpinned by even deeper forms of ‘structural violence,’ efforts by one identity group to use the state apparatus to repress the Other and thereby entrench severe imbalances in socioeconomic or socio-political power.\textsuperscript{146}

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\item \textsuperscript{143} Ropers, “From Resolution to Transformation,” 186.
\item \textsuperscript{146} The terms structural violence, negative peace, and positive peace are all borrowed from Johan Galtung. See Johan Galtung, "Violence, Peace, and Peace Research," \textit{Journal of Peace Research} 6, no. 3 (1969); Galtung, "Twenty-Five Years of Peace Research."; Johan Galtung, "After Violence, Reconstruction, Reconciliation, and
\end{enumerate}
These structural inequalities may continue to preclude more cooperative relations and significant changes to the politics of identity between groups even when active violence comes to a close with the signing of a formal peace agreement. As Johan Galtung has argued throughout his influential career in Peace Studies, fostering reconciliation and a lasting, sustainable peace among former enemies may require that peacebuilding efforts achieve a ‘double goal:’ the initial conditions for ‘negative peace’ brought about by the end of physical violence must be established, and, more fundamentally, a more ‘positive peace’ addressing the deeper ‘structural violence’ underlying the conflict should be initiated.\(^\text{147}\)

**The Amelioration of Structural and Material Inequalities**

There is strong evidence to suggest that the amelioration of material inequalities is a necessary complement to the social and cognitive processes involved in altering antagonistic identifications, and that this can play a role as a mechanism of social learning. For instance, in their study of the conflict in Northern Ireland, Joseph Ruane and Jennifer Todd note that structural and economic imbalances are themselves constitutive of divided identities, and that they help to create a self-reinforcing system of conflict by encouraging greater levels of both ingroup solidarity and outgroup differentiation.\(^\text{148}\) Further, Ruane and Todd’s study indicates that the continued presence of inequality can limit the potential for perceptual and ideological changes regarding the Other even when myths and biased understandings of the past are directly challenged by new information. In other words, the daily lived realities of relative deprivation effectively preclude a group’s revision of its status as a continually victimized party and

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therefore obviate against any changes in the belief that its members are justified in the future use of retaliatory violence.\textsuperscript{149} Ruane and Todd therefore conclude that for reconciliation and sustainable peace to occur, there will need to be a dismantling not only of the polarized system of social and psychological relationships after conflict, but also of the related system of dominance, dependence, and inequality that reinforces and reproduces it.\textsuperscript{150}

Several other scholars have noted a similar need for an integrated approach which recognizes the interlinkages between structural/economic and psychosocial reconstruction, as well as the necessity of addressing both of these requirements in tandem when trying to rebuild positive social relationships and prevent future returns to violence.\textsuperscript{151} The work of psychologists Ervin Staub and Daniel Bar-Tal, for example, has stressed the importance of combining psychological transformations with real changes in the socioeconomic conditions of groups, noting that “when conflict is already entrenched and groups have inflicted violence on each other, psychological changes are required for overcoming hostility. But without structural changes, psychological changes may not be possible to bring about or maintain.”\textsuperscript{152} Indeed, as was noted earlier, the transformative potential for the key learning mechanisms of contact and communication is greatly limited when these interactions take place in conditions of material inequality. In the most basic sense, the opportunities for such encounters may themselves be limited in a society divided by severe structural differences, as the places in which groups

\textsuperscript{149} Ibid., 207.

\textsuperscript{150} Ibid., 306-313. Similarly, other studies from the Northern Ireland context have shown evidence of the role that economic inequality can play in reproducing conflictual relationships and recent empirical work indicating a correlation between low socio-economic status and a predilection for holding more extreme and sectarian self-perceptions of identity. See Ed Cairns and John Darby, "The Conflict in Northern Ireland: Cause, Consequences, and Controls," \textit{American Psychologist} 53, no. 7 (1998): 755; Tony Fahey, Bernadette C. Hayes, and Richard Sinnott, \textit{Conflict and Consensus: A Study of Values and Attitudes in the Republic of Ireland and Northern Ireland} (Boston: Brill, 2006), 66, 80-81; Shirlow and Murtagh, \textit{Belfast: Segregation, Violence and the City}.


\textsuperscript{152} Staub and Bar-Tal, “Genocide, Mass Killing, and Intractable Conflict, 731.
members live, work, and socialize may be directly mediated by socioeconomic status. Moreover, where interactions do occur, these structural divisions may be so wide that the contact between members of different groups remains cursory and superficial, resulting in relationships that can be “contiguous yet utterly remote.” Indeed, in a series of social psychological studies carried out by Nicole Tausch and her colleagues, perceptions of inequalities in relative group status were found to be both a strong predictor and mediator of intergroup contact. In effect, those with perceptions of lower status were far less likely to seek to engage in meaningful contact and, when contact did occur, it often led to feelings of increased anxiety and threat and therefore had little positive effect on breaking down existing stereotype or reducing established prejudice. Ultimately, as a result of limited contact and communication, other necessary facets of intergroup reconciliation such as mutual trust, empathy, and a more inclusive sense of moral and political community can remain underdeveloped.

This suggests that to have a positive impact on processes of intergroup reconciliation, some effort to reduce structural and material inequalities may need to be incorporated into transitional justice strategies in divided societies. Theoretically speaking, this recognizes and seeks to bridge the connection between ‘materialist’ and ‘ideational’ approaches to conflict transformation. That said, it is highly unrealistic to expect that transitional justice mechanisms will, in and of themselves, be able to effect this kind of societal change – it’s a task simply

153 An archetypal example here might be apartheid-era South Africa. See Foster and Finchlieu, “Contact in a ‘Non-Contact’ Society,” 125.
154 Tausch et al., “Cross-Community Contact.”
155 In many ways this reflects the underlying premise of Linklater’s argument of the necessity for ‘Triple Transformation of Community,’ to expand the bounds of moral and political community. In essence, he notes the importance of social learning, moral learning, and reducing economic inequalities to create the space for the kind of transformative communication needed between dialogic communities to extend the moral and political boundaries of community. See Linklater, The Transformation of Political Community.
156 It is important to note, however, that despite the necessity of redistribution for intergroup reconciliation and the creation of sustainable peace, in the short term such efforts may be perceived as a form of ‘victimization’ by those forced to give up their structural and material privileges.
beyond the limited budgets, mandates, and timelines accorded these transitional institutions. However, as key catalysts of social learning in the transformative post-conflict moment, it nonetheless remains important that these justice institutions, at a minimum, at least ‘signal’ a commitment to a general improvement in the material conditions experienced by former antagonists. This points to the significance of a ‘reparatory’ or ‘distributive’ element to reconciliation which, if left unaddressed, may undermine the legitimacy of other reconciliatory elements employed by the broader justice strategy and continue to impede collective identification.\textsuperscript{157} Indeed, addressing inequities revolving around group identities in divided societies might be particularly appropriate for innovations in transitional justice strategies, and the extent to which such phenomena have played a role in South Africa and Northern Ireland will be investigated in later chapters.

There are two particular ways in which justice institutions might incorporate this kind of ‘symbolic’ approach. The first is to include provisions for some form of reparations program or material compensation for those worst impacted by past violence or for those who experienced severe socioeconomic and socio-political disadvantage under previous systems of repression. While the sheer scale of mass violence may realistically mean that such reparations can only ever be emblematic, compensation nevertheless seems an important way in which transitional authorities can acknowledge the injustice of past disparities and indicate their commitment to establishing more equitable future relations.\textsuperscript{158} As Brandon Hamber and Richard Wilson have

\textsuperscript{157} Mani, Beyond Retribution.

argued in their study of the role of reparations in post-conflict societies, while the limited material gain of reparations may certainly be of some help to the most disadvantaged, they may be most important in their symbolic ability to mark a clear break with the inequalities of the past. They do note, however, that such endeavours can be fraught with difficulty, as determining which groups or individuals might be eligible recipients of compensation is always a challenge, and they also argue that reparations will need to be part of a broader series of justice initiatives and reforms to avoid being stigmatized as a ‘payoff’ or ‘blood money’ offered in lieu of real social change. Secondly, justice institutions might make recommendations or suggest binding reforms for transitional authorities to carry out after the formal justice mechanisms themselves have completed their work. Again, such an approach would serve to signal to groups that longer-term efforts are being undertaken to correct existing structural imbalances. As Elizabeth Stanley’s work on distributive elements in transitional justice suggests, such reforms may help to curtail further abuses and to promote healing among former enemies. Stanley warns, though, that if these distributional or developmental policies aren’t actually carried out, they run a high risk of making the transitional justice institution appear ‘toothless’ and illegitimate, greatly damaging its ability to contribute to broader societal transformation and reconciliation.


161 See Hayner, Unspeakable Truths.

Socioemotional Learning

While contact, communication, and the amelioration of structural inequalities are all necessary components of building more inclusive intergroup relations, reconciliation cannot ultimately be achieved if there is not also some attempt to come to terms with the history of past violence among former enemies. Indeed, the ways in which transitional authorities choose to acknowledge and provide accountability for past violence may themselves be crucial to social learning processes in divided societies. In particular, there is a wide consensus among scholars that the achievement of reconciliation and sustainable peace in the aftermath of conflict will require an element of ‘justice’ that formally recognizes the wrongs committed during past violence and seeks in some way to repair the injustices done to the principal victims. Further, there is broad recognition of the importance of creating an officially accepted and mutually agreed-upon ‘truth’ about what took place between former antagonists in order to limit the ability of either side to appropriate past conflict as the basis of myth, propaganda, or discriminatory history that might spark a future return to violence. This final section discusses each of these mechanisms in turn and considers their implications for the design of transitional justice institutions.

Justice

The provision of justice as a central component of post-conflict peacebuilding strategies in societies divided by histories of mass violence has been recognized by many scholars working within the fields of conflict resolution, peace studies, and transitional justice as a necessary, if not sufficient, condition for intergroup reconciliation and sustainable peace. Indeed, several

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163 See for instance Fletcher and Weinstein, “Violence and Social Repair: Rethinking the Contributions of Justice to Reconciliation.”; Lederach, Building Peace; Lerche, “Peace Building through Reconciliation.”; Long and Breeke, War and Reconciliation; Minow, Between Vengeance and Forgiveness; Montville, “The Pathology and Prevention of Genocide.”; Oberschall, Conflict and Peacebuilding in Divided Societies; Rigby, Justice and Reconciliation; Donald Shriver, "Where and When in Political Life Is Justice Served by Forgiveness?,” in Burying the Past: Making
prominent authors in these fields have argued that justice is inextricably linked with the potential for peace in the post-conflict environment, noting that in the long journey towards reconciliation between former enemies “the passage from negative to positive peace runs through justice.”

While great division exists within these literatures as to which ‘type’ of justice is most effective in this regard and as to what form justice institutions should take, there is nonetheless agreement about the need for transitional authorities to act in some way to reduce the sense of injustice felt by those victimized by past violence. In particular, many of these authors warn against the inherent dangers of adopting strategies of ‘oblivion’ or ‘impunity’ in post-conflict societies, as victims have shown little inclination to simply ‘forgive and forget’ experiences of past violence and such grievances can provide fertile ground for future returns to conflict. As Nigel Biggar has argued, any sense of injustice has the tendency to fester among victims if left unaddressed, and this “help[s] to infect future generations with an indiscriminate hatred of the perpetrators and their descendants – and also with an endemic mistrust of the state that, having failed in its duty to vindicate victims past, seems ready to tolerate the injury of victims future.” The result of ignoring injustice, as Biggar notes, is the development of an unstable relationship among former enemies that is “liable to explode and rupture the half-forgetful present with the unfinished business of the past.”

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166 Minow, Between Vengeance and Forgiveness.

167 Biggar, Burying the Past, 8.

168 Ibid.
employed in transitional societies must necessarily be ‘partial,’ effectively forgoing the total retribution of unrestrained revenge in favour of more tempered accountability that won’t simply become another component in the cycle of injury and counter-injury between antagonists.¹⁶⁹ To paraphrase Martha Minow, what is therefore needed from transitional justice institutions in the wake of mass violence is a form of justice that walks a path between the opposing poles of vengeance and impunity – one that acknowledges the wrongness of the harm done to victims, assigns responsibility to perpetrators for their actions, and recognizes the need to work towards repairing past injustices.¹⁷⁰

Such justice strategies have been shown to have an independent effect as social learning mechanisms capable of promoting the kind of reconciliation needed for sustainable peace in divided societies.¹⁷¹ This highlights why the ‘justice’ component of transitional justice institutions is itself crucial to reconciliation outside of any related capacity to facilitate other aspects of social learning through processes of contact, communication, or the amelioration of structural inequalities. Indeed, acknowledging injustices done to victims and holding perpetrators accountable are processes of critical importance in symbolizing a shift in the normative ethos of post-conflict societies and in delegitimizing violence against the Other.¹⁷² In this capacity, justice serves as a ‘bridge’ between a society’s divisive past and its more inclusive future, signalling an expansion of the boundaries of moral and political community and an

¹⁶⁹ On this point in particular see Long and Brecke, War and Reconciliation, 30; Rosenblum, “Justice and the Experience of Injustice.”
¹⁷⁰ Minow, Between Vengeance and Retribution.
extension of equal rights and protections to all individuals.\textsuperscript{173} By indicating that the use of force will no longer be permitted as a means of resolving conflict between groups, justice also provides expectations of more cooperative intergroup relations in the future and a minimal basis on which mutual trust might develop.\textsuperscript{174} Further, by directly acknowledging the injustice of past violence, the experience of justice can also begin to reduce feelings of victimization and animosity that, if left unaddressed, could otherwise threaten to reignite conflict.\textsuperscript{175} Additionally, several scholars have noted that the recognition of dignity and basic moral worth afforded by processes of justice may be vital to victims’ healing and therefore a key determinant of their future willingness to engage in reconciliation with the Other.\textsuperscript{176} As Howard Zehr has argued in his seminal work on the philosophy of justice:

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an experience of justice is so basic that without it, healing may be well impossible….Victims need assurance that what happened to them was wrong, unfair, undeserved…[t]hey need to be heard and affirmed…[v]ictims need to know that steps are being taken to rectify the wrong and to reduce the opportunities for it to occur.\textsuperscript{177}
\end{quote}

However, it should be noted that highlighting the independent effects of justice doesn’t mean ruling out the beneficial impact of justice on other mechanisms of social learning. For example, by signaling the advent of a new community in which all individuals are to be accorded equal moral worth and political rights, justice in the post-conflict environment is crucial to creating the supportive normative climate and perceptions of ‘equal status’ between groups needed to reinitiate positive contact and communication. Further, the mistrust and unhealed

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\textsuperscript{173} See Lerche, "Peace Building through Reconciliation."; Mani, "Rebuilding an Inclusive Political Community.", ---, Beyond Retribution; Teitel, Transitional Justice.
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\textsuperscript{175} Minow, “Memory and Hate.”
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\textsuperscript{176} A point raised by Biggar, ed. Burying the Past; Jeong, Peacebuilding; Lederach, Building Peace; ---, "Beyond Violence."; Minow, Between Vengeance and Forgiveness; Staub, The Roots of Evil; ---, "Genocide and Mass Killing."; ---, "Reconciliation."
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\textsuperscript{177} Howard Zehr, Changing Lenses, 28.
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feelings of victimization and animosity tied to continued injustice strongly militate against the formation of a more inclusive sense of collective identity between former victims and perpetrators.\textsuperscript{178} Finally, the need to address structural inequalities as part of broader transitional justice strategies would indicate that ‘restitutive’ or ‘distributive’ justice initiatives in the form of reparations, compensation, or legislative reforms are required for reconciliation.\textsuperscript{179}

\textit{Truth}

Aside from the experience of justice, it has been widely posited that coming to terms with the past also requires some form of historical inquiry that can record the ‘truth’ – understood as the creation of a mutually accepted (or at least mutually tolerable) shared understanding – between former antagonists about past events in order for post-conflict societies to achieve reconciliation and sustainable peace. Indeed, as Tristan Anne Borer has noted, within the literature of transitional justice there now exists a “near unanimity among most scholars, as well as practitioners, that societies coming out of periods of violence must in some way examine, acknowledge, and account for violence committed by various groups in order to move forward.”\textsuperscript{180} For the most part, these authors tend to discount the simplistic argument that uncovering a factual record of the past can itself bring about more peaceful relations (the

\textsuperscript{178} See, for instance Mani, “Rebuilding an Inclusive Political Community.”

\textsuperscript{179} Among others, see Borer, ed. \textit{Telling the Truths}; Mani, "Rebuilding an Inclusive Political Community."; Rigby, \textit{Justice and Reconciliation}; Weinstein and Stover, eds., \textit{My Neighbor, My Enemy}.

assumption that ‘revealing is healing’) and suggest instead that truth processes, while necessary for reconciliation, will never themselves be sufficient for healing and are only one required element of broader post-conflict peacebuilding strategies. Further, there is acknowledgement that the truth uncovered by such mechanisms in the wake of mass violence will never be factually complete or all-encompassing, and at best will amount to a selective ‘small-t’ or “representative truth” of the causes and scope of past atrocity and the roles played by former enemies. Nonetheless, there remains a shared recognition throughout this literature that truth is an element vital to reconciliation and that it proves essential to securing sustainable peace by “narrow[ing] the range of permissible lies” that can be appropriated in the future to reignite conflict. However, as Borer herself has noted, the causal connection between truth and reconciliation remains largely unexplained by transitional justice scholars. While a strong correlation between the two has been evidenced, explanations of this connection have been based largely on anecdotal evidence with very few sustained theoretical or empirical studies as support. In particular, little attention has been given as to how these truth processes are able to make a positive contribution to psychosocial means of reconciliation – an oversight which is likely due, in large part, to the limited dialogue among transitional justice literatures and the related bodies of sociological and psychological work emphasizing the importance of intergroup identity to reconciliation.

182 Imbleau, "Initial Truth Establishment."; Rushton, "Truth and Reconciliation."; Stanley, "What Next?".
By way of synthesizing this scholarship, I argue that the establishment of ‘truth’ in the post-conflict environment contributes to social learning by helping to overcome antagonistic belief systems formed through the experience of past violence. These beliefs, if left unaddressed, not only risk recidivist violence but also block the formation of a more positive sense of collective identification. Notably, in his studies of protracted and intractable conflict in divided societies, the social psychologist Daniel Bar-Tal has written extensively about the dynamics surrounding the formation of such divisive belief systems, suggesting that:

[O]ver the years, groups involved in conflict selectively form collective memories about the conflict. One the one hand, they focus mainly on the other sides responsibility for the outbreak and continuation of the conflict and its misdeeds, violence and atrocities; on the other hand, they concentrate on their own self-justification, self-righteousness, glorification, and victimization. These ‘collective memories,’ in turn, are actively institutionalized and maintained by groups over the course of conflict, and become socialized through cultural and political channels and transmitted to future generations, eventually coming to colour all aspects of intergroup relations and becoming a central component of group identity. In the wake of identity conflicts, therefore, former enemies are likely to have widely divergent views about the ‘truth’ of past events, as each group bases its interpretations upon its own inevitably antagonistic and exclusionary collective memories. These beliefs – the sense that the actions of the Self are legitimate and noble, while those of the Other are unwarranted and unjust – work to maintain an oversimplified understanding of in-group/out-group relations, casting all members of the enemy group as responsible for the evils of past conflict, and therefore as legitimate targets for future violence. Further, beliefs about the victimization of the Self may themselves be used to justify

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185 Bar-Tal, “Collective Memory,” 78.
186 Ibid.
a return to conflict in return for undue violence committed against one’s own group.\textsuperscript{188} Psychologist John Mack has dubbed this process the “egoism of victimization,” illustrating how the perpetuation of these hostile narratives effectively ensures that fear, threat, and negative stereotype continue to persist among groups. Left unchallenged, these biased beliefs may preclude any chance for intergroup reconciliation by limiting the potential for the kind of contact and communication needed to develop trust and mutual empathy – effectively “stand[ing] rigidly in the way of new information that might provide a correcting view to the prevailing group dichotomization.”\textsuperscript{189}

Therefore, the most important aspect of establishing a truthful accounting of the past through transitional justice institutions is the ability of new narratives to facilitate a critical re-examination of the biased myths, narratives, and collective memories tied to perceptions of past violence, as this reconsideration can open the door to more positive collective identifications and cooperative relations among former enemies. Indeed, in their comparative survey of recent ‘reconciliation events’ undertaken in post-conflict societies, William Long and Peter Brecke have noted that the ‘events’ most successful at preventing relapse into violence invariably included processes of public truth-telling which acknowledged the mutual complicity of all parties involved and challenged misperceptions of the past. They argue that such processes crucially provide the space for the dissemination of new information – information needed by former enemies to transcend their own preoccupations with victimization and “begin a process of redefinition of identity of the [O]ther from enemy to potential partner in a negotiated settlement

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Giermund Saether (New York: St. Martin's Press, 2003); Cairns and Roe, "Why Memories in Conflict."; Devine-Wright, "A Theoretical Overview of Memory and Conflict."; Mack, "The Psychodynamics of Victimization."; Minow, "Memory and Hate."

\textsuperscript{188} Bar-Tal, “Collective Memory.”

\textsuperscript{189} Mack, “The Psychodynamics of Victimization,” 124.
and common new future.”¹⁹⁰ In this way, Long and Brecke contend, while a comprehensive accounting of the past alone isn’t enough to achieve reconciliation, truth-telling “plays a critical, perhaps indispensable role in the process of national reconciliation and contributes directly and indirectly to the redefinition of identity” which is itself essential to attaining this goal.¹⁹¹ This sentiment is echoed by the work of psychologist Herbert Kelman on the dynamics of reconciliation in divided societies, which argues that “confronting history and coming to terms with the truth [through the] reexamination of historical narratives and the reevaluation of national myths – on both sides of the conflict – [are] essential components of any reconciliation effort.”¹⁹² Truth, understood in this sense, is therefore an integral component of the ongoing ‘negotiation of identity’ needed for reconciliation in the post-conflict transformative moment, as it both helps to ‘unfreeze’ antagonistic perceptions of identity and to transform hostile relationships between former enemies rigidified by the memories of past violence.¹⁹³

Institutions of transitional justice are often essential to this process, as they serve as the initial forums for the establishment of truth in divided societies, providing the mechanisms with which a new ‘official’ shared understanding of the past – one that can’t be appropriated by any one group – can be built.¹⁹⁴ One such mechanism is the creation of a written account of past conflict; indeed, the mandate of most ‘truth commission’ processes employed to date has been one of discovering, clarifying, and formally composing an official historical record of periods of past violence.¹⁹⁵ However, it is likely that for this new understanding of the past to be widely

¹⁹⁰ Long and Brecke, War and Reconciliation, 149.
¹⁹¹ Ibid., 69.
¹⁹² Kelman, “Reconciliation as Identity Change,” 123.
¹⁹³ The role of truth in effecting this kind of identity transformation is taken up in Rushton, “Truth and Reconciliation,” (2006),
¹⁹⁴ See for instance Kiss, “Moral Ambition.”; Hayner, Unspeakable Truths.
¹⁹⁵ See Finnemore and Sikkink, "Taking Stock."; Hayner, "Fifteen Truth Commissions."; ———, Unspeakable Truths.
accepted and to thereby contribute to intergroup reconciliation, these institutions and the truth they produce must be viewed as legitimate by all parties involved in past conflict. It is, therefore, essential to include all groups in the process of gathering the truth and shaping the historical record to avoid the perception that the new narrative simply represents the biased viewpoint of the victors – a perception which would only further entrench division and feelings of victimization. Indeed, there is evidence to suggest that it is not truth per se, but the “moderating truth” that comes from mutual acknowledgement of complicity in past conflict that is the essential ingredient in dismantling the ‘egoism of victimization’ and altering understandings of the Other as an essentially evil and intractable foe.196

There may, moreover, be other reasons for transitional justice institutions to bring former enemies together and work towards the common goal of creating an appropriate historical record. By providing the opportunity for former enemies to hear one another’s perspectives and stories, often for the first time, transitional justice institutions can potentially foster wider ‘societal dialogue’ about the past – a process that itself may be essential to altering antagonistic identifications and restoring the sense of empathy ultimately needed to rehumanize the Other.197

As the psychologist Ervin Staub has argued, such dialogue is crucial to reconciliation after mass violence:

[a]s the members of each group describe the pain and suffering of their group at the hands of the other, they can begin to open up to the pain of the other. They can grieve for themselves, for the other, and assume responsibility for their share in the historical antagonism and violence.198

To be of greatest effect in encouraging such societal dialogue, therefore, transitional justice institutions need to provide a supportive forum within their structures for former enemies to

196 As Gibson notes, “accepting the viewpoint that both sides did terrible things is perhaps the first tentative step towards reconciliation.” See Gibson, Overcoming Apartheid, 329.
197 On the role of truth processes as facilitators of societal dialogue, see Rushton, “Truth and Reconciliation,” 128.
198 Staub, The Roots of Evil, 255.
combine the processes of truth-telling with the positive benefits to be gained from renewed contact and communication. However, the sheer scale of mass violence will often ensure that the direct encounters that do occur as part of the institutional truth-telling process remain merely representative in scope. In part, this may be why the public nature of truth-telling seems of particular importance to reconciliation; a civic forum allows representative dialogue to be extended in order to engage the broader society in crucial processes of social learning about both past and future Self/Other relations.

Precipitating Conditions

In addition to these five key social learning mechanisms, it is important to underline at least two crucial ‘precipitating’ or ‘permissive’ requirements that must first be in place to enable transitional justice institutions to effectively promote social learning and reconciliation in deeply divided societies.

The Existence of a Negative Peace

As previously discussed, due to the self-reinforcing nature of identity-based conflict, it is likely that that the ability of transitional justice institutions to contribute to social learning will be most effective during the ‘transformative moment’ which follows the end of widespread violence between groups. In essence, it is the end of overt intergroup violence that brings with it the initial possibility of allowing former antagonists to begin challenging and potentially transforming the hostile relationships and identifications that perpetuated past conflict. This is not to say that the mechanisms of instrumental, socieomotional, and distributive learning are impossible in the midst of violence or that they themselves do not have a potentially important

199 A point raised throughout Minow, *Between Vengeance and Forgiveness.*

200 Using the context of Rwanda as an example, Staub himself raises this point by noting that to be effective in the wake of mass violence, dialogue processes may need to be extended to involve the wider society people through such as the media and education. Staub, “Reconciliation After Genocide.”
role to play in limiting conflict – indeed, elements of each of these types of social learning could also have great utility as conflict resolution tools that could be used to help to move divided societies towards the initial cessation of widespread violence. However, given the deeply polarizing effect that violence has been shown to have on groups in divided societies, it remains highly unlikely that the kind of deeper transformation of identities and relationships envisioned here as requirements for intergroup reconciliation will be possible without the prior existence of at least a state of ‘negative peace’ between antagonists. For example, the opportunities for the kind of meaningful contact and dialogue at a broader societal associated with instrumental learning between divided groups would be made virtually impossible by the fear and sense of physical threat surrounding these interactions posed by ongoing violence. Alternately, it is highly unlikely that antagonists will be able or willing to revise perceptions of injustice or biased perceptions of the past while being victimized by violence committed by the Other.

**The Presence of Conducive Elites or Entrepreneurs**

Second, while this model focuses almost exclusively on how the processes and mechanisms of transitional justice institutions can contribute to social learning, it is crucial to underscore that these institutions do not themselves have independent agency. To be sure, the initial creation of these institutions as well as their subsequent structures, procedures, and goals all ultimately depend on the actions and interests of key influential actors within transitional societies. While not discounting the central role played by local ‘bottom-up’ actors, of crucial importance is the role played by elites and other powerful actors in facilitating (or at least not actively impeding) a social and political climate conducive to reconciliation and to addressing past human rights abuses. At a minimum, this requires a commitment by elites and other influential actors within divided societies to take advantage of the opportunity offered by the transformative moment after the establishment of negative peace to break the cycle of violence that has hitherto conditioned
relations between communal groups. Indeed, a large body of literature has examined the role that ethnic activists, sectarian leaders, and other ‘spoilers’ can have in derailing transitional justice initiatives and undermining broader attempts at post-conflict peacebuilding.\textsuperscript{201} Conversely, elites and other powerful actors within post-conflict societies also have the potential to act as influential political or normative ‘entrepreneurs’ who can be pivotal in lending much-needed legitimacy to transitional justice efforts and in supporting the creation of new societal relations based on a mutual respect for human rights and a culture of non-violence.\textsuperscript{202} These entrepreneurs may therefore prove integral to social learning both by attracting or coercing others to engage with the processes and mechanisms of transitional justice institutions and by ‘modeling’ a commitment to reconciliation and to improved relationships between former antagonists.\textsuperscript{203}

Accordingly, while the primary focus of this study remains assessing the causal relationship between institutions of transitional justice and intergroup reconciliation through the five social learning mechanisms outlined in the framework, it is important to note that both the presence of negative peace and the existence of supportive elites or ‘entrepreneurs’ within transitional societies may themselves be necessary precipitating or permissive conditions for this learning to occur. While a deeper investigation of these factors unfortunately remains beyond the scope of the study offered here, and while they are therefore self-consciously bracketed in favour of a focus on the relationship between the institutional processes and mechanisms of


\textsuperscript{202} For an excellent discussion of political or normative “entrepreneurs” and the pivotal role they play in the creation of new norms that govern subsequent patterns of social relations, see the work of Margaret Keck and Kathryn Sikkink who discuss the seminal contribution such actors made to the formation of the Post-War human rights regime. Margaret Keck and Kathryn Sikkink, \textit{Activists Beyond Borders} (New York: Cornell University Press, 1998).

\textsuperscript{203} See Adler and Barnett, \textit{Security Communities}, 39.
transitional justice, social learning, and intergroup reconciliation, it is nonetheless recognized that these conditions do themselves represent necessary first steps in a successful multi-stage transitional process. That being said, while the social learning model’s ‘stages’ may imply linearity, the interaction between its elements is understood to be both dynamic and reciprocal in nature.

**A SOCIAL LEARNING MODEL OF TRANSITIONAL JUSTICE**

Building on an interdisciplinary synthesis of literatures from political science, political psychology, conflict resolution, peace studies, and transitional justice, this chapter has offered a new framework with which to begin theorizing the causal relationship between institutions of transitional justice and intergroup reconciliation in divided societies. The central contention of the social learning model developed in this chapter has been that this connection is heavily mediated by the politics of identity – that transitional justice strategies will be successful in promoting reconciliation to the extent that they are able to facilitate changes in the antagonistic identities and hostile systems of relations between former enemies that underlie acts of mass intergroup violence. In essence, the reconciliatory potential of transitional justice strategies is held to be dependent on their ability to catalyze five key mechanisms of positive ‘social learning’ between former enemies, mechanisms that include contact, dialogue, the promotion of truth and justice, and the amelioration of material inequalities. It is these mechanisms, in turn, that advance the respective aspects of instrumental, socioemotional, and distributive processes of social learning ultimately required to transform the hostile divisions between Self and Other and to facilitate intergroup reconciliation. This new reconciliatory relationship forms the necessary basis for sustainable peace among former enemies, and is marked by the presence of mutual trust, respect for human rights, a more inclusive sense of identification, a reduction in structural disparities, and an expectation that future conflicts will be settled by means short of violence.
Having considered the various elements of the social learning model, a basic illustration of the causal processes at work in this framework is clearly outlined in the following figure.

**FIGURE 2.1 – A Social Learning Model of Transitional Justice**

To be clear, it remains highly unlikely that all of these processes of social learning will be extant in every transitional justice strategy. Indeed, where they do exist, they will more likely appear in gradients rather than being simply present or absent. In addition, it is likely that the particular requirements of each post-conflict society will be different in their relative need for instrumental, socioemotional, and distributive learning processes. In this way, it may be more useful to think of these processes on a continuum, and to acknowledge that each may be promoted by different institutional strategies to a greater or lesser degree. The highly individuated nature of context, culture, and each society’s unique requirements for justice in the post-conflict environment mitigates against a purely structural or comparative approach – no one ‘best’ model is ever likely to be beneficial or even practicable across all societies given the exigencies of different situations. This social learning model therefore recognizes the need for
‘context-dependent’ strategies, leaving open the possibility that these processes of social learning might be promoted across a range of different justice strategies. What remains, however, of crucial importance is that the strategy employed be one that ‘fits’ the culture and context of the society in which it is undertaken and is therefore considered legitimate by the populations it seeks to reconcile. It is this contextual legitimacy that may be key to an institution’s ability to encourage former enemies to participate in its structures and to prompt individuals to accept, and eventually internalize, the social and psychological lessons of social learning about the Other ultimately needed for reconciliation and sustainable peace.204

This is not to say, however, that the study of transitional justice is all relative or that all institutions are created equal in their ability to contribute to intergroup reconciliation – indeed, in tandem with perceptions of their legitimacy, individual institutions must be designed with the question of how best to promote positive processes of social learning in particular contexts in mind. It is, after all, the institutional strategies themselves that draw people together and engage the politics of identity, so while no one approach can ever be universally applicable, institutional design remains of great importance to efforts at reconciliation. Broadly speaking, though, recent scholarship from transitional justice would seem to evidence that certain general kinds of approaches employed to date are inherently more or less effective in promoting the kinds of social learning advocated here – an insight that should, perhaps, be kept in mind as a framework for future institutional design. For instance, there may be preliminary reasons to suggest that institutions predicated on more ‘restorative’ principles of justice could be better suited to facilitating the specific social learning mechanisms discussed here. Instead of retributive punishment, a number of scholars have advocated approaches that recognize the equal worth of both victim and offender, the desirability of bringing victims and offenders together through

204 This is a point reflected in Stover and Weinstein, “A Common Objective,” 326. Also Roht-Arriaza, “A New Landscape,” 12.
renewed encounter and dialogue as cooperative partners in the justice process, and the need for a truthful accounting of past transgressions that promotes acknowledgement for victims and recognizes the responsibility of offenders so that all involved in past injustice can be reintegrated into a shared community. Further, the process of bringing former antagonists together in such a restorative capacity has been widely held to have a ‘transformative’ potential for shattering existing stereotypes, developing empathy and ‘rehumanizing’ the other, and fostering more respectful and trusting relationships. As Martha Minow has noted, in marked contrast to legal prosecution, restorative justice

seeks to repair the injustice, to make up for it, and to effect corrective changes in the record, in relationships, and in future behaviour. Restorative justice emphasizes the humanity of both offenders and victims. It seeks repair of social connections and peace rather than retribution against the offenders. Building connections and enhancing communication between perpetrators and those they victimized, and forging ties across the community, take precedence over punishment or law enforcement.

Again, however, the argument forwarded here is one of moving transitional justice debates away from questions of whether any one ‘type’ or ‘model’ of institution is intrinsically better than another, and towards the ways in which different approaches might serve to impede or impel the processes of social learning necessary to intergroup reconciliation.

In the following chapters, the utility of the social learning framework developed here is tested against the two very different approaches to transitional justice employed in Northern

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207 Minow, Between Vengeance and Forgiveness, 91-92.
Ireland and South Africa following those countries’ transitions away from conflict during the 1990s. In so doing, these chapters seek to explore the impact that the ‘decentralized’ approach in Northern Ireland and the Truth and Reconciliation Commission in South Africa have had on catalyzing the instrumental, socioemotional, and distributive learning processes identified in the framework as being crucial to advancing intergroup reconciliation. In addition to providing a basis for testing this new social learning model of transitional justice, it is hoped that observations drawn from these two cases may point the way towards future ‘best practices’ that could help to guide policy regarding the design of transitional justice interventions in deeply divided societies.
Chapter III

Case Study:
Decentralized Transitional Justice in Northern Ireland

For much of the last century, Northern Ireland has been the very archetype of a deeply divided society, with communities of (largely Roman Catholic) Irish ‘Nationalists’ locked in a protracted and seemingly intractable territorial conflict with both local (largely Protestant) pro-British ‘Unionists’ and the security forces of the British state.\(^1\) The historical roots of these divisions and the patterns of national and religious conflict that emerged are often traced as far back as the early 16\(^{th}\) and 17\(^{th}\) centuries, a period during which armies of the English Crown successfully occupied large areas of the island of Ireland and established colonies of Protestant settlers brought over from England and Scotland.\(^2\) However, the more modern genesis of the conflict in Northern Ireland began in 1921 with the signing of the Anglo-Irish Treaty. This act effectively partitioned the island of Ireland into two separate states and brought an end to the ‘Irish War of Independence’ in which militant Nationalists or ‘Republicans’ and the Irish Republican Army (IRA) waged a protracted guerilla campaign against British rule, targeting British Police and

\(^1\) Throughout this article the terms ‘Unionist’ and ‘Nationalist’ will be used to describe these communities, with the recognition that these political labels closely overlap with religious identifications of Protestant and Catholic. Following the point made most succinctly by O’Leary and McGarry, this recognizes that the ‘fundamental antagonism’ that drove violence in Northern Ireland was nationalism, not religion and that the conflict has been between two national communities rather than between two religious communities.” See Brendan O’Leary and John McGarry, *The Politics of Antagonism: Understanding Northern Ireland* (London: Athlone Press, 1993).

\(^2\) As much of this confiscated land was located in the Northern province of Ulster, this process of settlement became broadly known as the ‘Plantation of Ulster.’
Army forces who responded with declarations of martial law, troop reinforcements, and violent reprisals against both the IRA and members of the Catholic civilian population. In the South, a new sovereign Republic or ‘Irish Free State’ was founded that would be governed by its majority Irish Catholic population. In the North, the state of Northern Ireland – encompassing most of the historical territory of the province of Ulster – was created, allowing the Protestant majority residing there to vote to remain within the UK. Acceptance of the Treaty (and with it, acquiescence to the partition of the island of Ireland) deeply divided the Republican movement, leading to an ‘Irish Civil War’ between pro- and anti-treaty factions fought until the mid-1920s. This violence was particularly vicious in Northern Ireland, where conflict continued well past the signing of the treaty and resulted in the deaths of over 500 people, most of whom were killed in the city of Belfast. Notably, given the close proximity of Catholics and Protestants living together in Northern Ireland, this violence took on a much more sectarian flavour than it did in the South, with the vast majority of the dead having been targeted by militant members of the ‘Other’ community or by British security forces in a series of retaliatory acts of vengeance. This period of strife was largely brought to an end between 1923 and 1925 with the defeat of the anti-treaty movement, the evacuation of the British Army from the South, and the solidification of the boundary delineating the British-controlled region of Northern Ireland from the newly established Irish Free State.

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4 The area of ‘Northern Ireland’ included the six parliamentary counties of Antrim, Down, Londonderry, Tyrone, Armagh, and Fermanagh in the area of Ulster in which Unionists were expected to be able to retain a safe political majority.

5 In Belfast alone, approximately 560 people died at the hands of political violence between July 1920 and July 1992. Of this number, more than 300 were Catholic civilians, 35 belonged to the IRA, nearly 200 were Protestant civilians, and roughly 80 were members of British Security Forces. See Richard English, Armed Struggle: A History of the IRA (Oxford: Oxford University Press, 2003), 39-40; Robert Lynch, The Northern IRA and the Early Years of Partition: 1920-1922 (Dublin: Irish Academic Press, 2006), 67, 227.
Unfortunately, following partition the patterns of overlapping national and religious conflict between communities of Nationalists/Catholics and Unionists/Protestants that had long divided the island of Ireland only became more acute and more focused within the new state of Northern Ireland. Unlike the new Irish Free State to the South, Protestants remained the clear majority in the historical province of Ulster, albeit alongside the presence of a strong Catholic minority. While the vast majority of these Catholics continued to harbour strong sympathies for the cause of Irish Nationalism, the Protestant population, motivated by a growing ‘siege mentality’ and fears about their status and safety in a united Ireland, came to feel even more strongly their attachment to their union with Britain.\(^6\) During this time, the Protestant majority was able to use its numerical superiority to establish a system of hegemonic control over the devolved Northern Ireland parliament at Stormont, drawing on the apparatus of the state to institute a program of “systematically organized domination” and discrimination against what was viewed as a potentially subversive Catholic minority.\(^7\) Notably, Sir James Craig, the first Prime Minister of Northern Ireland, was not only a member of the Ulster Unionist Party but also served as a Grand Master of the Protestant Orange Order and famously declared himself to be “an Orangeman first and a politician and Member of [the] Parliament afterward.”\(^8\) Indeed, as the new head of the Northern Ireland government, Craig asserted that his main objective was “carrying on a Protestant Government for a Protestant people” and “upholding Ulster as part of the great British Empire and the United Kingdom” in order to save the Ulster people “from being


\(^8\) Sir James Craig, Unionist Party Member and then Prime Minister of Northern Ireland, April 24\(^{th}\), 1934 as reported in *Parliamentary Debates*, Northern Ireland House of Commons, Vol. XVI, Cols. 1091-1095. Available online at http://cain.ulst.ac.uk/issues/discrimination/quotes.htm.
swallowed up in a Dublin Parliament.”

Beginning with Craig, Northern Ireland was governed by an unbroken succession of Unionist governments between 1922 and 1972. Politically, Unionist dominance during this period was ensured by the widespread use of biased electoral laws and gerrymandering practices at both local and state levels, practices that left Nationalists largely disenfranchised from the exercise of real legislative or executive power. Unionists also retained strong control over the judiciary and policing forces, the vast majority of whom were drawn from within the Protestant community and many of whom also retained strong ties with the Unionist party and the Orange Order. Socioeconomic discrimination manifested itself in unequal access to employment, housing, and education on the basis of religion, leading to severe disparities between Protestant and Catholic communities in terms of their relative levels of unemployment, income, and living conditions.

For their part, as a result of these discriminatory practices, members of the Catholic minority increasingly came to view the Unionist government of Northern Ireland as fundamentally illegitimate and unjust. More militant Republican elements, including former anti-treaty members of the IRA, proceeded to embark on small-scale acts of violence against state security forces and infrastructure throughout the 30’s, 40’s, and 50’s. As a result, during this period, the polarization of Northern Ireland’s Nationalist and Unionist communities intensified, with the two groups becoming increasingly separated by religious, political, and economic status. This also meant that Nationalists and Unionists led increasingly segregated existences, often living, learning, working, and socializing in separate spaces. Combined with

9 Ibid.
the continued anger and frustration of the Catholic population over the discriminatory policies of
the Unionist government, this separation exacerbated feelings of prejudice, distrust, and outright
hostility between the two communities.\footnote{Fitzduff and O’Hagan, “The Northern Ireland Troubles.”}

An increase in relative levels of affluence in the 1950’s, combined with the rise of a
Catholic middle class and inspiration from similar movements in America, led to the formation
of a number of civil rights organizations in Northern Ireland, including the Northern Ireland
Civil Rights Association (NIACRA), which began to aggressively lobby for reforms in the areas
of voting rights, housing, employment, and policing services, as well as for a repeal of the much-
maligned Special Powers Act. In 1968, a Civil Rights march in the city of Derry (in which a
number of Stormont MPs were participating) was violently broken up by members of the police
force, the Royal Ulster Constabulary (RUC), leaving many of the marchers seriously injured.
The release of television coverage of the incident sparked international indignation, and touched
off three days of serious rioting in Derry between Catholic residents and members of the RUC.
Violent attacks on similar marches by Loyalists and RUC officers over the following months
added to the tension. In August 1969, these skirmishes culminated in what became known as
‘The Battle of the Bogside,’ when RUC officers in Derry attempted to disperse Nationalists who
were protesting a Loyalist parade along the edge of their community. The violence that erupted
led to several days of sustained rioting, eight deaths, hundreds of serious injuries, and the
displacement of nearly two thousand families from their homes. The rioting became so severe
that it was only brought to a close when the Government of Northern Ireland requested that
British troops intercede to help restore order: a move that at the time was warmly welcomed by
Nationalists who sought protection against what they perceived as attacks by the Unionist-
dominated policing services.
Despite subsequent movements by the British government to introduce a range of reforms designed to address the demands of the civil rights movement, communal polarization only intensified between 1969 and 1971 as riots, sectarian shootings, and bombings grew in number.\textsuperscript{14} The turbulence of this time also led to the formation of illegal paramilitary organizations that, citing the inadequacy of the Northern Ireland policing forces in the face of violence, took up arms in defense of their respective communities. 1966 saw the formation of the Ulster Volunteer Force (UVF), an organization of armed Protestant ‘Loyalists’ who dedicated themselves to the violent destruction of the ‘Republican threat’ and the protection of Northern Ireland’s union with the UK. Similarly, having perceived both Loyalists and the police services as a direct threat to Catholics following the violence of 1969, a more militant strand of the IRA re-formed in Northern Ireland with the belief it was defending Nationalist communities and engaging in an armed struggle to end British rule and create a united Ireland.\textsuperscript{15} This period also saw the rise of more polarized political parties in Nationalist and Unionist communities. Under the leadership of Gerry Adams, the Republican Sinn Féin (SF) emerged as the political wing of the newly re-formed IRA in 1970 and began to win support at the expense of the more moderate Social Democratic and Labour Party (SDLP). Similarly, the radical Democratic Unionist Party (DUP) was formed under Reverend Ian Paisley in 1973, drawing support away from the more moderate Ulster Unionist Party (UUP).

In August 1971, the Prime Minister of Northern Ireland passed a policy of ‘Internment’ allowing members of the British Army and the RUC to arrest and detain suspected paramilitaries without trial. A series of Internment raids in Catholic communities erased any remaining

\textsuperscript{14} The estimated costs of the violence and riots between 1969 and 1970 alone were estimated at over £5.5 million.

\textsuperscript{15} This marks the break from the ‘Original’ IRA of the more militant ‘Provisional’ IRA in 1969. However, as the Provisionals quickly became the dominant force in Northern Ireland, hereafter they will simply be referred to as the IRA. Where necessary, the Original IRA will be referred to as OIRA.
Nationalist goodwill towards the British Army, which, like the police, quickly became perceived as a partisan extension of the Unionist government.\textsuperscript{16} The days following the Internment raids saw a large upswing in violence during which 17 people were killed. Thousands of families living in ‘mixed’ Nationalist/Unionist neighbourhoods were burned out or otherwise forced to flee their homes. On January 30\textsuperscript{th}, 1972, a planned civil rights march in Derry organized by NICRA against the Internment policy ended in tragedy when a unit of the British Army fired upon the protesters, killing 14 civilians and wounding 13 others. This incident, which became known as ‘Bloody Sunday,’ further galvanized members of the Nationalist community and prompted many youths to join Republican paramilitary groups such as the IRA. Local violence intensified following Bloody Sunday, leading the British government to reimpose a policy of ‘Direct Rule’ in Northern Ireland on March 30\textsuperscript{th}, 1972, by dissolving the Stormont Parliament and replacing it with a new Northern Ireland Office (NIO) under a British Secretary of State for Northern Ireland. This marked the beginning of a period of intense sectarian conflict known locally as ‘The Troubles’ which would last until the Northern Ireland peace process of the late 1990’s.

The Troubles

The nearly three decades of Troubles-era violence largely took the form of a ‘three-cornered’ fight between armed Republican and Loyalist Paramilitary groups and the security forces of the British state (including the British Army and the RUC). For their part, the IRA and other Republicans viewed themselves as being engaged in a “Long War” to free themselves from the rule of British occupiers, and so undertook a protracted shooting and bombing campaign against

\textsuperscript{16} In the initial series of raids 342 people were arrested, none of whom came from Protestant/Unionist communities despite the presence of several violent Loyalist paramilitary organizations.
military, economic, and political targets both within Northern Ireland and England itself. At the same time, given that the policing and security forces of Northern Ireland were perceived as being deeply biased in favour of Unionists, Republicans also cast themselves as the armed protectors and internal police of the Nationalist community, employing intimidation, beatings, and “punishment” killings to self-regulate criminal activity. Similarly, Loyalists viewed themselves as the last line of defense for the Protestant community and Unionism itself against a Republican onslaught. Accordingly, they responded with attacks on Republican paramilitaries and political activists, though the vast majority of their attacks simply targeted civilians belonging to the wider Nationalist community. Throughout the conflict, the British Government maintained that it remained a neutral arbiter, one that simply sought to uphold law and order in Northern Ireland and to protect the country from the ‘criminal’ and ‘terrorist’ actions of the IRA and other paramilitary organizations. However, there is now ample evidence to suggest that in some cases members of the state security forces actively colluded with Loyalist paramilitaries over the course of the conflict, resulting in the killings not only of Republican activists but also of a number of Nationalist civilians. Indeed, violence between all three of these groups spawned numerous cycles of ‘tit for tat’ or ‘revenge’ killings that targeted political figures or armed members of opposing factions. Regardless, the majority of those killed during the Troubles were Nationalist and Unionist civilians who were either caught up in the crossfire

17 Notably, however, due to the often indiscriminate nature of their bombing campaigns, Republican paramilitaries were also responsible for the deaths of approximately 730 civilians from Nationalist, Unionist, and British populations.

18 For instance, Loyalist paramilitary groups were responsible for 870 civilian deaths during the conflict, more than any other armed organization. Out of this number, 727 were from the Nationalist community. See Malcolm Sutton, An Index of Deaths from the Conflict in Ireland (Derry: CAIN, 2010). This resource has been continually updated by Dr. Martin Melaugh of the excellent Conflict Archive on the Internet (CAIN) resource run through the University of Ulster, Magee Campus. Available online at: http://cain.ulst.ac.uk/sutton/

of local violence or who were themselves actively targeted simply because of their membership in the opposing community.

During the 70’s and 80’s, the conflict became even more complicated as smaller paramilitary organizations proliferated, including the Republican Irish National Liberation Army (INLA) and the Unionist Ulster Defence Association (UDA) (which also operated under the name Ulster Freedom Fighters or UFF). The violence carried out by these armed groups was compounded by sustained political deadlock between the main Nationalist and Unionist parties, as well by growing support for more radical parties such as SF and the DUP who often publicly backed the actions of the paramilitaries. One watershed moment in this process of radicalization came during the 1981 Hunger Strike, the culmination of a five-year-long protest by Republican prisoners in Northern Ireland over being classified as regular criminals instead of political prisoners of war. The death of the Strike’s leader, Bobby Sands (who, despite being a prisoner, had recently been elected as an MP to the British House of Commons), galvanized the Nationalist community, leading to a resurgence of violence, increased recruitment for Republican paramilitary groups, and a much larger base of political support for SF.

By the end of the 1980’s, however, many Nationalists and Unionists had grown weary of living in an atmosphere of constant violence and began to voice support for a peaceful resolution to the conflict. A lengthy peace process began in the early 1990’s following a series of secret talks among Nationalist, Unionist, and British politicians, along with leaders of the principal paramilitary organizations. By 1994, large-scale political violence was brought to an end when Loyalist and Republican paramilitaries declared a ceasefire in the wake of a spike in internecine violence that left many dead. Multi-party peace talks began in earnest in 1996, but soon stalled out when faced with contentious issues such as the decommissioning of paramilitary weapons, proposed reforms of the policing services, the release of political prisoners, and, most
importantly, questions about how Northern Ireland might best be governed in the future. In the interim, several major bombing attacks were carried out by the IRA against targets in Britain, though by July 1997 it had rejoined other paramilitary organizations in their ceasefire. This ceasefire was also accompanied by a greater willingness to negotiate among some of the key political elites such as Gerry Adams of SF and Ian Paisley of the DUP whose intransigence had blocked earlier attempts to find a political compromise to end the violence. Shortly thereafter, by agreeing that the IRA would commit to decommissioning its weapons, SF, which had previously been kept out of peace talks due to its open ties with the IRA, was invited to participate in the multi-party discussions. However, at this time, several ‘dissident’ paramilitary factions, angered at the concessions being made by the IRA and UVF, broke away and formed the Real IRA (RIRA) and Loyalist Volunteer Force (LVF), respectively.

Despite new acts of violence carried out by these groups, on April 10th, 1998, all the principal parties involved in the Northern Ireland conflict (including SF under Gerry Adams, the DUP under Ian Paisley, and the governments of Britain and Ireland) signed the Belfast Agreement (BFA). In effect, the BFA sought to bring an end to the political conflicts of the Troubles, including a commitment by all of its signatories to use “exclusively peaceful and democratic means” to contest the national question in Northern Ireland in the future. It also included provisions for the establishment of a ‘power-sharing’ Northern Ireland Assembly with devolved legislative powers, an agreement to release paramilitary prisoners and decommission paramilitary arms, guidelines for extensive policing reforms, and a constitutional guarantee that the national status of Northern Ireland could only ever be changed following a majority vote of its citizenry. In May 1998, the BFA was approved by successful referendums in both Northern
Ireland and the Irish Republic and were officially adopted on December.\textsuperscript{20} The last major act of Troubles-era violence occurred in August 1998 when members of the dissident RIRA opposed to the Agreement exploded a bomb in the town of Omagh, leading to the indiscriminate deaths of 29 and the serious wounding of over 200 more civilians from both Catholic and Protestant backgrounds, as well as a number of international tourists. Fortunately, the attack was roundly condemned from all sides including SF and the IRA, and only served to further unite Northern Ireland in support of the peace process. On December 2\textsuperscript{nd}, the terms of the Agreement were officially adopted in Northern Ireland and the Irish Republic, bringing an end to the widespread violence of the Troubles.

Notably, however, the transition to a governing coalition between Nationalist and Unionist parties in the Assembly did not go smoothly in Northern Ireland. Despite a promising beginning following the devolution of powers to the Assembly in 1999, between 2000 and 2007 the Assembly operated only intermittently and was suspended several times. Tensions surrounding the perennially contentious issues of police service reform and arms decommissioning effectively deadlocked the government on a number of occasions, and during these interruptions, British rule was reinstated through the Northern Ireland Office. A lengthy series of multiparty talks eventually led to a commitment by the IRA to completely decommission its existing stocks of weaponry and ‘place them beyond use,’ as well as to an acknowledgement by Gerry Adams and SF that the party would support and recognize the legitimacy of the newly reformed Police Service of Northern Ireland (PSNI) and the Northern Ireland justice system. In return, the DUP would agree to share power with SF and Nationalist

\textsuperscript{20} In Northern Ireland, 71 percent voted in favour of the BFA, while 94 percent in the Republic did so. See the excellent Access Research Knowledge (ARK) Northern Ireland database on the “1998 Referendums.” Available online at: \url{http://www.ark.ac.uk/elections/fref98.htm}
parties in the Executive of the Northern Ireland Assembly. These talks eventually led to the 2006 ‘St. Andrews Agreement’ and the resumption of a power-sharing government in May 2007 under the leadership of DUP’s Ian Paisley (as First Minister) and SF’s Martin McGuinness (as Deputy Minister). Full powers in relation to policing and criminal justice have since been transferred to the Assembly as of April 12th, 2010.

**DECENTRALIZED TRANSITIONAL JUSTICE**

Over the course of the Troubles an estimated 3526 individuals were killed and approximately 47,541 more were injured. This included the victims of the approximately 36,923 shootings and 16,209 bombings that occurred over the three decades of the conflict. This violence was almost exclusively carried out by the conflict’s three principal antagonists: Republican and Loyalist paramilitary organizations and the security forces of the British state. Notably, however, the overwhelming majority of those victimized by the violence were unarmed Nationalist and Unionist civilians either caught in the crossfire or deliberately targeted for their communal affiliations. Indeed, recent accountings of the conflict have shown that 1844 civilians lost their lives during the conflict, with 1101 of these identified as belonging to the Catholic community, 572 as Protestants, and 171 from outside of Northern Ireland. The other major targets of violence were British security forces (including the army and policing services), of whom 1105 were killed, the vast majority at the hands of Republican paramilitary


22 Figures derived from the “Background Information on Northern Ireland: Security and Defence” section of the CAIN online database. Available online at: http://cain.ulst.ac.uk/ni/security.htm.

organizations. While at first glance the scale of this violence appears relatively minor, given the small geographical size of the country and the fact that the total population of Northern Ireland even today remains well under 2 million, the Troubles had a devastating impact on societal cohesion in Northern Ireland. A recent study has suggested that nearly 1 in every 30 people in Northern Ireland at some point was directly affected by a personal loss during the Troubles, either through friendship networks or familial relations.24 As O’Leary and McGarry note, the experience of this protracted violence helped to develop deeply polarized and antagonistic relationships between Nationalist and Unionist communities and cement “legacies of hatred, suspicion, and distrust.”25 The impact of violence on communal relations was further compounded by the deep sense of victimization felt within Nationalist communities at having been historically marginalized under a system of socioeconomic and political discrimination by a Unionist majority.26 Over ten years after the formal signing of the Belfast Agreement, which brought an end to the overt political violence of the Troubles, Northern Ireland remains a deeply divided society, marked by a deeply polarized political system, high levels of residential, social, and educational segregation, and continued feelings of intercommunal prejudice, fear, and resentment.

However, evidence suggests that some progress is being made in transforming the hostile mindsets and antagonistic attitudes that have long characterized intergroup relations in Northern Ireland – changes that likely account, in no small part, for a marked decline in levels of


26 Ibid.
intercommunity violence in recent years. While no official centralized trial, tribunal, or truth commission has ever been employed in an attempt to provide accountability for the violence of the Troubles in Northern Ireland, many of the positive gains that have been made towards intergroup reconciliation do appear to be linked to the ‘decentralized’ program of transitional justice that has emerged in the years following the Agreement. This decentralized approach has combined support for a widespread network of local community-based instrumental social learning programs with a ‘piecemeal’ approach to addressing the past by way of discrete governmental and non-governmental initiatives, and has come alongside a series of aggressive equality and equity reforms undertaken by the Northern Ireland government. Drawing on findings from two months of fieldwork conducted in Northern Ireland during the Spring of 2008, this chapter offers a qualitative assessment of the contribution that this decentralized approach to transitional justice has made to processes of reconciliation between Protestant/Unionist and Catholic/Nationalist communities. More specifically, I examine the ways in which Northern Ireland’s decentralized approach to transitional justice has been able to promote social learning through positive intergroup contact, dialogue, truth, justice, and the amelioration of structural inequalities – all of which I have identified as necessary, though perhaps not sufficient, causal conditions for intergroup reconciliation in divided societies. I subsequently consider the contributions of this decentralized approach to each of distributive, socioemotional, and instrumental forms of social learning in Northern Ireland, and conclude by drawing potential insights from this case study for future transitional justice strategies in other divided societies working towards sustainable peace.


28 Bell, "Dealing with the Past."
DISTRIBUTIVE LEARNING IN NORTHERN IRELAND

The history of structural and material inequalities between Catholics and Protestant communities in Ireland has long been recognized as one of the primary motivators of the island’s protracted religious and national conflict. Even before partition, the Protestant community consistently used the apparatus of the state to discriminate politically, socially, and economically against Catholics. In large part, it is anger and frustration over this discrimination that appear to have galvanized Catholic support for the Nationalist movement in Ireland, and that account in no small part, for the close contemporary overlap between religious identities and political identifications with Nationalism or Unionism.29 Indeed, as Joseph Ruane and Jennifer Todd have argued, while religious and national affiliations have long been intertwined with one another in Ireland, ultimately it was only when these identities were used as the basis for structural and material disparities that intercommunal hostility and violence developed. At the same time, conflict over inequality itself served to further solidify the salience of communal divides based on these religious and national identifications. As Ruane and Todd illustrate, sociocultural and ideological difference alone would not have produced oppositional communities or intense communal conflict. Difference became conflictual and lasting because it was the basis of access to resources and power… Defending or advancing those interests provided the basis for further communal solidarity and ever sharper communal division. Communal division intensified in turn the sense of socio-cultural and ideological difference and the interests on which the structure of dominance rested.30

The self-reinforcing dynamic between identity, inequality, and conflict only intensified in the period of Unionist dominance that followed partition in Northern Ireland. Importantly, the Civil Rights movement and the subsequent riots that ushered in the Troubles in the late 1960’s

29 For an excellent discussion of structural/material inequalities as reinforcing, or even being constitutive of, national and religious identities in Northern Ireland, see Ruane and Todd, The Dynamics of Conflict in Northern Ireland, 2-9.

had their bases in protests by members of the Catholic community against longstanding practices of discrimination in employment and local housing allocation. The independent Cameron Commission tasked with investigating the origins of the ‘disturbances’ in 1968 and 1969 concluded that a widespread sense of injustice within the Catholic community had been a contributing factor to the violence, in particular highlighting the “resentment and frustration felt among the Catholic population” related to complaints of discrimination in housing and employment and “the failure to achieve either acceptance on the part of Government of any need to investigate these complaints or to provide and enforce a remedy for them.”

Indeed, data from the 1971 Census in Northern Ireland shows that Catholics were over two and a half times more likely than Protestants to be unemployed. At the same time, those Catholics who were employed in the private sector remained over-represented in semiskilled or unskilled labour positions and under-represented in senior management positions or professional ‘white-collar’ jobs. Similarly, evidence shows that Catholics were far less likely to hold senior positions in the civil service or public sector, as these jobs were almost exclusively dominated by Unionists.

In the area of housing, many complaints centered on the biased practices evidenced in the distribution of public housing allotments by local district councils, the majority of whom were under the control of Unionist authorities. Such discrimination frequently resulted in housing being allocated to unmarried or single-child Unionist families at the expense of much larger


33 See John Whyte, "How Much Discrimination Was There under the Unionist Regime, 1921-1968," in Contemporary Irish Studies, ed. Tom Gallagher and James O’Connell (Manchester: Manchester University Press, 1983). As White details, only 11 percent of senior public servants identified themselves as being Catholic in 1971 which was far less than the overall 31.4 percent of the population of Northern Ireland that they represented as a whole at this time. See also Frank Gallagher, The Indivisible Island: The Story of the Partition of Ireland (London: Gollancz, 1957), 213-14.
Catholic families. However, in many cases, these decisions appear to have been made as much to ensure the electoral dominance of Unionists in a Council area as for any motivation linked to prejudice. Indeed, as the Cameron Commission found, “the principal criterion…in such cases was not actual need by maintenance of the current political preponderance in the local government area.”34 Regardless, data from the same period shows that the net effect of these policies was the likelihood that Catholics lived in homes that were more overcrowded and had fewer amenities than those of their Protestant counterparts.35

Nationalist grievances during the Civil Rights movement were also registered against a system of deeply biased electoral practices and the widespread use of gerrymandering techniques by Unionists following partition that greatly limited the ability of Nationalists to exercise real legislative or executive power.36 For instance, in 1929, the Unionist government dissolved the system of proportional representation that had previously been used in Northern Ireland, a move that greatly disadvantaged the electoral powers of the Nationalist minority.37 In addition, while Britain abolished electoral laws that tied voting rights to property ownership in 1945, these laws remained on the books and in fact were strengthened within Northern Ireland. This meant that a small percentage of property owners effectively received more than one vote while nearly a quarter of the non-propertied electorate had no vote. As members of the Nationalist minority remained socioeconomically disadvantaged and were far more likely to rent than own their homes, this policy disproportionately favoured the pro-Unionist vote, particularly in key urban

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35 Melaugh, “Majority-Minority Differentials.”


37 Gallagher, The Indivisible Island.
areas such as Belfast and Derry.\textsuperscript{38} Furthermore, shortly after taking power in the period between 1922-1923, the Unionist government at Stormont radically altered the system for electing representatives to local councils in Northern Ireland, both by removing proportional representation and strategically redrawing electoral boundaries in a way that would ensure greater Unionist control.\textsuperscript{39} These gerrymandering practices continued throughout much of the 20\textsuperscript{th} century, with electoral boundaries occasionally being moved when shifting demographics made it likely that Nationalists might win in a Unionist ward.\textsuperscript{40} Indeed, as John Darby has argued, taken together, these examples of electoral bias resulted in “a consistent and irrefutable pattern of discrimination against Catholics” by Unionist politicians, one that helped to deepen perceptions among the Nationalist minority that the government of Northern Ireland was fundamentally unrepresentative and illegitimate.\textsuperscript{41}

Further, while Northern Ireland remained a functional Western democracy throughout the Troubles, among Nationalists in Northern Ireland there has long been a deep distrust of the policing and security forces employed by the state. As previously mentioned, in large part this was due to the fact that after partition, the main policing force, the RUC, was disproportionately drawn from the Protestant community despite a 1922 proposition by the government that one-third of its job placements be reserved for Catholics. For instance, in the period 1961-1969

\textsuperscript{38} Ibid., 13. Notably, as a result of these electoral laws a key slogan of the Civil Rights movement became “One man, one vote.”


\textsuperscript{40} One example of these gerrymandering practices that aroused particular bitterness was the redistribution of the Londonderry County Borough which, at the time of partition, had a substantial and growing Catholic minority. However, under the change to electoral laws in 1923, Unionists were able to take back control. Years later when a new Nationalist majority appeared to be forming, the electoral lines were again redrawn to perpetuate Unionist rule. See Buckland, \textit{The Factory of Grievances}, 243-246.

\textsuperscript{41} Darby, \textit{Conflict in Northern Ireland}, 77-78. In its Final Report the Cameron Commission found severe “electoral imbalances” that favoured Unionist representatives and concluded that “that there can be no doubt that under modern conditions the electoral arrangements [in Northern Ireland] were producing unfair results.” UK Parliament, \textit{Cameron Report}, 136-137.
leading up to the Civil Rights marches and the beginning of the Troubles, representation of Catholics in the RUC actually dropped from 12 to 11 percent, levels far below the actual proportion of Catholics in the population. The regular RUC was also supplemented by the ‘B-Specials,’ an auxiliary paramilitary police unit that was exclusively drawn from the Protestant community and had many direct ties to the Orange Order. As a result, the police services became viewed by those in the Nationalist community as unrepresentative of Catholics (at best) or simply as a coercive wing of the Unionist government (at worst). Such perceptions were further reinforced by the 1922 passage of the Special Powers Act by the Northern Ireland government, legislation that gave the RUC broad powers to ‘take all such steps and issue all such orders as may be necessary for preserving the peace and maintaining order.’ This included banning public gatherings and potentially seditious publications, arresting and interning suspects without trial, and searching the vehicle or person of any subject that “does any act of such a nature as to be calculated to be prejudicial to the preservation of the peace or maintenance of order in Northern Ireland.” However, evidence shows that between 1922 and 1975 when the Act remained in force, these powers were employed almost exclusively against Republicans and members of the Nationalist community despite the existence of violent Loyalist paramilitary groups and the initiation of several large-scale disturbances by members of Unionist political parties. Indeed, under the policy of Internment employed by the government between 1971 and 1975 to quell growing violence in Northern Ireland, the Special Powers legislation led to the


arrest, punishment, and detainment without trial of a total of 1981 internees, 1874 of whom were
drawn from the minority Nationalist community. As Adrian Guelke notes, this added to the
sense of resentment felt among the Nationalist population and effectively “ensured that the RUC
was seen as an instrument of the Unionist government.” Furthermore, the lack of confidence
evidenced among Nationalists in the impartial enforcement of law and order was compounded by
a similar suspicion of the legal system, due primarily to major imbalances favoring Protestants in
the makeup of both the judiciary and juries.

Accusations of bias were further reinforced by reports that police often did not behave
impartially in their treatment of Catholic and Protestant citizens, in addition to allegations of the
widespread use of ‘bullying’ tactics and unnecessary brutality by the police services in dealing
with members of the Nationalist community. In particular, the B-Specials were often
implicated in reports of discriminatory violence and intimidation, turning the group into a by-
word for Nationalist fear and vitriol. Indeed, in investigations into the 1969 riots in Derry
which ignited the Troubles, the Cameron Commission report found that “a number of policemen
were guilty of misconduct which involved assault and battery, malicious damage to property in


47 Darby, Conflict in Northern Ireland, 63-65. See also Paddy Hillyard, "Law and Order," in Northern Ireland: The Background to the Conflict, ed. John Darby (Belfast: Appletree Press, 1983), 35. By 1969 Catholics only held 6 of 68 senior judicial appointments, only one of the six Supreme Court judgeships, and one of four County Court judgeships. See Aidan Corrigan, Eyewitness in Northern Ireland (Belfast: Voice of Ulster, 1969), 28.

48 The Cameron Commission reported that complaints that the RUC would almost invariably take the side of Unionists when a conflict occurred between Unionist and Catholic demonstrators were “undoubted” and “of general application and long standing.” Indeed, in the events of 1968 and 1969 the Commission found several examples in which police failed to adequately protect Civil Rights demonstrators from Loyalist violence. See UK Parliament, Cameron Report, 181.

streets in the predominantly Catholic Bogside area giving reasonable cause for apprehension of personal injury among other innocent inhabitants, and the use of provocative sectarian and political slogans.” As the Report concludes, an unfortunate outcome of these actions “which were directed against Catholic persons and property, was to add weight to the feeling which undoubtedly exists among a certain proportion of the Catholic community that the police are biased in their conflict against Catholic demonstrations and demonstrators.”

**Distributive Reforms**

Following the violence of the late 1960’s, a number of measures were introduced during the early 1970’s that sought to alleviate the worst of the grievances identified by the Civil Rights movement, first by the Northern Ireland parliament and, following its dissolution in 1972, by the Westminster parliament and NIO. Some of these reforms proved to be more successful than others. For instance, in 1971, control of public housing allocation was taken away from local authorities and centralized in a new Northern Ireland Housing Executive (NIHE). This body quickly began working to improve the quality of Northern Ireland’s public housing and to ensure a much fairer system of housing allocation between Catholic and Protestant communities. These interventions appear to have largely depoliticized the issue of housing, with survey data from 1992 showing that both Catholics and Protestants had come to feel equally satisfied with the allocations and services offered by the NIHE. At the same time, the British government also introduced an aggressive series of reforms to the electoral system in Northern Ireland. These changes included the redrawing of local council boundaries and the appointment of a Boundaries Commissioner to help ensure a more accurate reflection of population distribution and to put an

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51 Ibid., 181.

end to practices of gerrymandering. They also legislated that provisions tying voting rights to house ownership be abolished and reintroduced the proportional representation system of voting – both initiatives which substantially increased representation for the minority Nationalist population. As Mari Fitzduff notes, while minor disputes occasionally arose following these interventions, for the most part the reforms helped to ensure that “the processes of democracy … ceased in the main to be a source of contention between the communities.”

Some moderate reforms were also made to the policing services following the 1969 release of a investigatory report by the British Hunt Committee, including, most notably, the overall demilitarization of the structure of the RUC and the disbanding of the much-maligned B-Specials in 1970 in recognition of existing perceptions of their partisanship. The Police Act of 1970 also freed the RUC from direct political control by the Unionist government, establishing a new independent Police Authority for Northern Ireland tasked with maintaining a more representative police force. Similar reforms were made in the area of employment equity, particularly with the 1969 establishment of the Northern Ireland Commissioner for Administration, who was granted the power to investigate complaints of discrimination on the basis of religious or political belief and to promote fairness in public sector job recruitment by local councils. However, the extent of these reforms and their impact on community relations remained limited in the face of the outbreak of widespread Troubles-era violence. Plans to demilitarize the RUC were largely dropped due to the increase in violence, making the police the target of renewed suspicion and distrust. Indeed, while the overall size of the RUC had more than doubled by the early 90’s, its percentage of Catholic representation was effectively halved over the same period, falling to under 6 percent. Recently released evidence documents

53 Fitzduff, Beyond Violence.

54 Hamilton, Moore, and Trimble, Policing a Divided Society.
continued patterns of anti-Catholic discrimination throughout the Troubles, including instances of direct police collusion with Loyalist paramilitary organizations that resulted in the deaths of Nationalist civilians.\textsuperscript{55} During the 1980’s there were also investigations into the unnecessary use of deadly force by the RUC against the Nationalist population, with evidence suggesting the existence of a “shoot-to-kill” policy.\textsuperscript{56} Furthermore, although the B-Specials had been disbanded, many of its units were simply adopted into a new auxiliary paramilitary policing unit known as the Ulster Defence Regiment (UDR), which was itself quickly charged with sectarianism and collusion with Loyalist paramilitaries. While some Catholics joined the UDR in its early days, by the late 1980’s Catholic membership had fallen to less than 3 percent.\textsuperscript{57} As a result, by the end of the Troubles the RUC lost much of its remaining legitimacy among the Nationalist community, with many neighbourhoods becoming virtual ‘no-go’ areas for members of the policing services. Instead, these areas were largely taken over by a system of violent ‘internal policing’ by the IRA and other Republican paramilitary organizations.

In 1976, the Fair Employment Act was passed, which made it unlawful to discriminate in employment on the grounds of religious or political affiliation. A Fair Employment Agency (FEA) was also established to investigate complaints of employment discrimination. These policies were made even more robust by the introduction of a new Employment Act in 1989 and the establishment of a Fair Employment Commission (FEC) that effectively replaced the FEA. Notably, these reforms included a mandatory requirement that companies with more than 25


\textsuperscript{56} Hamilton, Moore, and Trimble, \textit{Policing a Divided Society}.

employees register with the FEC to ensure their workforce’s equitable religious composition, as well as new affirmative action policies designed to increase Catholic representation.\textsuperscript{58} However, despite these efforts, by the early 1990’s the Catholic community had seen little change in terms of employment equity. For instance, in 1993, unemployment among Catholics remained 2.2 times higher than among Protestants, while 45 of the top 50 worst unemployment rates in Northern Ireland were located within predominantly Catholic communities.\textsuperscript{59} These deficits remained despite significant gains in some areas, such as the public sector, where use of affirmative action policies meant that Catholics were being hired and promoted at even higher rates than Protestants.

However, in support of the nascent peace process that began taking shape in the early 1990’s, the central government in Northern Ireland embarked on an even more aggressive agenda designed to alleviate many of the remaining structural inequalities dividing Nationalist and Unionist communities. This agenda included a new initiative called Targeting Social Need (TSN), which aimed at better targeting government policies and programs to communities – both Catholic and Protestant – showing the highest levels of deprivation, and at strategically granting monies for skills training and community development. In 1992, the government also increased the amount of funding it provided to Catholic schools with an eye to increasing training in the areas of science and technology and therefore facilitating Catholic employment in traditionally underrepresented fields.\textsuperscript{60} 1994 saw the introduction of the nation-wide Policy Appraisal and Fair Treatment (PAFT) initiative, designed to help ensure that practices of equality and equity informed all aspects of government activity, including its legislative and administrative functions as well as in its provisions of public services.

\textsuperscript{58} For a more detailed account of these early reforms, see Fitzduff, Beyond Violence, 19-29.

\textsuperscript{59} Ibid., 24.

\textsuperscript{60} Ibid., 25.
Many other major reforms intended to address structural and material inequalities were introduced alongside the Belfast Agreement, apropos of the Agreement’s efforts to actively protect Human Rights and equality in ‘Economic, Social and Cultural Issues.’ At an institutional level, this led to the establishment of a centralized Equality Commission that effectively assumed responsibility for overseeing all aspects of existing equality legislation. An independent Human Rights Commission was also created to complement the drafting of an inclusive Bill of Rights for Northern Ireland. Legislatively, these initiatives are now supplemented by the extensive Fair Employment and Treatment Order of 1998, which rendered it unlawful to discriminate on the basis of religious or political opinion in housing or employment and permitted the use of affirmative action policies to ensure that fair participation is secured in the workplace by both Protestants and Catholics. To guarantee greater equality in terms of political representation, the Belfast Agreement also established the Northern Ireland Assembly, a consociational power-sharing arrangement to be governed via a devolved legislature from the parliament buildings at Stormont.\(^{61}\) Under this arrangement, both the executive and ministerial positions are shared between Nationalist and Unionist representatives, with the Assembly being led by a First Minister and Deputy First Minister of equal power drawn from each of the two communities. To help ensure that key legislative decisions serve the interests of both communities, resolutions under the Assembly must receive a minimum of both Nationalist and Unionist support, providing a mutual veto safeguard against discriminatory legislation. Following the Assembly’s inception in 1999, an Equality Unit, a Gender and Sexual Orientation Unit, and a Racial Equality Unit were created under the Office of the First Minister and Deputy First Minister (OFMDFM) in order to keep equality and equity issues at the forefront of newly-written policy.

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\(^{61}\) Notably, earlier efforts at establishing a devolved government at Stormont were attempted between 1973-1974 and 1982-1986. In both cases, however, the government was quickly abolished given the sectarian divides between hardline Nationalist and Unionist factions.
Notably, the BFA also mandated that an extensive review of the criminal justice system be undertaken to increase levels of fairness and impartiality and to foster cross-community confidence and support. This resulted in the 2000 release of *The Review of the Criminal Justice System in Northern Ireland*, a report outlining nearly 300 recommendations targeting increased efficiency, impartiality, and accountability, the majority of which were given legislative effect under Justice Acts in 2002 and 2004.\(^{\text{62}}\) These included changes to the ways in which appointments were made to the judiciary, as well as initiatives to protect the independence of judicial process. The Agreement also set in motion an Independent Commission on Policing for Northern Ireland, mandated to explore reforms to the highly contentious existing policing services. In particular, the Commission was tasked with ensuring that policing be “fair and impartial [and] free from partisan political control” and able to win the “public confidence and acceptance” of all communities in Northern Ireland.\(^{\text{63}}\) A report outlining over 175 recommendations was released by the Commission in September 1999, and the majority of its suggestions were made legally binding in May 2000.\(^{\text{64}}\) These measures included the appointment of an independent Police Ombudsman to deal with complaints and allegations of misconduct, as well as the creation of a new Policing Board representative of both communities to replace the old Police Authority and to provide an independent source of oversight and accountability. The ethos of the police force was similarly redefined, based on a strict adherence to human rights codes and an emphasis on community policing and normalization versus the

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militarism of the past. At a symbolic level, the name of the police services was changed from the RUC to the Police Service of Northern Ireland (PSNI), and elements of ‘Britishness’ were removed from both the appearance and operation of the new organization. Perhaps most importantly, a policy of ‘positive discrimination’ was implemented in order to correct Catholics’ historical underrepresentation in the police service and to increase the legitimacy of the PSNI within Nationalist communities.

**Restoring Equity and Equality:**
**The Impact on Social Learning and Reconciliation**

Among those experts interviewed in Northern Ireland, nearly all cited the central role that structural and material inequalities played in the violence of the Troubles, as well as the impact that past disparities have had on reinforcing divisions and antagonisms between Nationalist and Unionist communities. Further still, there is now substantial empirical evidence showing a link between levels of unemployment and relative deprivation and willingness to support more radical political parties and engage in acts of sectarian violence.\(^{65}\) Indeed, most of the worst Troubles-era violence took place in the poorer working-class areas of major urban centres like Derry and Belfast, and it is in these same areas that symbols of continued sectarian division (such as flags, graffiti, and murals) remain most prominent. Accordingly, interviewees consistently cited the amelioration of structural and material inequalities in Northern Ireland as a central pillar of future reconciliation between Nationalists and Unionists. Most often this distributive work was invoked as the ‘minimum baseline’ upon which all other post-conflict reconciliatory activities must build. As Ray Mullan, Programme Director of Northern Ireland’s

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\(^{65}\) As James Honaker found in his 2005 study, “the most important and central result is the large effect of unemployment on violence” which in turn “lends substantial support to the theory that violence is caused by perceptions of economic persecution or discrimination.” See James Honaker, "Unemployment and Violence in Northern Ireland: A Missing Data Model for Ecological Inference," in *Summer Meetings of the Society for Political Methodology* (Tallahassee, Florida: July 2005), 21-22. See also Fitzduff, *Beyond Violence*, 22-23.
Community Relations Council has noted, an element of distributive justice is central to reconciliatory efforts in Northern Ireland because “equity is about justice. You can’t have a good community relations environment if one side feels they are being treated unfairly…you cannot build a positive environment if one side feels they are getting the short end of the straw. There has to be equity.”

Overall, assessments of the government’s wide-ranging initiatives to introduce greater levels of equality into Northern Ireland’s economic and political structures have been very positive, with a shared recognition that disparities between the communities – while certainly still present to a reduced degree – no longer represent the major source of communal tension that they once did. As Jennifer Todd, Professor of Political Science at University College Dublin asserts,

I think that for a long time the conflict, from the perspective of Nationalists, was fed by inequality, and fed by the effects of multiple inequalities. But it seems to me…that there’s a threshold where groups don’t necessarily have to get to strict equality to become satisfied. And Nationalists have, for the most part, got to where they can see the possibility of equality and it’s simply become pretty much depoliticized.

Similarly, Mari Fitzduff commends the “considerable success” that many of the initiatives designed to introduce greater equality between communities have had in Northern Ireland since the Civil Rights movement, noting that “[c]omplaints are no longer heard about rigged voting, unfair housing allocations, or unequal educational funding.” Indeed, as she illustrates,

The range of initiatives undertaken since 1970 have begun to bear significant fruit, and have substantially changed the capacity of Northern Ireland society to

66 Personal interview, Ray Mullan, Belfast, Northern Ireland, 21 April 2008.

67 This is reflected by survey data from the Northern Ireland Life and Times Survey which shows an increase in positive perceptions of intergroup equality in Northern Ireland. See Northern Ireland Life and Times, “Equality Module (2007),” available on the ARK Online Archive at http://www.ark.ac.uk/nilt/results/comrel.html#equality.

68 Personal interview, Dr. Jennifer Todd, Dublin, Ireland, 28 April 2008.

69 Fitzduff, 28.
provide for equal opportunities for its citizens, both Catholic and Protestant alike. They also provide for a background of equity in employment, education, health, housing, and social services…this is likely to prevent the re-emergence of nationalist violence in the future…and will ensure that such issues will not have the capacity to destabilize a society that has been so convulsed by issues of equality in its history.”

For the most part, these positive assessments appear to be supported by recent empirical data. For example, employment equality, once a major source of conflict, is no longer a factor in contemporary life in Northern Ireland. Data from 2007 shows that as a result of aggressive reform policies Catholics now comprise well over 40 percent of the overall active workforce, including 44.6 percent of both the public and private sectors. Just as significantly, this same data shows that Catholics are now just as likely as their Protestant counterparts to be selected for promotion to more senior positions and to hold highly skilled professional positions. Unemployment differentials have also decreased substantially; in 2008 the unemployment rate for Catholics was 5 percent compared to 3 percent for Protestants. In terms of housing, data from the 2001 Northern Ireland Life and Times survey shows that the vast majority (71 percent) of all respondents indicated that both Catholics and Protestants now received equal allocation and treatment in their dealings with the NIHE.

70 Ibid., 29.


72 Ibid., 7-8.


74 See Northern Ireland Life and Times, “Community Relations Module (2001),” available on the ARK Online Archive at: http://www.ark.ac.uk/nilt/2001/Community_Relations/NIHRGLPJ.html. Of these numbers, 81 percent of Catholics indicated they believed both were treated equally, while 62 percent of Protestants felt the same.
Further, despite the long-standing mistrust of the policing services by the Nationalist population, there is evidence that the major reforms undertaken following the Patten Commission to increase the community-oriented and non-partisan nature of the PSNI have made significant inroads. For instance, as of October 2009, the PSNI stands at 27.58 percent Catholic – nearly five times the percentage of Catholic officers before the BFA and well on the way to the target of 30 percent set by the Patten Commission for 2011.\(^{75}\) There are also indications that perceptions of the police as a partisan instrument have changed as well. A 2007 survey shows that while more Protestants (67 percent) felt the PSNI did a fairly/very good job in their area, this was now a view shared by a majority (54 percent) of the Catholic population. In addition, data from the same survey shows that 58 percent of Catholics and 72 percent of Protestants were fairly/very satisfied that “the police treat members of the public equally in Northern Ireland as a whole.”\(^{76}\) Perhaps most promisingly, similar levels of Catholic (83 percent) and Protestant (84 percent) respondents indicated their confidence that the PSNI was able to provide a day-to-day policing service for all the people of Northern Ireland.\(^{77}\) While these figures still reveal a disparity between Catholic and Protestant perceptions of the policing services, they also evidence remarkable progress when compared to the deep mistrust and antipathy previously shown the RUC by the Nationalist community.\(^{78}\)

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\(^{77}\) Ibid., 7. Emphasis mine.

\(^{78}\) For instance, the *Patten Report* indicated consistent findings from years previous to its release, showing that while 70 percent of Protestants had thought the RUC treated both communities equally, this opinion was shared by only 25-30 percent of the Catholic population. The Independent Comission on Policing for Northern Ireland, *The Patten Report*, 14.
However, it is also clear that a reduction in structural and material disparities, while vital, has not itself been sufficient to foster intergroup reconciliation in Northern Ireland. More specifically, while the movement towards relative equality may have helped to clear the way for developing less antagonistic relationships between Nationalist and Unionist populations, it has done little to heal the deep physical, social, and psychological scars that remain the legacies of past conflict. This has been evident perhaps most clearly at the political level where entrenched feelings of mistrust and animosity remain prominent between the Nationalist and Unionist political representatives. Indeed, the period following the BFA has been one of political radicalization in Northern Ireland, with the hardline SF and DUP having taken the majority of support from their respective Nationalist and Unionist communities away from the more moderate SDLP and UUP that prevailed in the past. In the 2007 Assembly elections, for instance, the DUP won 36 seats and SF 28, far more than either the UUP (18) or SDLP (16). Furthermore, despite the end of political violence and the peaceful sharing of power between SF and the DUP, their ultimate political aims for Northern Ireland still remain fundamentally unresolved with SF continuing to press for a united Ireland and the DUP advocating a continued Union within the UK. Consequently, the Assembly has been suspended on four occasions since it took power in 1999 due to contentious disagreements between the DUP and SF, with the most recent suspension lasting from October 2002 to May 2007.

Continued evidence of prejudice and distrust is also reflected on a broader societal level in Northern Ireland, as while gains in employment equity have facilitated more frequent intercommunal interactions in the workplace, the places where people live, go to school, shop, and socialize still remain deeply segregated along communal lines. This has proved particularly true among the most deprived and disadvantaged areas of Northern Ireland’s cities, in which ‘low-intensity’ violence has continued relatively unabated since the Belfast Agreement in the
form of youth-led and other sectarian ‘anti-social’ behaviour in high-tension interface zones.\textsuperscript{79} As several interviewees note, despite growth in overall levels of communal equality, the continued deprivation experienced in these highly segregated areas has limited opportunities for the kinds of positive contact and interaction that could potentially help to improve intercommunal relations. This is a point emphasized by Chris O’Halloran, Director of the highly regarded non-governmental Belfast Interface Project, who illustrates this process at length:

It’s become clear that there are many young people, particularly low-income young people who, because they are unskilled, because they have very low incomes, have very little experience of the Other community, of really any other community. They rattle around in their few streets they live in largely and some of them might travel into the city centre. But many of them because their income is so low have very little experience of anything outside of their own community. Which means that their horizons are extremely limited. And of course that’s a perfect situation to foment, or to grow, or breed, or develop attitudes and perceptions of other people that may not be true. Because there’s no way of testing those, of finding out they’re not true. So with income comes opportunity. Accompanying low income is a lack of opportunity in terms of challenging stereotypes and prejudice.\textsuperscript{80}

Indeed, while they are highly salutary of the efforts that have been made to ameliorate inequalities between Nationalist and Unionist communities, Ed Cairns and John Darby remain less certain of the extent to which these reforms are themselves enough to overcome the antagonistic attitudes and mindsets formed during past conflict, noting that “the reduction of material disadvantages has not led to a measurable improvement in relationships between the


\textsuperscript{80} Personal interview, Chris O’ Halloran, Belfast, Northern Ireland, 24 April 2008. This is a point echoed by Professor Paul Arthur of the University of Ulster, who argues that “the more economic deprivation there is, the less likely you’re going to get any kind of community understanding. In some of the working class housing estates, I would say there is no contact whatsoever with people on the other side. And one of the few places in a deeply segregated society where people come together is in the workplace. And if you’re not in the workplace, then the position is fairly hopeless. Now that you’ve got legislation for fair employment and all the rest of it, I’ve no doubt that relations have improved. But again, I stress they are far from perfect.” Personal interview, Dr. Paul Arthur, Derry, Northern Ireland, 13 February 2008.
two ethnic and religious communities."81 This is reflected by more recent findings from Joanna Hughes and Caitlin Donnelly, who analyzed trends in survey data on intercommunity relations collected in 2003 and concluded that

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\text{[d]espite strong attention to the promotion of cultural, political, and religious pluralism and to the equality agenda, there is evidence that Northern Ireland has become a more divided society since the Belfast Agreement. There is growing incidence of cross-community tension, hostility and intimidation which reflects a polarized political battlefield focused on starkly drawn identities and incompatible constitutional demands.} \quad 82
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This evidence includes high levels of continued housing segregation and a lack of desire for intercommunal mixing, the presence of ongoing disputes over national symbols such as parades and flags, and decreased confidence about the nature of future relations between Nationalist and Protestant communities.83

One result of these continued divisions is that the gains made by the government’s ambitious agenda still tend to be viewed by each community through the ‘zero-sum’ lens that marked past conflict. In particular, while Catholics have grown increasingly optimistic and secure about their status in Northern Ireland society, Protestants report feeling threatened and alienated by the recent gains of the Nationalist community and perceive these as coming at the expense of their own victimization.84 A 2003 survey, for instance, saw an interesting reversal, with 80 percent of Protestants reporting that Catholics were now being offered superior job opportunities, and 56 percent reporting that in general Catholics were being treated better than Protestants in Northern Ireland as a whole. One costly outcome of this continued zero-sum

81 Cairns and Darby, "The Conflict in Northern Ireland."


83 Ibid., 2-3.

84 Ibid., 4-5, 41.
perspective has been an extensive ‘duplication of resources’ in Northern Ireland since the BFA. In essence, any perceived gains made by one community in securing new public facilities, services, or development funding must be met by the provision of separate but equal gains for the other community. Such replications are now estimated to be costing the Northern Ireland government an estimated £1.5 billion a year. Accordingly, while substantial gains have been made in regards to distributive learning in Northern Ireland, it is apparent that the positive effects of this for intergroup reconciliation continued to be impeded by continued mistrust and the presence of many of the same patterns of victimization that characterized the violence of the Troubles. These issues are taken up in the following sections.

SOCIOEMOTIONAL LEARNING IN NORTHERN IRELAND

Viewed through the lens of transitional justice, the post-conflict experience of Northern Ireland appears in some ways anomalous. First, unlike many transitional societies, throughout the Troubles Northern Ireland remained a functional Western democracy with an intact legal system, police force, and judiciary. The state’s structures, in other words, stayed stable, even if they were largely considered illegitimate by the Catholic minority. In this way, while Northern Ireland did make a ‘transition’ from conflict to peace with the BFA, the system of devolved democratic governance remained largely the same before and after the Agreement (aside from the addition of the new Northern Ireland Assembly). This meant that many of the institutions of justice inherent to a modern liberal democracy were maintained throughout the Troubles, with numerous investigations, arrests, and imprisonments carried out under British law over the

85 This cost was part of the findings released in a recent report commissioned by the government and carried out by the international accounting firm Deloitte. “NI Division Costs £1.5bn a year,” BBC News, 23 August 2007, http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/6961077.stm.
Further, unlike other contemporary transitions (including the post-conflict periods in South Africa, Rwanda, and Bosnia), the Belfast Agreement in Northern Ireland was not followed by the introduction of a formal transitional justice institution, such as a tribunal or truth commission, to account for the legacies of past violence. In part this was due to the fact that the domestic criminal justice system of Northern Ireland and the United Kingdom remained intact and so continued to maintain sole jurisdiction over past crimes, although it also owed much to the long-standing position held by the British Government that paramilitary organizations’ actions were acts of ordinary crime, rather than being political or potentially ‘extraordinary’ in nature. Ultimately, however, the lack of a formal transitional justice institution in Northern Ireland should be understood as a direct result of the political context in which the Belfast Agreement itself was situated.

By the mid-1990s, a recognition had begun to emerge among the major parties involved in Northern Ireland’s conflict that the use of violence was no longer an effective means of advancing a political agenda, whether that agenda was in favour of continued union with the UK or the establishment of a united Ireland. The strain of living with the constant threat of shootings and bombings had taken its toll on Northern Ireland’s population and a growing ‘war-weariness’ had precipitated a major decrease in civilian support for paramilitary and political violence. The conflict’s combatants also seem to have realized that the war in Northern Ireland could not

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86 This is a point raised in Colm Campbell and Fionnuala Ni-Aolain, "Local Meets Global: Transitional Justice in Northern Ireland," *Fordham International Law Journal* 26, no. 1 (2002-2003). The authors note that Northern Ireland’s status as a liberal democracy throughout the Troubles means it may not ‘fit’ within traditional transitional justice frameworks.

87 Indeed, what makes transitional justice unique is its use in response to ‘extraordinary’ acts of violence or gross human rights violations such as crimes against humanity, genocide, war crimes, terrorism, or large-scale violence committed against a targeted social group. This sets it apart from ‘ordinary’ domestic crimes that occur as a matter of course in a ‘normal’ functional society. On this important distinction, see Drumbl, "Collective Violence and Individual Punishment: The Criminality of Mass Atrocity," 540-44.

be won by strength of arms alone, leading SF to increasingly prioritize use of the ‘ballot box over the armalite’ and the British government to declare in 1989 that it no longer had a ‘selfish or strategic’ interest in Northern Ireland and would be open to considering political talks with Republicans if violence was ended.\(^8^9\) The Belfast Agreement therefore represented a pragmatic choice by Unionist and Nationalist political leaders – made in concert with the leadership of the main Republican and Loyalist paramilitary organizations and the British and Irish governments – to negotiate an end to violence but to nonetheless continue their existing national struggles by political means. In effect, the seminal question of nationalism and the future constitutional status of Northern Ireland that underpinned the conflict remained unresolved, and the Agreement itself signified very different things for the state’s two main communities. For Unionists, the Agreement was viewed as enshrining a final constitutional protection that would prevent against a potential reunification with the Irish Republic without their express consent. For Nationalists, the Agreement was seen as yet another stepping-stone towards the larger goal of the eventual reunification of Ireland and the end of British rule. Accordingly, as Professor Emeritus Seamus Dunn has noted, one of the major problems facing peacebuilding and reconciliation efforts in Northern Ireland post-Agreement is

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\text{[t]hat the fundamental distinction that caused the conflict is still there. There is one group of people...who would like to see a United Ireland...and there’s this other group, nowadays often stronger because they feel so defensive, who will never stop being British and get cross if you call them Irish. The peace process and the new government situation hasn’t changed that. It’s been going on for 700 years – it’s not going to disappear overnight.}\(^9^0\)
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\(^9^0\) Personal interview, Dr. Seamus Dunn, CEO of Independent Research Solutions and former Professor of Conflict Studies and Director of the Centre of Study of Conflict at the University of Ulster, Coleraine, Coleraine, Northern Ireland, 13 April 2008.
This means that while an agreement was reached as to the necessity of peace in Northern Ireland, no consensus or common memory has ever been formed regarding the past, particularly regarding the morality (or otherwise) of the use of violence by any one side during the Troubles to advance their nationalist goals. As a result, Nationalist and Unionist communities have remained deeply divided in their views of who the ‘real’ victims and perpetrators of past conflict are, thereby placing very different demands on what might be required to satisfy calls for ‘truth’ and ‘justice’ in a post-conflict Northern Ireland. For instance, most Nationalists tend to view themselves as having been historically victimized by an illegitimate and repressive state and made the targets of unjust violence carried out by its security forces and Loyalist paramilitaries. As a result, most Republicans (and many Nationalists) interpreted the use of violence by the IRA against the British state and security forces or in defense of Nationalist communities as a justifiable action of ‘freedom fighters.’ For these individuals, ‘truth’ requires a greater recognition of the involvement of the British state in the conflict, including an acknowledgement of its collusion with Loyalist paramilitaries in the killing of Nationalist civilians. On the other hand, Unionists viewed themselves as the victims of past violence at the hands of seditious Nationalist rioters and Republican ‘terrorists’ who acted in flagrant disregard for the laws of the state. In turn, they viewed the actions taken by the security forces against the Nationalist population to be an appropriate response to criminal acts, meaning that for them ‘justice’ means securing criminal prosecution and imprisonment for these crimes. As mentioned, for its part, the British government has attempted to position itself as an impartial arbiter forced to mediate a two-sided sectarian conflict, a role that in the past had occasionally mandated the use of harsh tactics in response to the violent criminal activities and terrorist acts undertaken against the state.

To be sure, this is a very different perception of the ‘truth’ of the conflict from that held by most Nationalists.

Notably, these deeply divided interpretations of the past persist despite the existence of a remarkable body of factual evidence about the injuries and deaths that occurred during the Troubles. Independent and non-partisan databases like the Conflict Archive on the Internet (CAIN) located at the International Conflict Research Institute (INCORE), for instance, have archived the precise names, times, dates, and circumstances surrounding every conflict-related death from 1969 onwards.\textsuperscript{92} In this sense, the factual ‘truth’ already in circulation with regard to responsibility for deaths is fully fleshed-out, with details readily available as to which organizations were responsible for which deaths even if the names of specific perpetrators remain unknown. Of the 3526 total deaths catalogued between 1969-2001, for example, approximately 58 percent (2058) of these are attributable to Republican paramilitaries, 29 percent (1018) to Loyalist paramilitaries, and 10 percent (363) to British Security forces (including the police). Moreover, this data reveals distinct patterns in the violence that was carried out between the conflict’s principal combatants. Victims of Republican violence were primarily British Security forces (53 percent), followed by Protestant civilians (19 percent), Catholic civilians (11 percent), other Republicans (9 percent), civilians from outside Northern Ireland (5 percent), and Loyalist paramilitaries (3 percent). Loyalist victims, on the other hand, were predominantly Catholic civilians (65 percent), followed by Protestant civilians (13 percent), other Loyalist paramilitary members (10 percent), and British security forces (1 percent). Those killed by British security forces were mostly Catholic civilians (44 percent) and Republican

\textsuperscript{92} See Sutton, \textit{Sutton Index of Deaths}. 

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paramilitaries (40 percent), followed by a small minority of Protestant civilians (6 percent) and Loyalist paramilitaries (5 percent).\textsuperscript{93}

Despite the availability of this wealth of information explaining ‘what happened’ during the conflict, however, there still exists no broader agreement about why people were killed or whether any deaths were somehow justified. Since issues surrounding responsibility and victimization continued to remain major points of division between the communities in Northern Ireland, they were left largely unresolved in the ‘fault-neutral’ framework of the Belfast Agreement. While the Agreement indicates a general regret for the ‘legacy of suffering’ caused to those individuals and their families who were killed or wounded during the Troubles and underscores a future commitment to using “exclusively democratic and peaceful means of resolving differences on political issues,” nowhere does it attempt to assign any kind of moral responsibility for the violence of the past. Although this decision helped to stabilize the peace process and ensured an end to political conflict, it nevertheless effectively ruled out the use of a centralized transitional justice mechanism mandated to investigate the violence of the past. Because of the continued existence of zero-sum perceptions of who was ‘right’ and who was ‘wrong’ in employing violence during the Troubles, no single institution has been able to attempt to provide ‘truth’ and ‘justice’ for the past without being perceived as sectarian.

**Decentralized Efforts to Achieve ‘Truth’ and ‘Justice’**

In the absence of a centralized institution, what has developed instead in Northern Ireland is a much more ‘piecemeal’ approach to dealing with the past that has combined a range of discrete government initiatives with efforts undertaken by non-governmental organizations and the community/voluntary sector to address issues of both truth and justice. While space does not permit a full accounting of these initiatives, a number of the most prominent of these measures

\textsuperscript{93} Ibid.
are considered here in turn, alongside an assessment of this ‘piecemeal’ strategy’s ability to contribute to socioemotional learning and intergroup reconciliation in Northern Ireland.94

**Victim Acknowledgement and Support**

During the negotiations leading up to the Belfast Agreement, Northern Ireland’s government recognized that a sustainable peace would centrally require acknowledging and addressing the needs of those victimized by past violence. A Victim’s Commission was created in 1997 by the British Secretary of State for Northern Ireland which, under the leadership of Sir Kenneth Bloomfield, was tasked with “look[ing] into possible ways to recognize the pain and suffering felt by victims of violence arising from the troubles of the last 30 years.”95 After a period of extensive consultation with civil society and local communities, a final report called *We Will Remember Them* (known more commonly as ‘The Bloomfield Report’) was released in April 1998. The Bloomfield Report recommended, among other provisions, increased access by victims to financial compensation, trauma counseling, and targeted social services, the establishment of non-partisan victim memorials, and the creation of a standing Ombudsman charged with representing victims’ concerns to the government.96 The attention paid to addressing the needs of victims was continued under the Belfast Agreement, whose signatories recognized that it would be “essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation.”97 In June 1998, a Victim’s Liaison Unit (VLU) and a specialized Victims’ Minister were created within the Northern Ireland Office to

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94 I am indebted to Christine Bell for this insight and for the coining of the term ‘piecemeal’ in referring to Northern Ireland’s decentralized approach to transitional justice. See Bell, "Dealing with the Past."


96 Ibid.

97 UK Parliament, *The Belfast Agreement*
take on the task of coordinating government policy in response to victims’ concerns. Their work included establishing schemes to distribute core government funding to local community support groups for victims and survivors. It also included providing financial support for The Northern Ireland Memorial Fund (NIMF) and The Community Foundation for Northern Ireland (CFNI), independent charitable organizations established as ‘Intermediary Funding Bodies’ (IFB) to administer and monitor small grant assistance to victims, their families, and their caregivers as part of a broader effort “to promote peace and reconciliation by demonstrating recognition of the needs of victims and survivors as an important part of the healing process in Northern Ireland.”

Further, following the reestablishment of the devolved Assembly at Stormont, in 2000 a dedicated Victim’s Unit was created within the OFMDFM to oversee a government-wide policy for addressing victims’ needs. This policy mandate, entitled *Reshape, Rebuild, Achieve*, was designed to “deliver practical help and services to the surviving physically and psychologically injured of violent, conflict related incidents and those close relatives or partners who care for them.” This included a range of initiatives targeting the particular needs of victims and their families by way of existing government services in the areas of health, education, housing and employment. It also introduced additional funding to be distributed to individual victims and victim’s groups through small grants administered via IFBs, including the ‘Victims Survivors Development Scheme’ and ‘Victim Survivors Core Funding Scheme’ facilitated by the Community Relations Council (CRC). More recently, in 2008 the OFMDFM created a Commission for Victims and Survivors (CSVNI) to consult with and act as a permanent ombudsman for victims, to review the adequacy of existing victim-related law and policy, and to

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serve as a general source of advice for government with regard to best practices in moving forward. In 2009, a Victims and Survivors Forum was created, a consultative body of approximately 30 representatives drawn from government, the voluntary sector, and both Nationalist and Unionist community organizations involved in victims’ work designed to provide a direct source of advice and information on behalf of victims to the CSVNI. In 2010, a new independent Victims and Survivors Service is planned by the OFMDFM to take over as a single centralized body by way of which individual victims and victim groups can access government grant funding.\textsuperscript{100} Since 1998, these combined efforts have resulted in over £20 million being invested in victims’ initiatives by the NIO and OFMDFM, with more recent announcements indicating that this funding would increase to £36 million between 2009 and 2012.\textsuperscript{101} Notably, these investments have been supplemented with extensive funding for victims’ issues provided by the European Union’s ongoing PEACE program, the majority of which has also been distributed in small grants via IFBs\textsuperscript{102}.

Notably, this review evidences a consistent pattern in the way in which victim’s issues have been addressed in Northern Ireland following the Belfast Agreement, pointing to a largely ‘bottom-up’ approach to providing victim services. While the government (including both the NIO and devolved Assembly) has set the overall policy agenda, it has done so following periods of extensive consultancy both with individual victims and non-governmental victims’ organizations. Furthermore, though the government and the EU have provided extensive funding

\textsuperscript{100} Outlines for the Northern Ireland Executive’s new strategy regarding victims can be found in Office of the First Minister and Deputy First Minister, \textit{Strategy for Victims and Survivors} (Belfast: OFMDFM, November 2009). Available online at: \url{http://www.ofmdfmni.gov.uk/8305_-_final_web-2.pdf}.


\textsuperscript{102} Funding for victims has been one component of a broader EU investment in peacebuilding in Northern Ireland through the PEACE funding program which, in the period between 1995 and 2013, has provided an estimated €2 billion total support.
for victims’ services, for the most part these funds have been channeled through IFBs in order to support a broad base of nearly 150 local community-based victim support organizations who themselves carry out the vast majority of the ‘on-the-ground’ work with victims. These organizations include ‘single-identity’ victims’ groups that work almost exclusively with members of one community, such as the Nationalist Relatives for Justice (RFJ) or the Unionist Families Acting for Innocent Relatives (FAIR), as well as ‘cross-community’ groups like the highly-regarded WAVE Trauma Centre which have been working to provide localized services to all victims of the conflict in Northern Ireland since the early 1990s.

Overall, assessments of the funding, support, and service delivery that have been provided to victims following the BFA have been quite positive. One independent evaluation of the impact of Northern Ireland’s bottom-up approach to addressing victims’ issues found that it “has been instrumental in helping establish and sustain a wide cross-section of work in the areas of victims” and “that, overall, the groups are engaged in a wide variety of activities which are beneficial to victims.”\textsuperscript{103} A similar assessment carried out by Deloitte in 2001 found that the decision by the government “to filter funding to the grass roots organizations…facilitated the victims sector in providing a range of services...[that were] identified as having assisted individual victims.”\textsuperscript{104} Furthermore, the study also found that the increased opportunities for funding provided by institutions such as the VLU, Victim’s Unit, and the NIMF “ha[ve] increased awareness of victims related issues and resulted in an increased range of services to victims which are accessible at a local level.”\textsuperscript{105} Indeed, nearly all expert interviewees indicated

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105 Ibid.
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that the acknowledgement of and assistance paid to victims have been crucial in aiding individual healing as well as facilitating the broader process of societal reconciliation. As Professor Brandon Hamber of the International Conflict Research Group (INCORE) at the University of Ulster, Magee campus has argued, the support provided by the “sophisticated service-delivery system” developed in Northern Ireland after the BFA has been one of the “major fundamental components” in helping victims to come to terms with the past.106 Similarly, Dr. Matthew Cannon, CEO of the Irish Peace Institute at the University of Limerick notes that the focus on victims and the support paid through both government and local community programs have come to form the “cornerstone” or “keystone” of the much larger process of helping communities move toward greater levels of integration and reconciliation after the Troubles.107

That said, despite the high level of sustained funding and the extensive support services provided by government, NGOs, and the community/voluntary sector – all of which have proven valuable in aiding individual healing and processes of reintegration – issues surrounding victims continue to serve as points of communal division due to widely divergent, and often antagonistic, perceptions of past violence. Indeed, the issue of who should be considered a ‘legitimate’ victim of the conflict in Northern Ireland remains highly politicized, with interviewees noting that victimhood is consistently appropriated as a “political football” or a tool for politicians to use against the other community, while victims themselves are squeezed “like a grape in a vice” between the competing narratives of Nationalists and Unionists seeking to assign blame to the Other for the violence of the past.108 For instance, several Nationalist victims’ organizations have taken issue with the findings of the Bloomfield Report, perceiving it to have prioritized the

106 Personal interview, Dr. Brandon Hamber, Derry, Northern Ireland, 14 February 2008.

107 Personal interview, Dr. Matthew Cannon, Limerick, Ireland, 14 April 2008.

108 Personal Interview, Dr. Pete Shirlow, Director of Education at Queen’s University Belfast, 24 April 2008.
victims of paramilitary violence while downplaying attention to those who were victimized by the actions of the police and security forces.\footnote{This was evident in statements made in response to the Report by the Pat Finucane Centre for Human Rights and Social Change (PFC) and Relatives for Justice (RFJ), two of the most prominent Nationalist victims organizations in Northern Ireland. See for instance PFC, “Submission to the Independent Commission into Policing,” PFC Website, http://www.patfinucanecentre.org/policing/submiss1.html.} Many Nationalists believe this has established an implicit ‘hierarchy of victims’ in Northern Ireland under which ‘innocent’ Unionists and state security forces were considered to be ‘more deserving’ of support, while Republican ‘terrorists’ and those ‘guilty by association’ in the Nationalist community were less so.\footnote{Patricia Lundy and Mark McGovern, "The Politics of Memory in Post-Conflict Northern Ireland," Peace Review 13, no. 1 (2001). See also Brandon Hamber, "The Past Imperfect: Exploring Northern Ireland, South Africa, and Guatemala," in Past Imperfect: Dealing with the Past in Northern Ireland and Societies in Transition, ed. Brandon Hamber (Derry: INCORE, 1998), 1-12.} Similarly, there are many within the Unionist community who don’t believe former paramilitary combatants should be considered ‘victims,’ as they “feel that ‘real’ victims had no choice over life, death or injury, whereas perpetrators had the choice whether or not to take part in premeditated acts of violence.”\footnote{Northern Ireland Human Rights Commission, Human Rights and Victims of Violence (Belfast: NIHRC, June 2003), 6. Available online at: http://cain.ulst.ac.uk/issues/victims/docs/nihrc03victims.pdf.} The continued communal polarization over issues of victimhood remains evident in survey data collected as recently as 2004.\footnote{Northern Ireland Life and Times Survey, “Political Attitudes Module (2004),” available on the ARK Online Archive at: http://www.ark.ac.uk/nilt/2004/Political_Attitudes/SUPPVICT.html. Unfortunately, 2004 is the latest date available for data on this question, though the impressions gained by interviews suggest that the data reflects current attitudes.} When asked about whether they thought ‘support for victims’ was an important element of dealing with the legacy of the Troubles, a vast majority of both Catholics (92 percent) and Protestants (85 percent) indicated they considered it to be ‘fairly’ or ‘very’ important. However, when asked whether “all those people who were killed or...
injured as a result of the conflict matter equally no matter whether they were paramilitaries or members of the security forces,” more than twice as many Catholics as Protestants agreed.113

**Prisoner Release and Reintegration**

Alongside the attention paid to victims, the Belfast Agreement also included provisions to address the perpetrators of past violence in the form of an early release program for those who had been imprisoned for their involvement in the Troubles. Under the framework of the BFA, over 450 ‘qualifying’ prisoners – largely ex-combatants from Republican and Loyalist paramilitary organizations – were to be released by the British and Irish governments within two years of its signing. This was widely recognized as being a necessary condition for getting potential paramilitary ‘spoilers’ on board with the BFA and a requirement for moving the peace process forward. Notably, while this release did significantly cut short the term of incarceration for many prisoners, it remained distinct from a ‘blanket amnesty process,’ as its provisions were limited to members of those paramilitary organizations engaged in ceasefires at the time, did not expunge the record of conviction, and only released prisoners on conditional licenses that could be revoked if an individual reengaged in criminal activity.

The decision to release prisoners under the Agreement was also accompanied by a specific clause requiring the governments of the UK and Ireland to provide support to aid the reintegration of ex-prisoners into their communities, including assistance for employment training and further education.114 Much like the support provided to victims, to date this assistance has largely taken the form of direct funding grants to non-governmental and local

113 69 percent of Catholics and 33 percent of Protestants indicated that they ‘agreed’ or ‘strongly agreed’ with this statement. See Northern Ireland Life and Times Survey, “Political Attitudes Module (2004),” available on the ARK Online Archive at: [http://www.ark.ac.uk/nilt/2004/Political_Attitudes/VALLKILL.html](http://www.ark.ac.uk/nilt/2004/Political_Attitudes/VALLKILL.html).

114 Indeed, the BFA mandated that “The Governments continue to recognize the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education.” UK Parliament, *The Belfast Agreement*. 148
community organizations that have been administered through IFBs such as the CFNI on behalf of the Northern Ireland government and the EU. In the period between 1995 and 2003, financial support for community-based organizations aiding prisoner reintegration totaled over £9.2 million. This included funding for 61 community groups and a further 29 projects working with politically motivated prisoners and their families to secure provisions of education, skills training, financial and welfare advice, housing and accommodation, and counseling services. These projects are led by the work of the independent Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) that acts as one of the primary ‘umbrella’ organizations and advocacy groups for ex-prisoner issues.

Taken as a whole, these programs appear to have met with a good deal of success, with only 20 of the 450 political prisoners released having had their licenses revoked for reengaging in violence or criminal activity in the 10 years following the signing of the BFA. There is also significant evidence that ex-paramilitaries played a key role in preventing outbreaks of future violence by using their legitimacy within their own communities to help to ‘sell’ the Agreement and diffuse sectarian tensions surrounding its passage. As Mike Ritchie, Director of the nongovernmental Committee on the Administration of Justice (CAJ) illustrates,

the importance of ex-prisoners in terms of selling the Agreement in local communities was pretty significant…On the Republican side, the IRA and Sinn Féin were taking very, very controversial decisions and the people who sold those decisions in local communities were people who had been released, the ex-prisoners…they were basically interpreting politics to people on the ground. And when there were problems and difficulties in local areas it was ex-prisoners that people turned to…On the Loyalist side, they gradually became more important in relations to interface work, riots and violence at the interfaces…when there came


116 Ibid.

to be networks to try and tamp things down, it was Loyalist ex-prisoners who were to the fore in relation to that. And I think they have really been in advance of their communities in advancing dialogue and trying to bring about more peaceable ways of resolving problems.\textsuperscript{118}

While many former combatants have found it difficult to secure regular employment due to a lack of higher education and prior criminal convictions, through re-training in conflict resolution, mediation, and dialogue skills, they have found new work with grassroots peacebuilding organizations. This has provided many ex-combatants with a new sense of purpose and a means to secure an income outside of criminal activity, but just as importantly, it has also allowed community organizations to draw upon the huge amount of legitimacy and credibility that paramilitaries have carried in their own communities and to channel this towards more positive reconciliatory efforts. Indeed, the work of Kieran McEvoy and Pete Shirlow has shown that a surprising number of paramilitary ex-prisoners have themselves become proactively engaged in important reconciliation initiatives at local levels. In particular, ex-prisoners have shown a great propensity for working with youth within their own communities to reduce sectarian mindsets and ‘anti-social’ violence, as many young people tend to look up to former combatants as heroes or ‘hard men’ whose words and actions carry significant weight.\textsuperscript{119} The incorporation of ex-combatants into peacebuilding has also cast significant symbolic doubt on the future use of violence to secure political ends, as people have been able to witness those who were once willing to fight and die for a cause put down their weapons and instead become proponents for nonviolence, reconciliation, and a respect for the rule of law. As Dr. Kieran McEvoy, has noted, in many cases former combatants have therefore come to provide the leadership in grassroots conflict transformation. For people bringing the peacemaking message, if you understand violence, you’ve inflicted violence.

\textsuperscript{118} Personal interview, Mike Ritchie, Belfast, Northern Ireland, 21 April 2008.
and quite often for ex-combatants, you’ve been on the receiving end of violence, you bring a significant amount of credibility if you’re saying violence isn’t the way forward. It’s not a nice liberal do-gooder middle-class academic or clerical figure who is making the argument. It’s an ex-combatant who may have killed people, who may have directly lost members of their family, and who understands violence who is saying that violence isn’t the way forward. That’s a very powerful message that brings a significant moral credibility to it. So that’s why they’ve been very effective in what they do.120

Indeed, the importance of the role that ex-combatants have played in peacebuilding and reconciliation work at a local community level following the Agreement was echoed by a number of other experts interviewed in Northern Ireland. In particular, many cited the work of the non-governmental ex-prisoner organization EX-PAC, whose membership includes both ex-Republicans and ex-Loyalists now leading highly regarded intercommunity reconciliation initiatives in the city of Belfast. As Dr. Matthew Cannon of the Irish Peace Institute notes, “some of the best reconciliation work is being done by ex-prisoners…Those who experienced the worst of [the violence], some of those people can be, and are, excellent community relations workers.”121

One prominent way in which ex-prisoners have become involved in grassroots peacebuilding efforts is through ‘Restorative Justice’ initiatives. Based on projects funded largely by NIACRO and Atlantic Philanthropies (an international grant-making endowment) and led by former Republican and Loyalist combatants, these highly regarded programs now operate within both Nationalist and Unionist communities. Initiatives like the Nationalist Community Restorative Justice Ireland (CRJI) and the Loyalist Northern Ireland Alternatives (NIA) and Greater Shankill Alternatives (GSA) focus on efforts to replace the ‘informal’ system of violent internal policing carried out during the Troubles with lawful and non-violent solutions based on dialogue, victim-offender mediation, community service, and a greater willingness to work in

120 Personal interview, Dr. Kieran McEvoy, Professor of Law and Transitional Justice at the School of Law, Queen’s University Belfast, Belfast, Northern Ireland, 17 April 2008.
121 Personal interview, Dr. Matthew Cannon, Limerick, Ireland, 14 April 2008.
partnership with statutory agencies such as the PSNI. Such programs provide ex-combatants a role in resolving petty crimes or ‘anti-social behaviour’ in their communities through consensual victim/offender mediation programs while also building better engagements with police services to aid them in dealing with cases of more severe crime. Most often, interventions for perpetrators of minor crime include apologies and agreements to desist, compensation for damages, or agreements to participate in community service or personal development programs. Evidence suggests that these programs have enjoyed a good deal of success to date, being widely accepted among local populations, serving as efficient checks on paramilitary ‘punishment’ violence such as ‘knee-cappings,’ shootings, and beatings, and contributing to a significant overall decline in violent criminal activity in the neighbourhoods they serve. Indeed, in the period between 1999 and 2005, paramilitaries were involved in more than 1,800 recorded ‘punishment’ shootings and assaults. However, as one evaluation report shows, following interventions from CRJI and NIA, potential paramilitary punishments dropped by 82 percent and 71 percent respectively, while incidents of beatings and shootings had nearly fallen to zero in restorative justice project areas by 2005.\textsuperscript{122} Moreover, the strong liaisons many of these restorative justice initiatives have established with the PSNI have also played important symbolic roles in helping to rebuild public perceptions of the legitimacy of Northern Ireland’s policing services within Nationalist communities.\textsuperscript{123}

Regardless, the decision to release paramilitary prisoners has remained highly controversial, particularly among those who were directly or indirectly victimized by past paramilitary violence, with reactions largely remaining polarized between Nationalist and

\textsuperscript{122} See Harry Mika, \textit{Community-Based Restorative Justice in Northern Ireland} (Belfast: Institute of Criminology and Criminal Justice, December 2006).

Unionist communities. As Christine Bell, Co-Director of the Transitional Justice Institute of the University of Ulster has argued, while without the release of paramilitary prisoners “there wouldn’t have been a peace process and there wouldn’t have been an Agreement,” it nonetheless “divided Unionists and Nationalists like a hammer, like an axe down the middle.”

For the Unionist population whose leadership denied the political nature of the Troubles and portrayed the conflict as “an extended crime wave committed by men of violence for their own gain,” the release of paramilitary prisoners – Republican or Loyalist – was largely viewed as a “travesty” and a “sacrifice of justice.” On the other hand, the Nationalist community, whose leaders had long narrated the conflict as a political struggle against an unjust state, has evidenced a much greater willingness to countenance the early release of Republican prisoners and to reintegrate ex-combatants into their communities.

Indeed, in survey data collected in 2000, 63 percent of Catholics indicated either a neutral position or direct support for the release of prisoners under the Agreement, a position matched by only 17 percent of Protestant respondents. Furthermore, fully 76 percent of Protestants claimed they still remained either ‘opposed’ or ‘strongly opposed’ the decision, a position shared by only 29 percent of Catholics.

124 Personal interview, Dr. Christine Bell, Co-Director of the Institute for Transitional Justice at the University of Ulster, Magee Campus, Derry, Northern Ireland, 13 February 2008.

125 Personal interview Dr. Kieran McEvoy, Belfast, Northern Ireland, 17 April 2008.

126 Indeed, the Nationalist/Catholic community has consistently shown a much higher level of support for the early release of prisoners than the Unionist/Protestant community, as evidenced from data collected through the Northern Ireland Life and Times survey. See Northern Ireland Life and Times Survey, “Political Attitudes Module (2000),” available on the ARK Online Archive at: http://www.ark.ac.uk/nilt/2000/Political_Attitudes/GFAPROP7.html#religion.

127 Northern Ireland Life and Times Survey, “Political Attitudes Module (2000),” available on the ARK Online Archive at: http://www.ark.ac.uk/nilt/2000/Political_Attitudes/GFAPROP7.html. Unfortunately, 2000 is the latest date available for data on this question though impressions gained through interviews conducted in 2008 suggest that these perspectives continue to remain similar.
Legal Investigations into the Past

Alongside support for victims and ex-prisoners, several legal initiatives have been attempted by governmental actors following the BFA to begin to address the unresolved legacy of Northern Ireland’s past and, in so doing, to provide a measure of ‘truth’ and ‘justice’ to its citizens. One of the most prominent of these initiatives was the decision taken by British Prime Minister Tony Blair in 1998 to establish an independent judicial inquiry into the events of ‘Bloody Sunday’ as a response to an extended human rights campaign by the families of those killed and injured by British soldiers on January 30th, 1972. This followed longstanding critiques of an earlier investigation led by Lord Widgery – himself a former officer in the British Army – in the immediate aftermath of the incident. Following a ten-week investigation into the events, the Widgery Tribunal summarily exonerated British security forces of any wrongdoing in the incident despite the fact that its findings were widely held to have been marred by bias, faulty forensics, and marked differences in reports obtained from eyewitnesses and those of the implicated soldiers.\(^{128}\) Indeed, a subsequent Report commissioned by the Irish Government on the 25\(^{th}\) anniversary of Bloody Sunday concluded that the Widgery Report had produced “a startlingly inaccurate and partisan version of events….inherently and apparently willfully flawed, selective, and unbalanced in its handling of the evidence to hand at the time.”\(^{129}\)

The 1998 Bloody Sunday Inquiry, chaired by Lord Mark Saville, opened in 2000 and involved testimony from over 900 individuals including the victims’ families, experts, eyewitnesses, and the British soldiers implicated in the fatal shootings. While the Inquiry itself did not have prosecutorial powers, it was viewed by many within the Nationalist community as a


chance to establish a definitive ‘truth’ of the events of that day, to officially recognize the innocence of those victims killed, and to achieve a measure of accountability by having the state publicly acknowledge its complicity in the wrongful deaths of civilians.\textsuperscript{130} However, the enormous cost involved (the Inquiry has been estimated at well over £200 million to date) has, at least to date, serve to largely inflame Nationalist anger at the British Government rather than abate it. This has been exacerbated by the decisions taken by the British Government to allow state funds to be used to provide legal counsel to the implicated soldiers and to permit them to testify anonymously. Further, for many of those family members of the victims who came forward to provide testimony, the adversarial process of cross-examination by state lawyers during the inquiry led to a highly antagonistic, rather than cathartic, experience.\textsuperscript{131} As one individual who gave testimony at the Inquiry recounted:

> When Tony Blair announced that there was going to be an inquiry thinking that this was going to be our [The Derry People’s] opportunity to tell the world about what really happened, but when I gave my account I was made to feel that I was a liar, that I was making it up. It was as if I was responsible. I was so angry.\textsuperscript{132}

Accordingly, as Stephen Ryan of the University of Ulster has argued, the legal inquiry into Bloody Sunday has not provided the best model for recovering truth in support of intergroup reconciliation, as while “it may be a way of uncovering the truth, it’s not a very good way of

\textsuperscript{130} Personal interview, Dr. Paul Arthur, Professor, School of English, History, and Politics at the University of Ulster, Magee Campus, Derry, Northern Ireland, 13 February 2008. See also Lundy and McGovern, “The Politics of Memory,” 31.

\textsuperscript{131} Paul O’ Connor, Director of the Derry-based Pat Finucane Centre (one of the primary advocacy centres for the families of Nationalist victims of the Troubles) relates that giving testimony for many witnesses “was a negative experience because they were going into a tribunal where they were being bullied and harassed by some well-spoken upper class English barrister...So it was a very a very adversarial process. It wasn’t intended to be, but it was.” Personal interview, Paul O’ Connor, Derry, Northern Ireland, 13 February 2008.

building better relationships between communities – in fact it’s quite confrontational.’’

Furthermore, a serious of extensive delays in the release of the Inquiry’s Final Report now means that the ‘truth’ gleaned from the investigation won’t be released to the public until late 2010 – more than 10 years after plans for the Inquiry were enacted.

More recent attempts at employing the legal inquiry model in Northern Ireland appear to confirm that such an approach may be limited in the amount of ‘truth’ it can provide about past violence, particularly when findings might be used to implicate members of the British security forces. For instance, under an agreement worked out between the British and Irish governments in the Weston Park talks of 2001, Canadian Judge Peter Cory was tasked with carrying out an independent investigation to consider the possibility of security force collusion in several ‘marquee’ murders committed during the Troubles. These included the killings of Nationalist solicitors Rosemary Nelson and Pat Finucane by Loyalist paramilitary organizations, the death of Robert Hamill after an attack by a Loyalist mob, and the death of LVF leader Billy Wright who was murdered inside Northern Ireland’s infamous Maze prison by jailed members of the INLA in 1997. Following Judge Cory’s recommendations that fully independent and public investigations be immediately launched into each of these cases, the British government opened inquiries into the deaths of Billy Wright and Robert Hamill in 2004. However, hearings into the Nelson murder were delayed until April of 2008, and as of yet there is no date set to open an official inquiry into the Finucane case. Furthermore, in the wake of Judge Cory’s investigation, the British government passed the Inquiries Act 2005 that ceded control over the scope of all

133 Personal interview, Dr. Stephen Ryan, Senior Lecturer in Peace and Conflict Studies at the University of Ulster, Magee Campus, Derry, Northern Ireland, 11 February 2008.

134 A point made quite well in Hegarty, “The Government of Memory.”

135 Findings from this investigation were released in Peter Cory, Cory Collusion Inquiry Report (Dublin: Department for Justice, Equality, and Law Reform, December 2003). Available online at: http://cain.ulst.ac.uk/issues/collusion/source.htm.
future inquiries in Northern Ireland to the executive of the British government. In effect, this granted government ministers powers to limit judicial purview, restrict public access, allow evidence to be given in secret, and end any ongoing inquiry at a time of their choosing. As Cory himself has argued, this Act “makes a meaningful inquiry impossible” by eliminating its independent and public nature and by effectively granting the British Minister in charge “the authority to thwart the efforts of the inquiry at every step.”

This movement has been further condemned by the human rights advocacy group Amnesty International, who have charged that:

> The Inquiries Act 2005 undermines the rule of law, the separation of powers and human rights protection. It cannot be the foundation for an effective, independent, impartial or through judicial inquiry in serious allegations of human rights violations. Nor would it provide for public scrutiny of all the relevant evidence.

However, legal investigations into the violence of the Troubles have not been limited to public inquiries; they have also included a range of initiatives led by different branches of the policing services following the BFA. Between 1989 and 2003, a series of three police enquiries led by John Stevens, Deputy Commissioner of the Metropolitan Police, were commissioned by the British government to look into allegations of collaboration between police and security forces and Loyalist paramilitaries that resulted in a series of deaths between 1987-1989, including that of Pat Finucane. This scope of this investigation was immense, estimated at costing close to £100 million and involving the taking of some 9,256 statements, the collection of over 10,000 documents, and the seizure of over 15,000 evidentiary exhibits – all of which

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136 Quote by Peter Cory in a letter to US subcommittee Chairman Chris Smith discussing the Inquiries Act. Full text available online at http://www.patfinucanecentre.org/cory/pr050315.html.

culminated in the arrest and conviction of well over 100 individuals.\textsuperscript{138} In April 2003, parts of the Final Report of the Stevens inquiry were publicly released, detailing evidence that members of both the British Army and the RUC had engaged in significant acts of collusion with the Loyalist UDA that led to the targeted killing of Nationalists, including the solicitor Pat Finucane. In addition to the series of Enquiries led by Stevens, under the Police (Northern Ireland) Act of 1998 the Police Ombudsman for Northern Ireland (PONI) also retains the power to initiate independent investigations “in the public’s interest” in response to allegations of police misconduct, including in historical cases of reportedly “grave or exceptional” abuse.\textsuperscript{139} In 2003, the Ombudsman at the time, Nuala O’Loan, used this power to open an investigation into allegations of RUC collusion in the murders of several individuals carried out during the 1990s, including that of Raymond McCord Jr. This investigation led to the release of a report in 2007 which found, among other things, evidence of extensive RUC collusion with members of the UVF Loyalist paramilitary group that contributed directly to the deaths of a number of Nationalist civilians.\textsuperscript{140}

Notably, however, both the Stevens and O’Loan enquiries report having been met with severe institutional intransigence and obfuscation on the part of former members of the RUC and the British Army who at times engaged in the suppression or destruction of evidence. Furthermore, while these investigations have resulted in some arrests, they have almost exclusively been limited to paramilitaries or civilians employed as ‘agents’ by ‘handlers’ in the


security forces, while former RUC officers, British soldiers, and senior officials implicated in these organizations have largely escaped prosecution. Indeed, as an independent international panel that investigated cases of alleged collusion in sectarian violence concluded following its own extensive investigation in 2006:

There is compelling evidence that officers of the British State – in particular, RUC officers and UDR members and their agents – were involved in sectarian murders of Catholics. There is credible evidence that their activities were known and supported, tacitly and in some cases explicitly, by some of their RUC and UDR superiors and, to some extend, by some British intelligence and army officers. Despite this knowledge, appropriate criminal investigations and prosecutions of these murders were not conducted, even in the face of evidence amounting to probable cause for arrest.141

Accordingly, while these enquiries may have helped to uncover some elements of ‘truth’ regarding security force collusion in wrongful deaths during the Troubles, the ability for this to translate into ‘justice’ in the form of criminal prosecution for agents of the British state has to date remained greatly limited. Furthermore, reactions to these enquiries have largely served to reinforce, rather than reduce, existing divisions between Nationalists and Unionists. For many Nationalists these findings only confirmed longstanding beliefs that collusion occurred during the Troubles and inflamed frustration at the lack of prosecutions for those implicated in the enquires. For instance, Alex Attwood of the SDLP has publicly demanded in the wake of the Ombudsman’s Report that “those involved in any of this – be they agents or officers or anyone else – should face the full consequences for their actions, including prosecution.”142 More extreme Unionists, on the other hand, have tended to portray the findings as ‘Republican propaganda’ and the enquiries themselves as ‘witchhunts’ undertaken against members of

the security forces who were simply ‘doing their job.’ As a result, they have largely condemned any plans for future prosecutions. As Jim Spratt of the DUP has argued in his critique of the Ombudsman’s 2007 findings, “if this report had had one shred of credible evidence then we could have expected charges against former Police Officers. There are no charges, so the public should draw their own conclusion, the report is clearly based on little fact.”\(^{143}\)

More recently, in 2005 these ad-hoc enquiries into the past were joined by the creation of a standing investigations unit under the PSNI called the Historical Enquiries Team (HET). Led by David Cox, a well-respected former member of the London Metropolitan Police Service, and staffed by a team of professional police investigators, the HET has been endowed with a budget of roughly £40 million and a six-year mandate to review existing records of unresolved Troubles-era deaths and open new investigations where evidence might warrant. In essence, the HET was set up with express mandate to re-open and re-examine ‘cold cases’ pertaining to deaths that occurred in relation to the Troubles between 1968 and 1998. Notably, this includes all ‘unresolved’ Troubles-era cases, irrespective of whether the suspected perpetrator was a member of the security forces, a paramilitary, or otherwise, meaning that the HET is effectively responsible for reviewing over 3,268 deaths. In most cases the HET is expected to carry out these investigations themselves, except in instances where such reviews reveal evidence of possible police wrongdoing and cases are instead referred to the Office of the Police Ombudsman of Northern Ireland for investigation. Proceeding in chronological order, the HET has reviewed an estimated 500 cases to date.

While a legally-based policing initiative, from its inception the HET has been avowedly victim and family-focused in its work, aiming to “help bring a measure of resolution where

\(^{143}\) Ibid.
possible” to the families of those killed during the Troubles.\textsuperscript{144} To achieve this goal, the HET has worked directly with the families of those killed in an attempt to acknowledge any outstanding issues related to the death in question and, following its review, has provided families with a copy of its findings (though most often with the identities of any suspected perpetrators removed due to legal restrictions). Notably, the HET has also endeavored to build ties with prominent NGO groups in Northern Ireland who have acted as intermediaries representing and working on behalf of individual victims. This includes surprisingly strong and positive relationships with ‘single-identity’ organizations such as the predominantly Nationalist Pat Finucane Centre (PFC) as well as major Unionist groups like Families Acting for Innocent Relatives (FAIR). The HET has also developed working engagements with human rights organizations active in Northern Ireland such as British Irish Rights Watch and the Committee on the Administration of Justice who work on behalf of families wishing to have their cases reexamined. As a result of this extensive public outreach, the HET has become widely respected by Nationalist and Unionists alike for its ability to offer an important source of ‘truth’ to bereaved families by accumulating factual evidence about the deaths of their loved ones and thereby providing a measure of official acknowledgement of their loss.\textsuperscript{145}

That said, there are several obstacles that have limited the effectiveness of the HET’s work. Most notably, the degradation of physical and eyewitness evidence that has occurred over time makes it “highly unlikely or virtually impossible that there [will] ever be prosecutions” in

\textsuperscript{144} Quoted from the official website of the Historical Enquiries Team. See Police Service of Northern Ireland, “Historical Enquiries Team,” \url{http://www.psni.police.uk/index/departments/historical_enquiries_team.htm}.

\textsuperscript{145} This was evidenced by my personal interview with Paul O’ Conner who has had extensive experience in working directly with the families of Nationalist victims with the PFC. Personal interview, Paul O’ Connor, Derry, Northern Ireland, 13 February 2008. Similarly, Dr. Kieran McEvoy praised the “high integrity” of those involved in the HET and that even some victims groups who work mostly with victims of state violence had “warm things to say” about the HET’s efforts to engage with families. Personal interview, Dr. Kieran McEvoy, Belfast, Northern Ireland, 17 April 2008.
most, if not all, of these historical cases. As one prominent observer of the HET process has illustrated,

The reality is that as each day passes securing justice becomes less and less likely. The public need to understand the limitations in securing convictions. In many historic cases witnesses have died, exhibits are no longer credible or have disintegrated over time. The evidence collected in the 1970s and more recently is highly unlikely to meet modern forensic standards. This is the reality of the situation.

This has meant that while the HET may provide one means of uncovering the ‘truth’ about many of these cases, it is highly unlikely to be able to meet the demands for justice (in the form of prosecutions) that may be demanded by victims. While this is less a fault of the HET itself than a function of the kinds of cases it is investigating, it remains an important limitation given the sustained desire for police investigations aimed at possible future prosecutions evidenced across both communities in Northern Ireland. Indeed, survey data collected in 2004 shows that 67 percent of all respondents in Northern Ireland indicated they felt such investigations were ‘important’ or ‘very important’ in successfully dealing with the past (with only 16 percent indicating they disagreed). Notably, while they may differ strongly in terms of who they wish to see prosecuted, agreement on the need for further investigations that hold out the potential of

146 Personal interview, Mike Ritchie, Director of the non-governmental advocacy group Committee on the Administration of Justice, Belfast, Northern Ireland, 21 April 2008. On the small likelihood of prosecutions arising from future historical enquiries, see also Denis Boyd and Sean Doran, The Viability of Prosecution Based on Historical Enquiry: Observations of Counsel on Potential Evidential Difficulties (Belfast: Healing Through Remembering, October 2006). This independent report was commissioned by the non-governmental organization Healing Through Remembering and suggests that successful prosecutions based on historical enquiries will be next to impossible. Available online at http://healingthroughremembering.info/images/pdf/The%20Viability%20of%20Prosecution.pdf.

prosecution appears to cross communal lines, supported by a majority of both Catholics (62 percent) and Protestants (70 percent).\textsuperscript{148}

In addition, while the HET has found a remarkable level of acceptance among both victims’ organizations and individual victims themselves, it has met with stiff resistance from both the British security forces and paramilitary organizations – those most complicit in carrying out the vast majority of the deaths being investigated by the HET and therefore best able to provide real insight into the facts of past violence. However, as a whole, these groups have largely refused to cooperate with the HET investigations for fear that they might provide incriminating evidence that would cast the actions of their respective organizations in a more negative light or possibly lead to criminal charges.\textsuperscript{149} Furthermore, a recent report by Patricia Lundy of the University of Ulster has raised serious questions about the structural independence of the HET, particularly in regards to potential bias in cases that might implicate the police and British security forces. The report reveals that along with retired British police, former RUC officers who were active during the Troubles occupy key positions in the HET’s directorate and tend to be greatly overrepresented on the HET’s investigation team.\textsuperscript{150} Lundy also points to the fact that a great deal of the funding provided to the HET comes directly from the NIO, who, as the British government’s representative in Northern Ireland “would not be perceived as a neutral observer by most nationalists.” Taken together, Lundy contends that this has raised the

\textsuperscript{148} Northern Ireland Life and Times Survey, “Political Attitudes Module (2004),” available on the ARK Online Archive at: http://www.ark.ac.uk/nilt/2004/Political_Attitudes/MOREPOLI.html. Again, while 2004 is the latest date available for this data the author’s interviews conducted in 2008 suggest these perspectives likely remain similar.

\textsuperscript{149} Personal interview, Paul O’Connor, Derry, Northern Ireland, 13 February 2008.

\textsuperscript{150} Patricia Lundy, "Can the Past Be Policed? Lessons from the Historical Enquiries Team Northern Ireland," in Transitional Justice Institute Research Paper No. 09-06 (Jordanstown: Transitional Justice Institute, November 2007), 29. Out of a total of 166 staff involved in the ‘policing’ side of the HET in November 2007, 67 were former RUC officers.
possibility of “a conflict of interest for families seeking answers to questions about the role of the State in the conflict,” with the result that

Despite the sterling efforts of senior management [in the HET], the structural issues...have obvious implications for claims of independence. The employment of former members of the RUC, including ex Special Branch officers, who served during the conflict and whose members have been subject to well-documented criticism has compromised the real and/or perceived independence and integrity of the HET.¹⁵¹

Indeed, despite the public confidence the HET has been able to establish within the NGO community, these perceptions of potential bias have led Relatives for Justice – the largest Nationalists victims’ group currently operating in Northern Ireland – to advise its membership to boycott the investigations. Accordingly, while the HET may be able to provide a small amount of acknowledgement to the families of victims, limitations still exist as to its ability to act as the primary vehicle for either truth recovery or justice in Northern Ireland.

**Civil Society and Local Community Initiatives**

Alongside the range of legal mechanisms employed by the governments of Britain and Northern Ireland, a number of independent initiatives have been undertaken by non-governmental and local community organizations to explore alternative avenues for addressing the past in Northern Ireland. Chief among these has been the work of the cross-community NGO Healing Through Remembering (HTR). The HTR was formed in 2001 by an independent Project Board including representatives from Nationalist and Unionist communities, former members of the state security forces, and a number of NGO workers and academics working on ex-prisoners’ and victims’ issues. From its inception, the HTR sought to explore options for truth-recovery and remembrance in Northern Ireland by way of promoting the larger goals of individual and intercommunal healing – issues considered too contentious and potentially divisive to be

¹⁵¹ Ibid., 33.
undertaken by a government body. Indeed, under the 2002 *Reshape, Rebuild, Achieve* strategy released by the OFMDFM’s Victim’s Unit, the government of Northern Ireland effectively deferred the “important and sensitive matter” of “seeking views on the development of truth and justice processes for Northern Ireland” to civil society groups like the HTR.\(^1\) Accordingly, the HTR commenced a lengthy consultation process with individuals and organizations across Northern Ireland as to “how should people remember the events connected with the conflict in and about Northern Ireland and in so doing, individually and collectively contribute to healing the wounds of society.” On the basis of the submissions received, a Final Report was produced and submitted to the Northern Ireland government in 2002 which recommended several approaches to remembering the past. These suggestions included the creation of a Day of Private Reflection, a collective storytelling and archiving project, the building of a permanent memorial or museum, a call for all past combatants to publicly acknowledge their responsibility for past political violence, and the establishment of an independent research team to identify practicable options for a mechanism of inclusive truth recovery and acknowledgement.\(^2\)

This initial work led, in turn, to the establishment of a specialized working subgroup within the HTR on Truth Recovery and Acknowledgement whose membership included individuals from Loyalist, Republican, British Army, and police backgrounds, as well as representatives from Nationalist and Unionist communities, victims’ groups, academics, and local community activists. Following a two-year period of research and consultation, in 2004 this group released its own report entitled *Making Peace With the Past: Options for Truth Recovery Regarding the Conflict in and about Northern Ireland*. This report sought to counter the assumption that a single truth-recovery mechanism would be required – or even feasible – in

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\(^1\) Victim’s Unit, *Reshape, Rebuild, Achieve*, 16.

Northern Ireland given the ongoing existence of deep divisions between communities over perceptions of the past. Instead, the Report outlined four separate practical options for truth recovery that might usefully be drawn upon individually or in combination.154 These included options for internal investigations within security force and paramilitary organizations, community-based ‘bottom-up’ truth recovery initiatives, the creation of an independent truth commission (loosely modeled on the South African TRC), and the establishment of a ‘Commission of Historical Clarification’ which would attempt to create a broad shared historical narrative of what occurred during the Troubles. What these options share in common is an emphasis that any such process must operate independently of the state or of any communal political interest and must work to acknowledge the mutual complicity of all parties involved in past violence. Above all, the report stresses that any future truth recovery process must prioritize the needs of victims and attempt, wherever possible, to seek to repair their losses through acknowledgement, service provision, and compensation.155

However, it should be noted that much of the widely-respected work of the HTR, while certainly invaluable for promoting increased dialogue and discussion about the past, has been largely left at the conceptual stage due to continued divides within Northern Ireland and fears that any one community might use these processes to appropriate the past for its own ends. To date this has meant that only two of the most ‘apolitical’ projects of suggested by the HTR have been put into actual practice in Northern Ireland. This includes the 2007 creation of a ‘Day of Private Reflection,’ to be held on June 21st of each year in order that people from Northern Ireland, Great Britain, the Republic of Ireland, and around the world might “reflect, individually


155 Ibid., 3.
and privately, upon the conflict in and about Northern Ireland.” More recently, the HTR has undertaken a two-year project in conjunction with QUB to document existing public and private collections of conflict-related artifacts in Northern Ireland (arms, equipment, flags, clothing, audio/visual recordings, photographs, and printed materials) and make them available online through a Northern Ireland Conflict Related Artefacts Database (NICRAD).

At a much more local level, several unofficial ‘grassroots’ truth recovery efforts have also emerged organically to fill the gap left by the absence of a formalized transitional justice mechanism and the continued distrust of state-led initiatives dealing with the past. For the most part these have tended to be ‘single-identity’ projects taking place within local communities of Nationalists or Unionists who, for the most part, are already largely in agreement about responsibility for past violence. Perhaps the most prominent example of these initiatives has been the work of the Ardoyne Commemoration Project (ACP). The ACP was created in 1998 within the small Nationalist community of Ardoyne in North Belfast as a direct response to the ‘hierarchy of victims’ that many Nationalists thought had developed in Northern Ireland and a desire amongst community members to acknowledge and commemorate their victims an effort “to set the record straight” and “to tell their story” as a “counter to state-sanctioned forgetting.” This involved the collection of over 300 oral interviews with members of the Ardoyne community over a period of four years in an effort to record the stories of the 99 individuals killed over the course of the Troubles within that neighbourhood. The ACP’s guiding ethos was ‘the equality of victims,’ with no one from the Ardoyne community being

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158 Patricia Lundy and Mark McGovern, eds., *Ardoyne: The Untold Truth* (Belfast: Beyond the Pale, 2002), 2. See also Lundy and McGovern, "The Politics of Memory."
excluded from the collective memory being established “because of their religious or political beliefs, the circumstances of their death, or the agency responsible for it.”

In addition, local ownership and participation was considered essential to the success of the project, with each of the 300 interviewees retaining ultimate editorial control over his/her statements. In 2002, these testimonies were published in a volume edited by Patricia Lundy and Mark McGovern entitled *Ardoyne: The Untold Truth*, a copy of which was then distributed to all those who had participated in the process.

Evaluations show that participation in the ACP provided community members with an important source of acknowledgement and recognition for the losses suffered during the Troubles, with many participants reporting that they felt it had helped them to restore dignity and overcome the ‘denial of truth’ about events in Ardoyne that they felt existed in official state accounts. Others reported that the act of storytelling itself and the opportunity to ‘speak out’ was a very therapeutic experience, noting the importance for their own healing of being provided a forum in which people were willing to listen to the accounts of victims. In particular, many participants noted that the ACP had helped to open space for community dialogue and debate about the past and had broken the “culture of silence” that had surrounded previously “taboo” subjects within the community such as the role played by Republicans in the deaths of many of the Nationalists killed in the Ardoynge during the Troubles. This was held to have played a vital

\[\text{159} \quad \text{Lundy and McGovern, eds., *Ardoyne: The Untold Truth*.} \]

\[\text{160} \quad \text{Ibid.} \]

\[\text{161} \quad \text{Patricia Lundy and Mark McGovern, *Community, Truth-Telling, and Conflict Resolution: Research Report Submitted to the Northern Ireland Community Relations Council* (Belfast: Community Relations Council, January 2005), x. Available online at: http://cain.ulst.ac.uk/issues/victims/ardoyne/lundymcgovern05.htm.} \]

\[\text{162} \quad \text{Ibid.} \]
role in reducing continued intracommunity tensions and in “stimulating self-reflection and shifting long-held viewpoints” regarding perceptions of the past.\textsuperscript{163}

Aside from its role in addressing intracommunal conflicts within Ardoyne itself, Dr. Patricia Lundy suggests that the ACP may also have helped to build a greater willingness among participants to engage in future cross-community truth-recovery projects with Unionists and representatives of the British security forces. Indeed, Lundy contends that the successes of local single-identity projects such as the ACP evidence the importance of ‘sequencing’ truth recovery efforts in a highly politicized context like Northern Ireland, with intracommunal truth recovery being the first necessary “building block” for people to develop the sense of self-confidence, security, and receptiveness necessary to grapple with the much more contentious issues surrounding cross-community truth-telling. As she argues, “it’s about timing, its about people getting to a particular level where they can deal with things – and that’s the learning process I think. You cannot just throw people in with all of those emotions and possibly anger to talk about such contentious and sensitive issues without being exposed to that at some level before.”\textsuperscript{164} Accordingly, while recognizing the seminal importance of eventually engaging both communities in a common truth recovery process, Lundy suggests the ACP example shows a need to consider a ‘staged’ approach that first begins with smaller, more localized intracommunity processes before expanding outwards to deal with the much more difficult and divisive issues associated with cross-community efforts.

However, while grassroots initiatives like the ACP have an important role to play in divided societies such as Northern Ireland where there may be competing visions of the past, it is also recognized that they may be insufficient in and of themselves to meet societal demands for

\textsuperscript{163} Ibid.

\textsuperscript{164} Author’s interview with Dr. Patricia Lundy, Senior Lecturer in Sociology, Social and Policy Research Institute at the University of Ulster, Jordanstown, Newtownabbey, Northern Ireland, 22 April 2008.
the truth and justice necessary for reconciliation. As Lundy and McGovern note, community-level organizations will by definition be limited in their ability to gain new information from statutory agencies outside the community, to obtain official recognition or compensation for victims, or to pursue any form of legal accountability for those who might be implicated in their findings. Accordingly, they suggest that local truth-recovery efforts should be only be considered one component of a larger “parallel process” of multiple initiatives to be employed within divided societies by way of sufficiently addressing the past. Furthermore, it is recognized that the competing truths which might emerge from a series of hermetic processes among local communities must ultimately themselves be reconciled with one another to some degree to allow for a broader process of societal reconciliation. In essence, the creation of single-identity truths among Nationalists and Unionists, while important, must eventually be used to lead the way to a shared cross-community acknowledgement of the past if the goal is to move beyond existing divisions. Indeed, as Lundy and McGovern have contended, for Northern Ireland “reconciliation is impossible in the absence of such a truth-telling process when a section of the population can continue to deny that the state ever acted wrongly whilst another section feels their suffering has never been acknowledged.”

**Limits to Socioemotional Learning in Northern Ireland**

In reviewing the main components of Northern Ireland’s piecemeal approach to addressing the past, it is clear that some aspects of socioemotional social learning have been forwarded since the BFA through the range of discrete initiatives undertaken by government, NGOs, and the local community/voluntary sector. In particular, the acknowledgment, support, and compensation of victims has rightfully been at the centre of governmental initiatives in Northern Ireland, with

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165 Lundy and McGovern, *Community Truth-Telling*, xii.

relatively high levels of funding and services being offered to those most directly impacted by past violence. Similarly, efforts to reintegrate paramilitary prisoners released under the highly contentious provisions of the BFA appear to have been largely successful for many of the same reasons, with the result that many ex-prisoners have now become vital participants in local peacebuilding initiatives. Further, efforts – while deeply flawed – have also been made to seek some measure of ‘truth’ and legal accountability by the governments of Britain and Northern Ireland for the wrongful deaths of those killed during the Troubles. These efforts have included a range of ad-hoc investigations undertaken through public inquiries, police enquiries, and now the HET. Other societal efforts at truth recovery, while widely recognized as being vital to reconciliation, have been similarly impeded. Indeed, the highly politicized nature of the past has meant that truth recovery efforts have so far been limited to relatively small single-community initiatives or to largely unrealized blueprints for broader societal frameworks such as those envisioned by the HTR.

It is clear that there still exists no agreement in Northern Ireland as to the moral responsibility of state and non-state actors for past violence, nor therefore is there any collective memory shared between Nationalists, Unionists, and the British state about the broader ‘story’ of why violence occurred during the Troubles or which actors should legitimately be assigned the roles of victim, perpetrator, or innocent bystander. In particular, the continued perceptions of all communities in the conflict of having been unjustly victimized by the violence of the Troubles has led to a zero-sum interpretation of the past and a marked inability to move towards recognition of any mutual complicity. As a result, attempts to address the past remain heavily politicized along communal lines in Northern Ireland and cross-community initiatives have been met with a great deal of mistrust and suspicion. In part, this is born out of a fear that such efforts might somehow be appropriated by one community and used as a political tool to validate its
own actions and morally absolve itself of any wrongdoing. The lack of a common understanding of the causes and consequences of past violence has, in turn, directly impeded efforts to move forward in any meaningful way towards the twin goals of truth and justice in post-conflict Northern Ireland, and has therefore prevented the advancement of the kinds of socioemotional learning about the Other ultimately needed for intergroup reconciliation. As Schnabel and Nadler have warned, this is a common danger in post-conflict societies where no clear agreement exists as to the perpetrators and victims of past violence, and where all actors view themselves as the only ‘true’ victims of conflict. As they argue, “under these conditions of ‘double victimhood’ processes of socioemotional learning are more difficult. Since both parties view themselves as the victims they regard the other as the perpetrator who is responsible for…admitting responsibility for past wrongdoings. This is likely to lead to an impasse and an inability to move forward with socioemotional social learning.” In Northern Ireland, the stalemate over addressing the past caused by this sense of mutual victimization is only further exacerbated by the inclusion of the British state and security forces as a third ‘victimized’ party, which to date has been extremely hesitant to publicly admit to any wrongful culpability for the violence of the Troubles.

This continued impasse is perhaps most evident in reactions to a recent effort initiated on behalf of the British government to replace the current piecemeal approach to truth and justice in Northern Ireland with a more centralized body that would attempt to provide an impartial accounting of the past in an effort to advance reconciliation. In 2007, the Secretary for Northern Ireland announced the formation of an ‘Independent Consultative Group on the Past’ (CGP) which was mandated to “consult across the community on how Northern Ireland society can best

167 An argument raised in Bell, “Dealing With the Past in Northern Ireland.”

168 Nadler and Shnabel, "Instrumental and Socioemotional Paths to Intergroup Reconciliation," 39.
approach the legacy of the events of the past 40 years and to make recommendations, as appropriate, on any steps that might be taken to support Northern Ireland society in building a shared future not overshadowed by the events of the past.”\cite{footnote169} To cement its credentials as an impartial body, the group itself included an array of representatives from Nationalist, Unionist, and British communities in addition to several prominent international advisors. Following its creation, the CGP embarked on an 18 month consultation process in Northern Ireland, the Republic, and Great Britain, conducting a series of public ‘town hall’ meetings, holding 141 private meetings with individuals and organizations, collecting nearly 300 written proposals, and reviewing extensively the existing ad-hoc mechanisms for addressing the past.\cite{footnote170} Building on this consultation, the CGP set out to make recommendations based on the guiding principle that “the past should be dealt with in a manner which enables society to become more defined by its desire for true and lasting reconciliation rather than by division and mistrust, seeking to promote a shared and reconciled future for all.”\cite{footnote171} These recommendations were released in January 2009 with the publication of the *Report of the Consultative Group on the Past*

Among other initiatives, the Report recommended the creation of an independent ‘Legacy Commission’ which, in a manner somewhat reflective of the South African TRC, would serve to centralize “processes of reconciliation, justice and information recovery” with the “overarching objective of promoting peace and stability in Northern Ireland.”\cite{footnote172} This Commission would be chaired by an independent International Commissioner who would retain ultimate control over

\footnote{170}{Notably, the earlier work of the HTR Truth Recovery subgroup appears to have had a particularly large impact on the recommendations made by the CGP. See McEvoy, *Making Peace with the Past*. As Kieran McEvoy notes, this earlier report was often remarked to have served as a “touchstone” or “bible” for the CGP’s own work. Personal interview, Dr. Kieran McEvoy, Belfast, Northern Ireland, 17 April 2008.}  
\footnote{172}{Ibid.}
all aspects of its work, with implementation to be supported by the OFMDFM and the British and Irish governments. Working under a 5-year mandate with a proposed budget of £300 million, this Legacy Commission would effectively take over the examination of historical cases from the OPONI and HET under a new Review and Investigation Unit, engage in a separate process of truth recovery and inquiry into the past through a series of public hearings, and create a ‘Truth Recovery and Thematic Investigations Unit’ to replace the current legalistic public inquiries into issues of public concern such as paramilitary activity or the alleged collusion of security forces. In conjunction with the CVSNI, the Legacy Commission would also include a Reconciliation Forum that would centralize support services for victims. This Forum would also seek to provide means for commemorating victims by way of a storytelling initiative, the continuation of an annual Day of Reflection and Reconciliation, and the creation of a shared memorial of the conflict. Perhaps most controversially, in an attempt to allay current perceptions of a ‘hierarchy of victims,’ the report also suggested a one-time ‘recognition payment’ of 12,000 GBP to the families of “all those who died as a result of the conflict in and about Northern Ireland” regardless of political affiliation or whether that victim was a civilian, paramilitary combatant, or member of the policing or security forces.  

However, upon its release the CGP’s Report was met with angry protests, bitter condemnations, and much controversy. This controversy was spearheaded by the vocal reactions of those who lost relatives during the Troubles, many of whom focused their attacks on the plans to treat all victims of the conflict equally in terms of access to proposed reparations. For instance, one Unionist woman whose brother, an RUC police officer, was killed in a 1997 IRA attack, charged that her brother “was an innocent man defending this whole community.

173 Ibid.  
When IRA men died while launching cowardly attacks on this community, they actually received justice. The families of those murders should not be consoled with a single penny today.”\textsuperscript{175} Similarly, Peter Robinson, leader of the DUP and current First Minister of Northern Ireland’s Assembly responded by saying that his party has “consistently opposed any equation between the perpetrator of the crimes during the Troubles and the innocent victim,” contending that “[t]errorists died carrying out their evil and wicked deeds while innocent men, women, and children were wiped out by merciless gangsters.”\textsuperscript{176} Such recriminations reveal the continued sense of unjust victimization on both sides and the lack of recognition of any mutual complicity in the violence of the past. The continued intractability of the polarized perceptions evidenced in these statements does not bode well for the realization of the CGP’s recommendations for a more formalized or centralized approach to transitional justice in Northern Ireland at any point in the near future. This was recognized by Rev. Robin Eames, one of the two co-chairs of the CGP, who conceded in the wake of the protests following the report’s release that “[m]aybe this gesture, for those outside our group, is too sudden.”\textsuperscript{177} Indeed, in February 2009, Shaun Woodward, the Secretary of State for Northern Ireland, publicly downplayed any future possibility of the Government implementing the equal reparations scheme proposed by the CGP, noting that “very clearly the time is not right for a recognition payment.”\textsuperscript{178} More recently, an Inquiry led by the British Northern Ireland Affairs Committee into the feasibility of implementing the CGP’s recommendations produced a report released on December 17\textsuperscript{th}, 2009 which explained that, due to the fact that “Northern Ireland has not yet reached a consensus on

\textsuperscript{175} Ibid.

\textsuperscript{176} Ibid.

\textsuperscript{177} Ibid.

how to move on from its recent past,” plans to move forward with a Legacy Commission and the CGP’s other proposals remain premature. As the Committee concluded:

The fact that public reaction was so strong is itself evidence of the need to address the deep-rooted divisions that continue to exist within Northern Ireland. The sectional divisiveness of that reaction in itself highlighted the danger that implementing proposals not supported by the two main parts of the community in Northern Ireland would do more harm than good…We have reluctantly concluded that there is not enough cross-community consensus at present on many of the issues that the Consultative Group raised for the wide-ranging project that it recommended to succeed…Without that, it could not hope effectively to fulfill its mandate of helping to lead Northern Ireland towards reconciliation and a peaceful shared future.

INSTRUMENTAL LEARNING IN NORTHERN IRELAND

As previously mentioned, living with the constant threat of conflict over the course of the 30-year Troubles proved devastating to social cohesion in Northern Ireland and only served to further entrench existing historical divides between Nationalist and Unionist populations – divides that have remained largely intact despite the signing of the BFA and the end of widespread political violence. For instance, following the outbreak of the Troubles in the late 1960s, severe patterns of residential and physical segregation began to develop in Northern Ireland’s cities and towns. ‘Mixed’ neighborhoods of Nationalists and Unionists became increasingly rare, particularly in working-class areas of urban centres such as Derry and Belfast where families were either forced out or left their homes voluntarily for fear of violence. By the beginning of the peace process in the early 1990s, it is estimated that 70 percent of the population of Northern Ireland had come to live in completely segregated ‘single-identity’


180 Ibid.
An extensive system of territorial demarcation consisting of flags, curb paintings, and murals developed over time to further delineate the geographical boundaries of these communities, resulting in the carving up of urban areas into psychological ‘chill zones’ where members of the Other community feared to tread.\textsuperscript{182} The most proximate of these segregated neighbourhoods often became the most starkly divided, with high-tension ‘interface’ zones developing between Nationalist and Unionist enclaves. These interface areas were virtual ‘no-man’s lands,’ with entire streets of housing abandoned for fear of violence. Perhaps the starkest signs of these divisions were the numerous ‘peace walls’ – reinforced barrier fences standing up to 25 feet high – constructed in the cities of Derry and Belfast to separate the most violence-prone communities living at interface areas.\textsuperscript{183} Today, the most extreme segregation in the country is evidenced in deprived ‘lower-class’ urban areas, while more affluent ‘middle-class’ areas are far more likely to be mixed and integrated.\textsuperscript{184} Nonetheless, statistics have shown that overall levels of segregation have actually increased slightly, rather than decreased, since the late 1990s.\textsuperscript{185}

This physical separation has been matched by patterns of social segregation, which also remain prominent in Northern Ireland despite the gains made during the peace process. For example, evidence from survey data collected as late as 2008 shows that 58 percent of all Catholics and 69 percent of Protestants report that ‘all or most’ of their friends are of their own

\textsuperscript{181} Shirlow, "Fear and Ethnic Division," 60.

\textsuperscript{182} See Shirlow and Murtagh, Belfast: Segregation, Violence and the City, 9.

\textsuperscript{183} A map and photographs of 41 existing interface zones and ‘peace walls’ still in existence today in and around the city of Belfast alone can be found online through the Belfast Interface Project. See “At The Interface: Interface Map,” Belfast Interface Project, http://www.belfastinterfaceproject.org/interfacemap.asp.

\textsuperscript{184} Shirlow, “Fear and Ethnic Division.”

\textsuperscript{185} Hewstone et al., "Intergroup Contact in a Divided Society," 7.
Where cross-community friendships do exist, other studies have indicated that these relationships often only function so long as certain ‘hard’ or potentially divisive topics such as politics or religion are never mentioned. Indeed, there is now a large body of literature on an informal system of ‘telling’ that has emerged in Northern Ireland, meaning that one’s affiliation as Nationalist or Unionist can effectively be ‘read’ by others through symbolic identifiers such as surname, school, accent, place of birth, or support of a particular sporting team. As Mari Fitzduff illustrates, informal interactions across community lines are therefore often “limited by an instinctual treating of the Other as different – one of them” with the result that “even where meetings do occur, they are circumscribed by a caution that will usually prevent any honest and open dialogue, particularly about issues that are pertinent to the conflict.” Similarly, more intimate relationships also remain exceedingly rare, with ‘mixed’ marriages between communities comprising less than 10 percent of all marriages in Northern Ireland. Furthermore, fully half of all respondents polled in 1999 indicated that while growing up they had no friends from outside their religious community before the age of 15. In large part, this is due to the persistence of a highly segregated education system in which, despite growing attempts to introduced ‘Integrated Schools,’ over 90 percent of all children in Northern Ireland attend a single-identity denominational school throughout both their elementary and secondary


188 Fitzduff, Beyond Violence, 31.


190 Hughes et al., "Segregation in Northern Ireland."
years. As Ray Mullan of the Community Relations Council has noted, such extensive patterns of segregation mean that many in Northern Ireland continue to “grow up their entire lives here in silos…they go to separate schools, they live in separate areas, they go to separate churches, so they have a separate world that they live in, and that is an Orange [Protestant/Unionist] or a Green [Catholic/Nationalist] world.” The pervasiveness of segregation in Northern Ireland is echoed by Mari Fitzduff, who illustrates that

This overall situation [in Northern Ireland] means that it is quite possible for a substantial number of people, particularly those within working-class urban areas or in rural areas, to study, live, work, and socialize almost completely, for most of their lives, within their own community and not develop close or sustained relationships with someone from another community.

While there is no evidence of a causal relationship between segregation and intercommunal violence in Northern Ireland per se, studies have nonetheless found a strong suggestion of a ‘cyclical and interdependent’ relationship in which such distancing has been shown to reinforce the existing prejudices, stereotypes, and fears about the Other community that underpinned the violence of the Troubles. In essence, the widespread lack of opportunity for more positive encounters across communal lines in Northern Ireland continues to limit the chance that new information capable of challenging existing attitudes and mindsets about the Other can be introduced. Further, when contact does occur, such as in public shops, in the workplace, or in more mixed middle-class neighbourhoods, research has shown that often the majority of these interactions remain exceedingly polite or “superficially courteous,” and are

191 Hewstone et al., “Intergroup Contact in a Divided Society,” 8.

192 Ray Mullan, Director of Communications, Community Relations Council, Belfast, Northern Ireland, 21 April 2008.

193 Fitzduff, Beyond Violence, 7.

therefore “not of a degree to alter suspicions or change stereotypes.” Accordingly, as Dr. Pete Shirlow illustrates, despite the positive steps that have been made during the peace process, “negative attitudes and hostility directed toward the ‘Other’ community remains a feature [of Northern Ireland]…especially in the areas affected most by violence.” As a result, he notes that relationships between the two communities are often characterized by continued animosity “marked around a mixture of fear, misunderstanding and the attachment of negative characteristics” to one another. In fact, a number of scholars have argued that the perpetuation of such antagonisms in highly segregated interface areas has been responsible, in large part, for the continuation of ‘low-intensity’ sectarian violence following the BFA in the form of youth-led rioting, fighting, and property damage.

(Re)Building ‘Community Relations’

In recognition of the role that such divisions can play in motivating and sustaining conflict, since the inception of the Troubles efforts have been underway at various levels of society to reopen contact and dialogue across community lines. In the 1970’s and 1980’s, such efforts were largely limited to the attempts of local community groups, religious organizations, and non-governmental peace organizations to rebuild trust, cooperation, understanding, and better relations between the communities in Northern Ireland by facilitating small-scale instrumental social learning programs. With the emergence of the peace process in the early 1990’s, this

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195 Hewstone et al., “Intergroup Contact in a Divided Society,” 8. Indeed, as Mari Fitzduff illustrates “even where such contact does happen, which is more common among the middle classes who have greater access to shared work and leisure facilities, such contact is usually notable for its often polite, but calculated, avoidance of any acknowledgement or discussion of differences, in the belief that such discussion is bound to be contentious.” See Fitzduff, Beyond Violence, 7.


197 Personal interview, Neil Jarman, Director of the non-governmental Institute for Conflict Research (ICR), Belfast, Northern Ireland, 22 April 2008. As Jarman suggests, the rise in anti-social violence may be linked to “the attitudes that were there in conflict. If your neighbour is a Protestant or Catholic or whatever and you don’t like them then it’s legitimate to harass them and chase them out of your area.”
expanded into a full-scale program of coordinated initiatives by government, civil society, and grassroots actors under a cohesive ‘Community Relations’ policy. For the most part, this broader strategy has relied on a highly effective division of labour for addressing intercommunal divisions, under which central government takes the top-down tasks of setting out an inclusive policy mandate and providing the social and political leadership – and the necessary resources – to sustain effective contact, dialogue, and development initiatives in local communities. The actual ‘on the ground’ work of instrumental social learning has thus largely been left to local governments and a vibrant grassroots community and voluntary sector, actors that tend to carry a great deal of legitimacy within their own communities and that have evidenced high levels of success in identifying and adapting the broader Community Relations agenda to the needs of local populations. This bottom-up work has in turn been facilitated by the coordination of a highly trained and professionalized civil society sector that has grown up to administer and monitor targeted funding for local reconciliation initiatives on behalf of the Northern Ireland government and a range of international and regional donors. Indeed, it would appear that many of the gains that have been made in improving intercommunal relations since the Belfast Agreement are attributable to this integration of ‘top-down’ and ‘bottom-up’ instrumental social learning initiatives. Support for these programs remains linked to the extraordinary level of funding that has been provided to reconciliatory community relations initiatives, including an estimated €2 billion in targeted EU PEACE funds and generous monies provided by the UK and Irish governments and international donors.198

Central and Local Government Interventions

At the level of central government, in 1987 the Secretary of State for Northern Ireland established the Community Relations Unit (CRU) under the NIO, charged with “bringing the two sides of the community towards greater understanding” in an effort to help support and stabilize the emerging peace process. The CRU was established to help prioritize attempts to address and reduce communal divisions in Northern Ireland, as well as to ensure that these issues remained a focal point of all future government initiatives. Notably, the importance of the CRU’s work was reflected in the extensive funding it received from the government, amounting to some £5.3 million in the year 1995-1996 alone. In this capacity, the CRU served to formulate policy strategies, provide advice to government ministers, and undertake research to identify and evaluate existing efforts already underway to repair communal divides. However, the fact that the NIO was not viewed as an impartial actor in the conflict greatly restricted its ability to directly engage with this work. Accordingly, the CRU instead focused on promoting and providing funding to various local initiatives in order to improve their ability to promote better relations between the communities in Northern Ireland. While extensive reconciliatory work was already being carried out by an array of civil society organizations and local community actors that had emerged in response to the violence of the Troubles, much of this work had been taking place in an ad hoc and relatively uncoordinated fashion. Along with a general scarcity of resources, this ‘scattershot’ approach had often limited the impact of

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199 Joanne Hughes and Colin Knox, "For Better or Worse? Community Relations Initiatives in Northern Ireland," Peace & Change 22, no. 3 (1997). The CRU was originally established as the ‘Central Community Relations Unit’ or CCRU in 1987, but in 2000 this was shortened to the CRU when the body was relocated under the OFMDFM of the new devolved assembly. For ease of use, this will simply be referred to as the CRU throughout.

200 Ibid., 330.
individual organizations’ efforts.\textsuperscript{201} The CRU helped to solve this problem, concentrating on supporting projects in line with the theoretical framework of the ‘Contact Hypothesis’ from social psychology: the assumption that increasing opportunities for positive interactions between Nationalist and Unionists would ultimately encourage greater mutual understanding and improve cross-community relations.

One of the first major investments made by the CRU in this Community Relations project was undertaken at the level of local government. In July 1989, all 26 of Northern Ireland’s ‘District Councils’ were invited by the CRU to take part in a Community Relations Programme (DCCRP). In essence, the DCCRP made Councils eligible to receive core funding from the CRU to support local projects in their districts that were specifically designed to increase cross-community contact. However, to be eligible for this funding, Councils had to agree on a cross-party (and therefore cross-community) basis to take part in the DCCRP, as well as to draft a comprehensive policy statement outlining proposals for specific projects that they might undertake to improve relations between Nationalist and Unionist communities in their locality. Councils also had to agree to appoint one or more dedicated Community Relations Officers (CRO) whose mandate would be to ensure both that these programs were properly administered and that a broader sensitivity to improved community relations was reflected in all local government policy. Importantly, the DCCRP program also included provisions for small ‘grant aid’ or ‘seed grant’ initiatives designed to redistribute portions of core government funding to local community and voluntary organizations engaged in reconciliatory work under the administration and supervision of local CROs.

\textsuperscript{201} For instance, a study in 1985 showed that there were already approximately 86 independent non-governmental ‘peace groups’ dedicated to removing sources of tension and conflict between the two communities. Hugh Frazer and Mari Fitzduff, \textit{Improving Community Relations: A Paper Prepared for the Standing Advisory Commission on Human Rights} (Belfast: Community Relations Council, 1994).
Following the BFA, in 2000 the powers of the CRU transferred from the NIO to the OFMDFM of the newly devolved Assembly. After a period of extensive consultation with academics, civil society representatives, and local communities, in 2005 the CRU launched a new ‘Policy and Strategic Framework for Good Relations’ entitled *A Shared Future*. This document set out a series of “practical steps and actions, based on common fundamental principles” which were to be “coordinated across government and throughout civic society to ensure an effective and coherent response to sectarian and racial intimidation with the aim of rebuilding relationships rooted in mutual recognition and trust.” In particular, *A Shared Future* set out to strengthen and streamline its existing mandate to support programs that combated sectarianism, promoted mutual understanding, and developed a greater sense of shared community through cross-community contact and dialogue. These strategies were incentivized among local community actors and nongovernmental organizations by grant funding for programs initiated by these groups that evidenced ‘best practices’ in line with the government’s *Shared Future* policy. Accordingly, in addition to providing ongoing funding support to the DCCRP, the government invested further monies in a ‘small capital’ grants program for local community projects that demonstrated a “worthwhile and cost-effective contribution to increasing cross-community contact and cooperation and enhancing mutual respect, understanding, and appreciation of cultural diversity.”

**Civil Society and Local Community Initiatives**

As part of NIO’s recognition that it would need to distance itself from directly engaging in Community Relations in order to avoid perceptions of bias, it also set out to establish an

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203 Ibid.
organization that could operate at ‘arm’s-length’ from government to help implement its policy agenda. The Community Relations Council (CRC) was therefore formed in 1990 as an independent company and registered charity, charged with supporting efforts by local organizations to improve community relations. While legally an independent organization with its own executive board and mandate, the CRC might more accurately be categorized as a ‘quango’ or quasi-NGO, as the majority of its funding is provided directly by the CRU and the OFMDFM (totaling over £3.5 million in 2004). In many ways, the CRC therefore acts as a ‘mezzo-level’ or intermediary organization between government and the community/voluntary sector and serves as a ‘gatekeeper’ for government funding by providing oversight on community relations projects. In this capacity, the CRC offers a number of small grants to community organizations and provides these groups with resources in the form of training, research, and publications about ‘best practices’ in challenging sectarianism. The CRC also acts as an advisory body for other agencies and institutions, including government bodies and the commercial sector, dealing with issues of community division.

Finally, it should be noted that Northern Ireland has also benefitted from a wealth of external regional and international funding in support of instrumental social learning initiatives carried out in line with the earlier Shared Future mandate. The most extensive of this funding has come through the European Union, which since 1995 has operated a special Programme for Peace and Reconciliation (PEACE) in four distinct stages, PEACE I (1995-1999), PEACE II (2000-2004), PEACE II extension (2005-2006) and PEACE III (2007-2013), with an overall support package to date estimated at over €2 billion.204 While a small fraction of this funding has taken the form of direct grants to local community organizations, most often funds have been disbursed through IFBs that work to support grassroots reconciliation initiatives by distributing

small grants to the community and voluntary sectors and seeing that monies are put to effective use. These bodies include the CRU, CRC, and DCCRP, as well a range of other ‘mezzo-level’ professional civil society organizations that have expertise in given issue areas, such as the Community Foundation for Northern Ireland and the International Fund for Ireland. While operating as independent bodies with distinct mandates, the goals of these organizations have nevertheless tended to run in parallel with the original Shared Future policy introduced by the Northern Ireland government, particularly in their focus on the promotion of instrumental social learning through increased opportunities for cross-community interaction. As a result, local community organizations have often been able to ‘cobble together’ an extensive array of funding from a variety of governmental and non-governmental sources to support their reconciliation initiatives.

**Effective Community Relations Strategies**

As this synopsis suggests, the overall approach to rebuilding community relations in Northern Ireland has resulted in a streamlined flow of funding, training, and oversight, all of which ‘trickle down’ to support a broad network of reconciliation initiatives at local levels. As a result, as of 2010 there are nearly 100 registered organizations engaged in various kinds of cross-community initiatives, with this number only increasing in recent years as opportunities for grant funding have multiplied through the CRU, CRC, and DCCRP.205 Broadly speaking, these initiatives have taken the form both of programs operated primarily within and on behalf of a single community (often referred to as ‘single identity’ work) as well as other non-partisan initiatives involving both communities in addressing issues of common concern (‘cross-community’ work). These include groups engaged in providing victim and ex-paramilitary prisoner support services,

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205 Community Relations Council, “Community Relations Groups.” Available online at: [http://www.community-relations.org.uk/services/community-relations-groups/](http://www.community-relations.org.uk/services/community-relations-groups/)
independent research organizations seeking to identify and propose targeted policies that address key issues for reconciliation, development projects aimed at regenerating local communities, and a variety of organizations undertaking projects designed to encourage cross-community contact and dialogue. In addition, the number of ‘joint projects’ involving multiple organizations has increased thanks to the development of strong working relationships with the CROs of local district councils and targeted grant incentives from funders encouraging collaborative initiatives between Nationalist and Unionist communities. This has led to the formation of fairly cohesive ‘peacebuilding partnership’ networks in urban centres such as Derry and Belfast that have greatly increased opportunities to share resources, strategies, and best practices for effective community relations work. However, while the broader Community Relations strategy implemented by the government has enabled programs undertaken by local governments and grassroots community organizations to advance instrumental initiatives in Northern Ireland, it is widely recognized that not all of these initiatives have been equally effective in promoting the kinds of instrumental social learning necessary for intergroup reconciliation. While the sheer number of these activities prevents against a review of individual programs, recent evaluations of ‘best practices’ in Community Relations programming undertaken by the CRU, CRC, and DCCRP have highlighted several attributes of the most successful instrumental initiatives that have been employed in Northern Ireland.

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206 One example of such a partnership would include ‘The Junction’ in the city of Derry which, in addition to running it’s own educational and reconciliatory programming, works as a central ‘hub’ for collaboration with other non-governmental organizations such as The Peace and Reconciliation Group, The Holywell Trust, St. Columb’s Park House as well as an informal liason point with the local Council Community Relations Officer.

207 See, for example, Good Relations Unit, Community Engagement, Good Relations and Good Practice: Guidelines on Good Practice to Community Engagement to Promote Good Relations in Northern Ireland (Belfast: Belfast City Council, September 2006). Available online at http://www.belfastcity.gov.uk/goodrelations/docs/CommunityEngagement.pdf. See also earlier research such as Hughes and Knox, "For Better or Worse?."; Colin Knox, "Conflict Resolution at the Microlevel: Community Relations in Northern Ireland," Journal of Conflict Resolution 38, no. 4 (1994); Colin Knox
First, these evaluations make it clear that the most effective programs for promoting instrumental social learning about the Other are those that provide opportunities for carefully mediated, structured, and long-term intercommunity interactions within a safe and egalitarian setting. One such example is the work of the Glencree Centre for Peace and Reconciliation (Glencree), a highly regarded nonprofit organization that has received extensive funding from the CRU, CRC, the EU, and a range of other public and private donors. Founded in 1974, Glencree has been committed to finding non-violent ways to encourage reconciliation within and between communities, and has sought through a small core of highly trained staff and volunteers to provide the space for carefully mediated cross-community dialogue encounters. These encounters have included work with political elites in ‘Political Dialogue Workshops,’ with former paramilitaries, police, and British security forces in its ‘Ex-Combatants Programme,’ and also with individual victims of violence from Britain, the Republic of Ireland, and Northern Ireland in its ‘LIVE Programme.’ The central aim of all of these initiatives is to provide an inclusive forum where members of different communities are able to meet, exchange views, build relationships, and address issues over a series of repeated encounters. These encounters, extending over several sessions, have taken the form of recurring conferences, workshops, and extended residential stays at Glencree’s Conference Centre located in a relatively ‘neutral’ venue across the border in County Wicklow in the Irish Republic. In addition to these encounter programmes, Glencree also operates a series of certified training workshops aimed at teaching civil society and the grassroots community skills in negotiation, mediation, conflict transformation, and reconciliation to help them in their own work.


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Short term or ‘one-off’ programs, on the other hand, which bring people from different communities together to engage in a brief period of shared activity with minimal follow-up, have shown little benefit in improving relations, and in fact may even have an adverse effect by serving to confirm existing prejudices or stereotypes about the Other.\textsuperscript{209} Also ineffective are ‘talking shop’ programs that succeed in bringing large numbers of Nationalists and Unionists together but in which no real issues of consequence are discussed and divisive topics are avoided. Such programs have included well-intentioned initiatives such as ‘Intercultural Excursions,’ where youths from hardline Nationalist and Unionist neighbourhoods are taken on holiday together abroad, and other ‘high profile’ community relations events such as dramas, fairs, or concerts designed to create enjoyable venues for intercommunity interaction. While these programs do encourage brief moments of positive encounter and may even produce a small number of interpersonal friendships, ultimately they have been shown to provide little in the way of lasting cognitive or attitudinal change as participants are simply reintroduced to existing divisions and prejudices upon returning to their segregated communities.\textsuperscript{210} Indeed, as Michael Doherty, Director of the highly regarded Peace and Reconciliation Group (PRG) in Derry has cautioned,

Contact work that’s short term can be very, very ineffective. What contact work in short periods of time does, in my view, is actually reinforces old prejudices. That you meet them for a short while from the other side and they begin to act out from the other side in the way you had always thought they had acted out. And you begin to hear: ‘that’s the way they do behave’ and so you reinforce the prejudice. And you don’t get a chance to work alongside them or do anything else to then help reduce that prejudice again. So for me contact work is only effective if it’s long term. And that is over a longer period of time. Because you’ve got to take into consideration that these people are asked to go back into

\textsuperscript{209} Hughes and Knox, "For Better or Worse?.” This was also a point introduced in an interview with Michael Doherty, Director of the non-governmental Peace and Reconciliation Group in Derry. Personal interview, Michael Doherty, Derry, Northern Ireland, 14 February 2008.

\textsuperscript{210} A point raised in Knox and Hughes, “Crossing the Divide.”
their own camps again to be reinforced again by their people about how the Other is.\textsuperscript{211}

Second, many of the most successful programs have involved community members coming together in common purpose to work towards a shared ‘superordinate goal’ that neither community would be able to achieve on its own. Most often these programs seek to combine elements of intergroup contact with community development work, for instance having members of local Nationalist and Unionist communities working together to clean up and revitalize a shared ‘interface’ area that had fallen into disrepair during the Troubles.\textsuperscript{212} As Dr. Christine Bell has noted, “if you just get people together for the sake of having contact, I don’t think it’s terribly effective. The more you can engage people in joint projects or in some place where they’re negotiating some of the difficult issues around community safety, attacks on each other, or equality and poverty issues in the area the more you can build positive relations.”\textsuperscript{213} The non-governmental Belfast Interface Project (BIP) offers an example of how one initiative has been used to improve community relations by bringing members of divided communities together in networks of interaction, trust, and dialogue over an issue of common concern. The BIP was originally established in 1995 with a small professional staff and a mandate to identify the major issues of concern to interface communities and to consult with civil society and the local community and voluntary sector to come up with ways to address these issues. As of 2008, the BIP now works with an executive membership committee made up of 45 community organizations engaged in development and reconciliation work in interface areas and over 600 individual members drawn from both Nationalist and Unionist communities. With this network, BIP facilitates exploratory contact and dialogue between interface communities and transfers

\textsuperscript{211} Personal interview, Michael Doherty, Derry, Northern Ireland, 14 February 2008.
\textsuperscript{212} This point was raised in an interview with Dr. Joanne Hughes, Professor of Education at Queen’s University Belfast. Personal interview, Dr. Joanne Hughes, Belfast, Northern Ireland, 24 April 2008.
\textsuperscript{213} Personal interview, Dr. Christine Bell, Co-Director of the Transitional Justice Institute, Derry, Northern Ireland, 13 February 2008.
good practices between organizations working at interface areas through intercommunity conferences and small grant programs. Beyond these roles, the BIP has also contributed to a number of practical interventions that have helped to significantly reduce interface tensions and increase the meditative capacity of local communities. One of the most successful of these interventions has been the creation of a mobile phone ‘calling network’ between local community leaders on both sides of an interface area that has been used to effectively defuse potential tensions and prevent ‘anti-social behaviour’ from spilling over into violence.

Finally, programs that have most effectively transformed antagonistic mindsets and attitudes have been those that have not shied away from engaging with the controversial issues underlying communal prejudice and division. This was a point raised by Sue Divin, CRO for the Derry City Council District, a city in which some of the worst violence of the Troubles occurred and in which deep divides continue to mark relations between Nationalists and Unionists. As she contends, the most effective community relations work will not duck the issues in whatever form, whether it’s using arts, cultural events, workshops…whatever vehicle you take, when you get people together you’ve got to be looking at the issues and challenging their mindsets. And if you’re not doing that, you’re not going to change the mindsets and things that need to be changed.214

Indeed, many of those experts interviewed in Northern Ireland stressed the powerfully transformative effect that renewed contact can have when combined with opportunities for engaging in safe and sustained dialogue about difficult issues with the Other. These dialogues have tended to take the form of carefully mediated ‘storytelling’ forums in which a small number of individuals from both Nationalist and Unionist communities are brought together to recount their personal experiences of past conflict and, perhaps more importantly, to listen to the stories

214 Personal interview, Sue Divin, Community Relations Officer, Derry District Council, Derry, Northern Ireland, 10 February 2008.
of the Other. The experience of participating in these storytelling dialogues is widely recognized as being vital to developing a sense of empathy that crosses communal lines, helping former antagonists to “humanize” their perceptions of one another and to recognize each other as people and not as stereotypes.215

As Dr. Wilhem Verwoerd of the Glencree Centre for Peace and Reconciliation has noted, based on his extensive work promoting dialogue between ex-combatants, victims/survivors, and Northern Ireland’s wider communities, such processes are essential to reconciliation as they help “at a very human level to get people who were in deep conflict actually to a point where they are willing to look beyond those crude stereotypes, get through the initial anger and mistrust and emotional baggage and get to a point where there’s a willingness to be in the same place, and a willingness to move beyond that.” As he argues, “often the best way to get to that point, and one of the key ways to make progress, is through storytelling. In different formal and informal ways, people get a chance to look beyond their political narratives and political stereotypes, to individualize and humanize the Other.” Further, as Michael Doherty has argued, based on his own experiences facilitating dialogue processes in Northern Ireland, storytelling can lead not only to a greater willingness to reconcile in the present but also to a more nuanced and empathetic understanding of the past. Indeed, he suggests that storytelling provides an opportunity to “look at each other and hear each other’s stories [and to go] away with a completely different mindset about the Other…you do not destroy people’s real feelings about what they say happened to them, but you go away with a better understanding as to why some

215 As Dr. Brandon Hamber, Director of the International Conflict Research Institute (INCORE) at the University of Ulster, Magee Campus noted, “I think that storytelling more than anything else has a humanizing effect…I think what happens is you begin to hear more of the human side of people, things they’ve struggled with…it humanizes the way you look at other people.” Personal interview, Dr. Brandon Hamber, Derry, Northern Ireland, 14 February 2008.

216 Personal interview, Dr. Wilhelm Verwoerd, Co-Coordinator of the Former Combatants Programme at the Glencree Centre for Reconciliation, Glencree, Ireland, 28 April 2009.
things actually happened, looking at the cause, the impact of the other party’s actions, and the
impact it had on the other party.”\textsuperscript{217} Overall, interviewees consistently pointed to such dialogue
forums as crucial components of ongoing processes of reconciliation in Northern Ireland, both
because they helped to build a foundation of understanding between political elites that allowed
the peace process to move forward and because they have consistently posed challenges to the
entrenched prejudices, stereotypes, and fears about the Other at a broader societal level.\textsuperscript{218}

However, past evidence would also suggest that it is important to build towards these
more difficult types of encounters through incremental levels of engagement in which both the
quantity of contact and the quality of interaction (in terms of being able to deal successfully with
increasingly difficult issues) increases over time, with each new engagement building on the
trust, respect, and confidence developed over the last. Indeed, while the promotion of positive
intercommunity interaction remains the ultimate aim of Community Relations policy in Northern
Ireland, evidence suggests that this goal may need to be worked toward in a sequential
fashion.\textsuperscript{219} For instance, in cases where communities may have had little or no past experience
of positive relations with one another, there will first be a need for ‘single identity work’ in
which members engage in programs within their own communities to build the necessary levels
of trust and confidence among themselves before a fruitful engagement with the Other can begin.
This has been recognized as a necessary first step towards reducing existing feelings of fear,
insecurity, and anxiety that may otherwise prevent the experience of cross-community contact

\textsuperscript{217} Personal interview, Michael Doherty, Derry, Northern Ireland, 14 February 2008.

\textsuperscript{218} As Dr. Matthew Cannon, CEO of the Irish Peace Institute at the University of Limerick contends, dialogue has
been central to these two interrelated reconciliation processes. As he argues, “cross-community dialogue and
interaction has, I think, done a great job to lessen points of conflict at a community level in tandem with the political
elite process…it’s provided the groundswell of support for the political process that couldn’t have happened without
people at that community level….if they were saying we want nothing to do with the Other side, then I’d say the
politicians would listen.” Personal interview, Limerick, Ireland, 14 April 2008.

\textsuperscript{219} Good Relations Unit, Community Engagement, Good Relations and Good Practice. See also Fitzduff, Beyond
Violence, 34.
from promoting positive social learning about the Other. This was a point raised by a number of expert interviewees, including Michael Doherty of the PRG in Derry, who noted that

Preparatory work is needed to do community relations work…communities need to look inwardly at themselves to give them the confidence to even think about engaging with the other side…They need to look at where they’re coming from as a way…of leading into community relations work and as a means of allaying some of the fears that are out there.²²⁰

Importantly, however, this kind of single identity work has ultimately been found to be insufficient for overcoming relational divisions and prejudices and so is widely considered to be of use only as a ‘stepping stone’ towards more extensive intercommunity engagement. Further, while it is recognized that cross-community contact capable of promoting social learning must necessarily involve processes of dialogue that engage with the controversial issues surrounding communal divisions, evidence from community relations evaluations in Northern Ireland suggests the importance of building towards these encounters through incremental levels of engagement. In essence, dialogue might be thought of as a continuum along which both the quantity of contact and the quality of the interaction (in terms of being able to deal successfully with increasingly difficult issues) must increase gradually over time. In practice, this might begin with basic exploratory contact, move on to discussion of issues of common concern, then finally address the most divisive or controversial issues when sufficient trust, respect, and confidence has developed.²²¹

**Educational Initiatives**

One area of work in line with the broader aims of Northern Ireland’s Community Relations policy that deserves special attention is that of education. Since its foundation in 1921, extraordinarily high levels of educational segregation have divided Northern Ireland. Most

²²⁰ Personal interview, Michael Doherty, Derry, Northern Ireland, 14 February 2008.
²²¹ Good Relations Unit, *Community Engagement, Good Relations and Good Practice*. 194
schoolchildren attend denominational primary and secondary schools that are predominantly either Catholic or Protestant. Indeed, 2003 estimates suggested that 95 percent of all students in Northern Ireland attended essentially ‘single-identity’ institutions that offered little opportunity for interaction with members of the Other community. In addition, these schools have also traditionally been separated by the scope and content of their curriculum. This has meant that in Northern Ireland, “for the most part, children take different subjects, learn different religions, read different books, and most importantly, learn different histories.” As early as the 1970s, research began to suggest the potentially detrimental effects that this deep level of educational segregation could have on relations between the two communities, highlighting that such an arrangement could serve to perpetuate negative intergroup attitudes and to engender mistrust, suspicion, and prejudice. Accordingly, it was made increasingly clear that the future improvement of community relations would necessarily require improved opportunities for cross-community interaction and understanding in the educational system.

The most significant advance in this regard was made through a series of targeted reforms of the existing curriculum initiated by the Northern Ireland Government. Following the Education Reform (Northern Ireland) Order of 1989, in 1990 the Department of Education for Northern Ireland (DENI) introduced a major program of educational reform and a compulsory

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set of common curricular initiatives designed to promote a greater ‘culture of tolerance’ in the school system.\footnote{For an excellent overview of curriculum reforms in Northern Ireland and the importance of these reforms for prospects of intergroup reconciliation, see Brandon Hamber, Clare Magill, and Alan Smith, \textit{The Role of Education in Reconciliation: The Perspectives of Children and Young People in Bosnia and Herzegovina and Northern Ireland} (Belfast: University of Ulster, 2009). Available online at: \url{http://www.unesco.ulster.ac.uk/research/research_comp.html}.} These initiatives included notable programs such as ‘Education for Mutual Understanding’ (EMU) and Cultural Heritage (CH) which were introduced to help children learn to “respect themselves and others” and “to know about and understand what is shared as well as what is different about their cultural traditions.”\footnote{Knox and Hughes, "Crossing the Divide."} However, for the most part, these changes to the curriculum were simply overlaid on the existing segregated school system. In other words, while these programs were applied in both Catholic and Protestant schools, actual inter-school or cross-community contact – while recommended – was not itself a compulsory component of these initiatives and occurred only infrequently or over very brief periods of time. Furthermore, it became apparent that many teachers simply lacked the necessary training to take on this aspect of community relations programming in their schools and as a result a number were quite reluctant to discuss sensitive issues surrounding sectarianism.\footnote{Personal interview, Dr. Caitlin Donnelly, Department of Education at Queen’s University Belfast, Belfast, Northern Ireland, 20 April 2008.} Accordingly, while these programs were viewed as having had a beneficial impact on helping students develop a better understanding of the other community’s cultural background, their ability to effect deeper change in the attitudes, beliefs, and relationships between members of the two communities was seen as relatively limited.\footnote{Ibid. See also Alan Smith and Seamus Dunn, \textit{Extending Inter-School Links: An Evaluation of Contact between Protestant and Catholic Pupils in Northern Ireland} (Coleraine: University of Ulster, 1990). Indeed, as McGlynn et al. note, ultimately “it is debatable as to how effective initiatives like these can be in a predominantly segregated education system.” McGlynn et al., "Moving out of Conflict."}
However, along with these curriculum changes, a more ‘bottom-up’ movement for fully ‘integrated’ cross-community schools also began in the late 1970s, largely through the advocacy of a campaigning group of parents known as All Children Together (ACT). In 1981 the work of ACT led to the creation of Northern Ireland’s first integrated school, Lagan College, which was soon followed by the opening of three additional integrated schools in the city of Belfast. This cause was taken up by the voluntary non-governmental organization Northern Ireland Council for Integrated Education (NICIE), which was established in 1989 to help coordinate further efforts to develop and promote integrated education. As of 2008, there are now 61 integrated schools in Northern Ireland, comprising 20 secondary schools and 41 primary schools with an estimated enrollment of just under 20,000 students. In essence, these integrated facilities take as their mission “the bringing together in one school of pupils, staff and governors, in roughly equal numbers, from Protestant, Catholic, other faiths and none…[as a way of] bringing children up to live as adults in a pluralist society, recognizing what they hold in common as well as what separates them, and accepting both.”

In addition to providing a ‘mixed’ environment in which children from both communities are brought together on a daily basis to interact within the classroom and during extra-curricular activities, these integrated schools also include special training programs to prepare instructors to teach in these settings, as well as a curriculum program that includes opportunities for facilitated conversations about potentially contentious issues surrounding Northern Ireland’s different cultural traditions and its history of sectarianism.

Indeed, as former NICIE CEO Michael Wardlow stresses, it is this combination of cross-community contact, specialized teacher training, and a “willingness to take risks and talk about sectarianism” in order to create a facilitated dialogue about Northern Ireland’s history

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229 “About Us,” NICIE, http://www.nicie.org/aboutus. In practice this means that enrollment in integrated schools is required to have at a maximum of a 60/40 split, mixed teachers, and a culturally respectful curriculum.

230 Ibid.
that allows integrated education to help children challenge existing stereotypes and prejudices.\textsuperscript{231}

Since 1989, the government has provided full funding for established integrated schools through the Department of Education. In 1991, a charitable trust, the Integrated Education Fund (IEF), was also established with money from the Northern Ireland government, the EU, and various international donor organizations to provide financial support for the creation of new integrated schools.\textsuperscript{232}

While these integrated schools still only represent approximately 5 percent of the total school population in Northern Ireland, a growing number of research studies suggest that they may have a very positive effect on improving cross-community relations for the students involved. For instance, in a 2003 survey of former students from the integrated education system, 93 percent indicated that these schools had a significant positive impact on their lives by helping to create a greater level of respect for cultural diversity and building a greater sense of trust around future cross-community interactions. In addition, participation in integrated education was also seen to correlate with a marked increase in the number of lasting friendships developed across communal lines in adult life, as well as a greater willingness to marry those belonging to the Other community. Notably, these gains can be attributed both to the formal curricula of these schools that allowed students to engage with other cultural traditions as well as to the experience of positive informal everyday encounters with peers from the Other community.\textsuperscript{233} More recent survey studies from 2007 appear to corroborate these findings, indicating that those who attended integrated schools exhibit reduced levels of prejudice, less

\textsuperscript{231} Personal interview, Michael Wardlow, Belfast, Northern Ireland, 21 April 2008.

\textsuperscript{232} Integrated schools can essentially be created in two ways. The first is to build and establish a new school from the ground up that meets the enrolment and curricula criteria for a designation as integrated. The second is a process whereby denominational schools are ‘transformed’ into integrated schools by adopting these same criteria over a set period of time.

\textsuperscript{233} McGlynn et al., "Moving out of Conflict."
divisive and sectarian political views, and much less polarized perceptions of religious and national identities. As in the earlier study, these improvements were viewed as being directly linked to the provision of opportunities for positive intergroup contact and to a curriculum that engaged with, rather than avoided, controversial issues of division. As NICIE’s Michael Wardlow contends, in a highly segregated society such as Northern Ireland, integrated education would seem to offer a critical space for positive socialization and an important opportunity for children at a young age to learn about the Other, build trust, and challenge existing misconceptions:

When we live apart and learn of each other by stereotype, that in turn can deliver itself in sectarianism. But when children come together, and they learn about the Other, friendship patterns begin to emerge which exist out the other end of schools. And research is beginning to build up that children from integrated schools are more likely to have partners from the Other tradition, more likely to maintain and have friendships with the Other tradition, more likely to have a more fluid approach to their identity, and more likely to create a new middle ground for politics. And all of this is now coming out of integration, So the benefits of integration are beginning to be demonstrated.

These findings also seem to be reflective of existing perceptions of the importance of integrated education for improved community relations held by the broader population in Northern Ireland. In a recent independent survey carried out by social research agency Millward Brown Ulster in May 2008, over 84 percent of respondents indicated that they believed integrated education to be ‘important’ for peace and reconciliation in Northern Ireland. A further 85 percent believed the experience of integrated education to be equally important in promoting

\[234\] Hayes, McAllister, and Dowds, "Integrated Education."

\[235\] Ibid.

\[236\] Personal interview, Michael Wardlow, Belfast, Northern Ireland, 21 April 2008. It is important however to note that while these findings are highly suggestive of the positive impact of integrated education, they are far from being conclusive and definitive evidence of their efficacy for intercommunal relationship building has remained difficult to prove. This is a point raised by Caitlin Donnelly. Personal interview, Caitlin Donnelly, Belfast, Northern Ireland, 20 April 2008.
mutual respect and understanding between Nationalist and Unionist communities as well as in developing a shared and better future for Northern Ireland as a whole.\textsuperscript{237} In this regard, it is encouraging that when asked in 2008 if they would favor a higher level of integration between the two communities in primary and secondary education, a majority of both Protestants (77-78 percent) and Catholics (86\%) indicated their approval for ‘more mixing.’\textsuperscript{238} Indeed, it would seem current demand for integrated education currently outstrips its supply, with NICIE reporting that in 2008 it had to turn away over 800 new applicants for places in integrated schools due to a lack of capacity.\textsuperscript{239}

\section*{Community Relations Work and Instrumental Learning}

As this review indicates, much of the ‘Community Relations’ work undertaken in Northern Ireland has been predicated on the assumption that an increase in positive intercommunity engagement is essential to intergroup reconciliation. In particular, targeted programs promoting renewed cross-community contact and dialogue have been considered necessary to challenging the antagonistic mindsets and relationships formed over the course of the conflict and to overcoming the entrenched patterns of residential and social segregation that continue to sustain such divisions by “fostering mutual ignorance, suspicion, and distrust and by maintaining prejudice and negative stereotypes” that otherwise block any chance for social learning about the Other.\textsuperscript{240} However, given the wide variety of organizations and initiatives associated with the

\begin{itemize}
\item \textsuperscript{238} Northern Ireland Life and Times Survey, “Community Relations Module (2008),” available on the ARK Online Archive at: \url{http://www.ark.ac.uk/nilt/2008/Community_Relations/MIXDPRIM.html} and \url{http://www.ark.ac.uk/nilt/2008/Community_Relations/MIXDGRAM.html}.
\item \textsuperscript{239} “About Us,” NICIE, \url{http://www.nicie.org/aboutus}.
\end{itemize}
broader Community Relations approach in Northern Ireland, it is difficult to provide a clear causal assessment of the overall effectiveness of this kind of work and the impact it has had on intergroup reconciliation. Nonetheless, a recent 2008 study carried out by a team of researchers drawn from the University of Ulster and Queen’s University Belfast on behalf of the government shows substantial evidence that increasing levels of intercommunity contact have had a measurable effect on the nature of intergroup relations in Northern Ireland. In particular, this study shows that increased contact has been highly effective in building levels of cross-community tolerance, trust, friendship, understanding, and positive affect. At the same time, cross-community contact is also shown to have helped to reduce negative perceptions of intergroup threat, anxiety, bias, and prejudice between Nationalist and Unionist community members. Furthermore, this report also demonstrates that an increase in cross-community contact strongly correlates with a decline in support for political violence as well as with the development of less highly polarized and monolithic perceptions of group identity. As its researchers note, this report “provides the most compelling data yet from Northern Ireland…that cross community contact is effective, and has an impact on multiple measures of community relations [and] that contact has a causal or longitudinal effect on attitudes, hence it should be central to policies aimed at improving community relations.” Furthermore, these more recent findings appear to be supported by earlier studies drawing on similar longitudinal survey data evaluating the impact of youth participation in cross-community programs aimed at promoting

241 Miles Hewstone, Joanne Hughes, and Ed Cairns, *Can Contact Promote Better Relations? Evidence from Mixed and Segregated Areas of Belfast* (Belfast: OFMDFM, June 2008). This highly regarded report brought together several academic experts on the relationship between contact and reconciliation, with data derived primarily from survey questionnaires posed to 404 respondents in a longitudinal study between 2006 and 2007.

242 Ibid.

243 Ibid., 8. Emphasis in the original text.
contact and dialogue within Northern Ireland. Indeed, these studies reveal that participation in
such programs has led to more positive perceptions of the ‘Other,’ significantly greater support
for religious mixing and intercommunity friendships, and a marked decline in negative feelings
towards members of the other community.244

In addition, there is early evidence from a 2008 study conducted by Professor Orla
Muldoon of the University of Limerick to suggest that the experience of more positive
community relations may be responsible, in part, for a growing trend in Northern Ireland of
individuals identifying themselves as belonging to group identities that are less mutually
exclusive and polarized.245 For instance, while 59 percent of respondents continued to identify
themselves with one of the two traditional communal identity groups, 30 percent of respondents
indicated that they “implicitly rejected the traditional communal divisions in Northern Ireland”
and identified with categories outside of the Protestant/Unionist vs. Catholic/Nationalist
dichotomy. Furthermore, nearly one-third of Protestants and Catholics described themselves as
being equally British and Irish in their identity and did not view these nationalities as mutually
exclusive. Perhaps most promisingly, while in 2008, 37 percent continued to identify primarily
as British nationals and 26 percent as Irish, more than one quarter of the population (29 percent)
now describe themselves first and foremost as belonging to a more inclusive ‘Northern Irish’
identity group – a number that has increased over 10 percent since 1999.246 Of this number, 43

244 Dirk Schubotz and Claire McCartan, "Cross-Community Schemes: Participation, Motivation, Mandate," ARK
Research Update 55, no. 1 (May 2008); Dirk Schubotz and Gillian Robinson, "Cross-Community Integration and
Mixing: Does It Make a Difference?," ARK Research Update 43, no. 1 (April 2006). These reports draws on data
supplied by the Northern Ireland Life and Times Survey which has recorded the attitudes, values, and beliefs of the
adult population in Northern Ireland on social issues since 1998, as well as the Young Life and Times Survey which
has monitored attitudes to community relations among 16 year olds across Northern Ireland since 2003.
245 See Orla Muldoon et al., "Beyond Gross Divisions: National and Religious Identity Combinations," ARK
Research Update 58, no. 1 (December 2008). Available online at
246 Northern Ireland Life and Times Survey, “Community Relations Module (2008),” available on the ARK Online
Archive at: http://www.ark.ac.uk/nilt/2008/Community_Relations/NINATID.html
percent of Catholics and 56 percent of Protestants feel ‘very strongly’ that they belong to this broader Northern Irish identity. As noted social psychologist Miles Hewstone and his colleagues contend, based on such findings, the current Community Relations policy focused on renewing intergroup contact and dialogue “would seem to be not only useful, but necessary, for building a new society in Northern Ireland, one that is no longer deeply divided, sectarian, and split along lines of identity, but a mixed, tolerant polity with emerging forms of cross-cutting identities.”

Finally, while no direct causal relation can be drawn, there is substantial evidence to suggest that in line with the aims of the government’s initial 2005 Shared Future policy for improving community relations, the people of Northern Ireland have themselves increasingly come to recognize that future peace and reconciliation likely depend on increasing opportunities for intercommunal interaction. For instance, data collected by the NILT survey in 2008 shows that fully 90 percent of all respondents in Northern Ireland believe that “better relations between Protestants and Catholics will only come about through more mixing of the two communities,” a figure which has increased by 11 percent since the 2005 introduction of the Shared Future strategy. In addition, the vast majority of those polled indicated that they were in favour of greater levels of integration than they currently experience in almost every aspect of their daily lives, including where they live (81 percent), work (87 percent), engage in leisure activities (89 percent), and go to school (83 percent) – again, all numbers which have increased since the original introduction of the Shared Future policy. Furthermore, when asked in 2007 whether the “government is actively encouraging shared communities where people of all backgrounds can live, work, learn, and play together” the vast majority (70 percent) of respondents gave the


248 It should be noted that since the resumption of the devolved Northern Ireland Assembly in 2007, the official Shared Future policy introduced under direct rule has largely been put on hold and are due to be replaced by a new Community Relations policy as early as 2010. That said, during this interim period many of the actions of the devolved government have continued to be in line with the original Shared Future policy.
government a ‘passing grade’ in assessing its accomplishments to date.\textsuperscript{249} Lastly, when asked to assess whether relations between Protestants and Catholics had improved in the period between 2003 and 2008, a similar majority (65 percent) indicated that they felt they had become ‘better,’ while 31 percent indicated they had remained the same and only 2 percent felt that they had become worse.\textsuperscript{250}

CONCLUSION: DECENTRALIZED TRANSITIONAL JUSTICE AND INTERGROUP RECONCILIATION

A decade on from the Belfast Agreement and just years after the resumption of a functional power-sharing Assembly following the St. Andrews Agreement, Northern Ireland remains a society still deeply divided by the violent legacy of the Troubles. High levels of communal segregation, continued mistrust and misunderstanding between both political elites and members of broader society, and the perpetuation of zero-sum interpretations of the past mean that Northern Ireland’s peace remains an unsteady one with many of the challenges of reconciliation yet to be faced. As a recent assessment by Miles Hewstone and colleagues notes, “the country is still in some way far short of the Agreement’s vision of an inclusive, stable, and fair society, firmly founded on the achievement of human rights for all.”\textsuperscript{251} To be fair, this should not come as a surprise given that processes of post-conflict reconciliation are widely recognized to be long-term endeavours that are perhaps more usefully measured by a scale of decades or generations as opposed to years. That said, there are some positive indications that intergroup

\textsuperscript{249} Northern Ireland Life and Times Survey, “Community Relations Module (2007),” available on the ARK Online Archive at: \url{http://www.ark.ac.uk/nilt/2007/Community_Relations/TARGET8.html}. On a scale of 1 to 10, 70 percent gave the government a score of 5 or higher on its efforts in this regard as compared to 27 percent who indicated a score of 4 or lower.

\textsuperscript{250} Northern Ireland Life and Times Survey, “Community Relations Module (2008),” available on the ARK Online Archive at: \url{http://www.ark.ac.uk/nilt/2008/Community_Relations/RLRELAGO.html}.

\textsuperscript{251} Hewstone et al., “Stepping Stones to Reconciliation in Northern Ireland,” 219.
relations between members of Nationalist and Unionist communities are improving, and that antagonistic and hostile perceptions of the Other are beginning to be transformed. In light of these indications, what role has Northern Ireland’s decentralized transitional justice strategy played in encouraging these nascent signs of social learning and intergroup reconciliation in Northern Ireland?

The analysis provided here would suggest that the continued politicization of any attempts to assign responsibility for past conflict, fueled by a seemingly intractable zero-sum perception of victimization between the principal Nationalist, Unionist, and British antagonists, has effectively blocked any significant movement forward in socioemotional social learning. Accordingly, those ‘piecemeal’ initiatives that have been employed to date in an attempt to promote truth, justice, and acknowledgement in Northern Ireland have been able to provide only partial solutions, as feelings of intercommunal distrust and conflicting interpretations of the past have continued to thwart the creation of any kind of larger, more inclusive societal strategy for coming to terms with the past. In short, the politics of memory in Northern Ireland remain starkly divided along the same highly polarized lines of group identity that underpinned past conflict, and there is little real hope for a shared acceptance of moral responsibility or the creation of a more collective memory at any point in the near future. This is perhaps most clearly evidenced by the failure to gain any significant cross-community support for otherwise well-regarded initiatives for addressing the past such as those suggested by the HTR and CGP. As has been discussed, even areas in which Northern Ireland appears to have enjoyed great success, such as the provision of services and support to victims and the reintegration of ex-prisoners, remain highly polarizing points of division between Nationalist and Unionist communities due to zero-sum perceptions regarding responsibility for past violence. Further, legal mechanisms such as public inquiries and police enquiries have similarly exacerbated
 communal divides, which underscores the potential limitations of government-controlled initiatives in attempts to advance the aims of truth or justice when it comes to the involvement of the British state and security forces. Left unresolved, these issues will continue to impede the processes of social learning required to move Northern Ireland away from its current state of non-violent coexistence to a deeper, more integrated, and ultimately more sustainable reconciliation. As one observer has noted,

We’re not safe yet, we’re in truce. We’ve put the guns down but we’ve not moved through truth to transformation. We have not yet transformed our country. The risk of going back to guns is still there...We have a faultline [in Northern Ireland] which is sectarianism, and we’re afraid to deal with the past because its too hard and it talks about victims and perpetrators. So what we do is simply put a veneer over that crack and then we build new structures over that veneer that look lovely and we learn how to live in these structures. And then suddenly something happens and I think you’re getting something and I’m not and what happens? The faultline starts to rattle. For reconciliation you actually have to go down, you have to deal with the past.²⁵²

On the other hand, while addressing moral responsibility for the past has remained highly contentious, considerable achievements have nonetheless been made by an aggressive policy to promote distributive social learning undertaken by the Northern Ireland government that has greatly reduced structural and material inequalities between communities in Northern Ireland. As a result, the types of social, economic, and political discrimination that once drove the conflict have been virtually removed as major sources of intercommunal tension in recent years. However, it is also clear that while these acts designed to foster distributive social learning have been vitally important to sustaining peacebuilding efforts, they haven’t in and of themselves been enough to overcome communal divides or to create more positive intergroup relationships. Indeed, movements towards greater equality continue to be interpreted along sectarian lines, with Unionists in particular evidencing a growing sense of having been victimized by the relative gains made by the Nationalists community. Furthermore, continued

²⁵² Personal interview, Michael Wardlow, Former CEO of NICIE, Belfast, Northern Ireland, 21 April 2008.
communal divisions have meant that many of the positive investments made by the government have suffered from an extraordinarily costly ‘duplication of resources,’ in which gains for one community must be matched by equal – but separate – gains for the other. As Dr. Joanne Hughes of Queen’s University Belfast argues, this disproves the notion that a basic increase in economic prosperity will dissipate communal divisions in Northern Ireland, suggesting that such gains will only be effective if they go hand in hand with other efforts to improve community relations. As she illustrates,

If you continue to make economic choices based on decisions made in the past you’re just reinforcing divisions. What we’ve done in the past is just horse-trade. So politicians have come together and said if you get that £25 million for your area we want £25 million for out area and that just reinforces the divisions. What’s hugely important for economic progress is that we start to think about the divisions and then layer economic systems into stronger foundations of better relations.253

The salience of this point is only reinforced by the recent global economic downturn in 2008-2009, which has threatened to reverse many of the trends towards prosperity that have been enjoyed in Northern Ireland in recent years. Indeed, there are suggestions that support for a series of renewed attacks perpetrated in 2009 by members of dissident Republican paramilitary groups may be linked, in part, to slowing economic growth and rising levels of youth unemployment – problems that might well become worse in coming years.254

Perhaps the most evident progress towards intergroup reconciliation in Northern Ireland has been made by the promotion of instrumental forms of social learning between Nationalists and Unionists. This has largely been brought about by the sustained program of ‘Community Relations’ interventions introduced by the Northern Ireland government, centered on creating opportunities for positive intercommunity contact and dialogue and supported by a wealth of

253 Personal interview, Dr. Joanne Hughes, Belfast, Northern Ireland, 24 April 2008.

government, regional, and international funding. The program’s success is in part attributable to the fact that while addressing the past remains a highly divisive issue in Northern Ireland, there seems to be a much greater degree of accord across both political parties and the broader population that establishing a more peaceful future will necessarily involve building better relations between Nationalists and Unionists. Notably, many of the advancements that have been made under this Community Relations program appear to be linked to a cohesive ‘top-down’ and ‘bottom-up’ policy approach to repairing communal division that has been shared across government, civil society, and a thriving local community and voluntary sector, and has received extensive funding support from regional and international donors. While these initiatives have made measurable gains in terms of improving the attitudes and relationships between Nationalists and Unionists, the continuation of ‘low-intensity’ violence at interface areas makes it clear that much work remains to be done to overcome the antagonistic mindsets and attitudes of the past. As Eamon Deane, Director of the non-governmental Holywell Trust in Derry has noted, zero-sum perceptions of identity between these communities remain alive and well despite ongoing efforts to repair community relations:

We have not come anywhere near the point of people saying, ‘Look, I have my identity and it is not threatened by yours, my identity is not dependent on being better than you. I am free to celebrate mine and you are free to celebrate yours…We’ve got nowhere near that. But I think we’re beginning that journey which would have been impossible a few years ago. But it will take time.’

Furthermore, it should be noted that there may be an implicit danger in portraying the problematic of reconciliation in Northern Ireland as one limited simply to improving relationships between local communities. Indeed, the British state and its security forces were principal actors complicit in the violence of the Troubles, and for many Nationalists, they remain primary targets of hostility and antagonism. In the end, all actors engaged or implicated in past

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255 Personal interview, Eamon Deane, Derry, Northern Ireland, 10 April 2008.
conflict will need to be intimately involved in any truly successful process of transitional justice and reconciliation in Northern Ireland.

Overall, this analysis suggests that any transitional justice process capable of contributing to lasting intergroup reconciliation and sustainable peace in Northern Ireland will require the promotion of a tripartite combination of distributive, socioemotional, and instrumental social learning between former antagonists. As this review of Northern Ireland’s current decentralized transitional justice process has evidenced, all three of these forms of social learning are vital to intergroup reconciliation and, just as importantly, are mutually constitutive of and mutually dependent upon one another. For instance, it is highly unlikely that further attempts to address Northern Ireland’s past will prove constructive until basic intercommunal trust, empathy, and mutual understanding are first developed through ongoing instrumental community relations work. The recent public outcry that accompanied the release of the Consultative Group on the Past’s recommendations for equal reparations and a more centralized ‘Legacy Commission’ to investigate past violence might then be read as a sign that such initiatives are still premature for Northern Ireland, and that more work may yet need to be done to first repair trust and good relations between communities. Indeed, as Joanne Hughes et al contend, improved community relations are vital to the future ability to advance social learning through socioemotional learning initiatives in Northern Ireland, as “[t]he building blocks of reconciliation such as deconstructing collective memories and reaching an understanding of the ‘others’ grievances and trust-building are unlikely to happen in the absence of positive social relationships.”

Conversely, it seems equally unlikely that truly reconciled community relations will be able to develop without further socioemotional acknowledgement and accountability being

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256 Joanne Hughes et al., “Segregation in Northern Ireland,” 49.
provided for those killed during the Troubles and a common recognition by all parties involved that they share some degree of mutual complicity for the losses sustained during the conflict. To be sure, deep disagreements over interpretations of the past continue to be one of the primary sources of communal division in present-day Northern Ireland, helping to sustain stereotypes, prejudices, and mistrust that mitigate against more positive interactions. Indeed, the notion that reconciliation could be made possible in Northern Ireland by focusing on building future relationships while ignoring the divisions of the past was roundly rejected by nearly every expert interviewed as part of this study. The two are intimately intertwined, and the “contemporeity of the past” continues to play a major role in dictating both the quality and quantity of present relationships.257 As Wilhem Verwoerd of the Glencree Centre has argued, coming to terms with the past may ultimately allow people in Northern Ireland to move beyond ‘thin’ reconciliation in the sense of simple coexistence to a ‘thicker’ – and ultimately more sustainable – reconciliation based on inclusivity, trust, and positive relationships.258 As he suggests,

Because of the violence, because of the conflict, relationships between people and between groups have been affected and there’s mistrust, there’s anger, there’s animosity, there’s hurt, there’s trauma…You need to find mechanisms to go and address some of these things. And I do think that some kind of a truth mechanism, that’s not overly judicialized, but provides space for storytelling, for acknowledgement, for exploring shared responsibility, [and] also finds ways to humanize those that were involved in the actual killing, the using of violence. I see those as important aspects of a stronger, more sustainable notion of cooperative long term relationships between formerly divided groups…you cannot ignore the emotional dynamics [from the past] existing between groups and between people.259

Accordingly, the continued recognition that a deeper interrogation of the past is required in order to move forward towards a more peaceful and integrated future in Northern Ireland suggests that

257 A point raised by Paul Arthur, Professor at the University of Ulster in a personal interview with the author.

258 Notably this conception of ‘thin’ and ‘thick’ reconciliation is reminiscent of Wendt’s movement from ‘Lockean’ to ‘Kantian’ on his continuum of security systems. See Wendt, "Anarchy Is What States Make of It."

259 Personal interview with author, Wilhelm Verwoerd, Glencree, Ireland, 28 April 2008.
more truth, justice, and acknowledgement than have yet been provided by the country’s current ‘piecemeal’ strategy will ultimately be required for intergroup reconciliation – though perhaps just not yet.

There is also strong consensus that neither the Northern Ireland peace process that resulted in the Belfast and St. Andrews Agreements nor the socioemotional and instrumental attempts at reconciliation that followed would have been possible if widespread distributive inequalities had continued to divide communities in Northern Ireland. As previously mentioned, because structural and material inequalities motivated the civil rights movement that inadvertently began the Troubles and underlay Nationalist grievances throughout the conflict, there is consensus that ameliorating these disparities provided a ‘minimum baseline’ on which future reconciliatory efforts could build. However, despite the relative parity that now exists, it remains likely that reconciliation will require further efforts to improve conditions within of the some of the most marginalized communities in Northern Ireland, Nationalist and Unionist alike.

Indeed, the most socioeconomically underprivileged areas of Northern Ireland produced the majority of those who took up arms during the Troubles and were worst impacted by its violence, and these same interface neighbourhoods today remain the epicenter for the ‘low-intensity’ or youth-led anti-social violence that continues to plague Northern Ireland. These same areas are also those still marked by the starkest symbols of communal division, and not coincidently, they remain the largest bases of support for the country’s most extreme political parties. In part, this is because the most underprivileged neighbourhoods are typically also the most segregated, offering little opportunity for individuals to engage in the kinds of positive interactions across communal lines required to challenge existing antagonisms. In short, while increasing socioeconomic equality will not in and of itself bring about reconciliation in Northern
Ireland, it will likely have a large role to play in assisting other ongoing efforts to improve community relations well into the future.

Finally, analysis of Northern Ireland’s decentralized approach to transitional justice also points towards a need to broaden the definitional scope of transitional justice beyond a narrow focus on the centralized institutional strategies such as trials, international tribunals, or truth commissions used to provide accountability for past violence if we are interested in fully understanding their relationship to post-conflict reconciliation in divided societies. As the case of Northern Ireland would indicate, many of the functions these formal institutions provide in service of transitional justice such as acknowledgement and truth recovery could conceivably be carried out through decentralized initiatives undertaken by government, civil society, or local community actors. Further, the experience of Northern Ireland would suggest that related efforts to promote distributive and instrumental forms of social learning will require long-term interventions across wider society that may be ill-suited to the limited timelines and mandates often afforded formal transitional justice institutions. For instance, rebuilding widespread intergroup trust, interaction, and communication is a task that might prove particularly unwieldy for formal structures such as trials and truth commissions and could in some cases best be left to the ‘bottom-up’ work of civil society and local community actors with the necessary financial and political support of government. The integrated education movement and broader Community Relations strategy adopted in Northern Ireland appear to illustrate the potential strength of such approaches. That said, Northern Ireland has enjoyed many structural advantages that are unlikely to be readily available to most other divided societies emerging from conflict, such as intact liberal democratic governance structures, a highly trained and professionalized civil society, and unprecedented access to both regional and international sources of funding to support peacebuilding efforts. Regardless, even though it serves as a ‘best case’ example in
these regards, Northern Ireland nonetheless remains instructive in the insights it offers about the relative merits of a decentralized approach to transitional justice as well as the note of caution it sounds about the inherent difficulties associated with coming to terms with the past and reconciliation in deeply divided societies.
Chapter IV

Case Study: The South African Truth and Reconciliation Commission

The system of apartheid (or ‘separateness’ in Afrikaans) was formally established in South Africa under legislation passed by the party of the white minority, the National Party, in 1948. Building on the history of racial separation and discrimination already long established by the British under the system of Pass Laws established during the 19th and early 20th centuries that greatly curtailed the rights and mobility of black South Africans, apartheid effectively sought to extend an official policy of racial separation into every aspect of South African life. Under apartheid law, South African society was formally divided into four ‘racial’ identity groups – Black, White, ‘Colored,’ and Indian – and each adult South African was forced to carry an identity card at all times specifying his or her inclusion in one of these groups. Membership in these categories proscribed differential access to social, political, and economic rights, and was then used as the basis for limiting interracial contact and socialization under a segregationist agenda of ‘petty apartheid.’ In 1949 the Prohibition of Mixed Marriages Act effectively outlawed marriage between persons identified as belonging to different ‘races,’ while the Immorality Act of 1950 rendered interracial sexual relations a punishable criminal offence. In an effort to further curtail cross-racial socializing, The Reservation of Separate Amenities Act of
1953 used these classifications to prohibit members of different races from accessing the same public amenities, effectively segregating public restaurants, hospitals, beaches, pools, and restrooms with government signs being used to clearly demarcate which facilities were reserved for which race. Also introduced in 1953, the Bantu Education Act created a separate – and greatly inferior – system of education for Black South Africans, eventually leading to the development of separate universities for Indians, Coloreds, Blacks, and Whites. The 1950’s further saw the introduction of legislation designed to formalize a system of racial discrimination in the workplace, ensuring the placement of Whites (and to a lesser extent, Indians) in professional or management positions and the relegation of most menial and undesirable labour to Blacks. As Hanif Vally explains, under apartheid

society was defined by your racial identity. You had special laws that defined your racial identity and from that flowed all your rights in society. Which hospital you went to, which train you used, which station you used, which bus you used, which school you went to, where you were buried. Social engineering to its extreme – everything was defined by race. And of course there [were] gross inequalities in terms of facilities made available.¹

These racial categories were also used as the foundation for a broader structural policy of geographical and political separation in South Africa, often referred to as ‘grand apartheid.’ The cornerstone of this policy was The Group Areas Act of 1950 that effectively partitioned South Africa into a number of separate geographical zones allotted to different racial groups, while also making it compulsory for each race to live in these designated areas. Further, under the Bantu Authorities Act of 1951, Black ‘homelands’ or ‘Bantustans’ were created outside of the major urban centres, effectively setting aside less than one quarter of all South African land for the majority Black population while reserving the rest (including some of the most fertile and

desirable areas) – for the minority White and Indian populations. This policy, combined with additional legislation that removed Blacks and Coloreds from the voter’s rolls, both further entrenched racial segregation and ensured that whites would remain the demographic majority and would retain political and economic control of ‘White South Africa.’ Under the Homelands system, Blacks were legally stripped of their South African citizenship and were instead made nominal citizens of one of ten self-governing and nominally independent Bantustan ‘nations.’ The Bantustans were divided among South Africa’s eight major Black ethnic groups and had their own health, education, and public services. This system prevented Black South Africans from living in the ‘White’ cities in which they worked, instead granting them temporary work permits as ‘foreign’ laborers and subjecting them to arrest and detention if caught without a valid work pass. This meant that many Black families were themselves divided as the men had to live in cramped ‘hostel’ settlements set aside in the cities in which they worked while the rest of their families lived in informal settlements or ‘townships’ which were often many miles distant. Between the 1950’s and 1980’s, these policies also led to an aggressive program of ‘resettlement’ by the government in which Black, Indian, and Colored populations were forcibly removed from designated ‘White’ areas in Johannesburg, Cape Town, Pretoria, and Durban and transferred to planned communities away from South Africa’s urban centres. This physical resettlement, along with the social segregation enforced under ‘petty apartheid,’ meant that race divided South African society not only in a legal sense, but also in cultural, economic, geographical and political ways. As Dr. Alex Boraine, Former Deputy Chair of the South African Truth and Reconciliation Commission (TRC) and Co-Founder of the International
Center for Transitional Justice (ICTJ) has noted, “apartheid succeeded so well in separating people,” creating a “very real” racial schism across South African society.²

However, the discriminatory policies of apartheid also fostered a significant internal resistance movement within South Africa. This resistance was linked to the growing power of the predominantly black African National Congress (ANC) party, which, in the early 1950’s, began to lead acts of mass civil disobedience in a series of strikes, protests, and boycotts. To combat this perceived threat, in 1950 federal authorities adopted the Suppression of Communism Act, legislation which gave the government broad latitude to take action against any group aiming “at bringing about any political, industrial, social, or economic change within the Union by the promotion of disturbance or disorder.”³ The police and security forces of the apartheid state invoked this legislation in responding to internal resistance with increasing levels of violence and brutality. On March 21st, 1960, a peaceful protest against the Pass Law system led by the Pan Africanist Congress (PAC) ended in bloodshed when police in armored vehicles fired into the mass crowds, killing 69 people in what would later be known as the ‘Sharpeville Massacre.’ In the wake of widespread protests following Sharpeville, the government declared a state of emergency during which it detained over 18,000 people suspected of plotting against the state. Shortly thereafter, the ANC and PAC were banned as political organizations and forced into exile, with both organizations consequently adopting more militant stances. In response, under the leadership of individuals including Nelson Mandela, the ANC formed the Umkhonto we Sizwe (MK) as its military arm and began carrying out acts of sabotage against state structures.

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² Personal interview, Dr. Alex Boraine, 16 June 2008.
In June 1976, a peaceful uprising led by students in the Johannesburg suburb of Soweto against the Bantu education system again ended in violence when police and the military fired on the protestors, killing hundreds and wounding many more. In 1977 Steve Biko, leader of the emerging Black Consciousness Movement, was taken into custody by police and killed while held in detention. Security measures by the state only tightened further during the 1980’s. Under President PW Botha, numerous states of emergency were declared by the government between 1985 and 1989, giving the police and military unprecedented latitude in their actions against anti-apartheid organizations and leading to extensive state censorship of the media as well as an increase in the use of tactics such as abductions, torture, physical violence, and detention without trial. In response, the armed wings of the ANC and PAC liberation movements continued a campaign of violence against the state, bombing public areas and state institutions and killing both government officials and civilians. Outbreaks of intracommunity violence among black South Africans also became more common as those suspected of collaborating with the government were beaten and killed. Some of the most vicious outbreaks of violence occurred in the late 1980s and early 1990s between supporters of the ANC and those of their political rival, the Zulu-dominated Inkatha Freedom Party (IFP) led by Mangosuthu Buthelezi – a conflict widely believed to have been actively promoted by a ‘third force’ working on behalf of the apartheid security forces.4

However, with the apartheid system facing increasing pressure both internally and internationally, the position of its government became untenable. In 1990 the National Party, under the new leadership of FW de Klerk, began a series of reforms and negotiations to bring the apartheid system to an end. Many of the most discriminatory laws of the apartheid state were

repealed and the 30-year ban on the political parties of the liberation movement, including the ANC, the PAC, and the South African Communist Party (SACP), was finally lifted. In February 1990, Nelson Mandela was released from prison and negotiations began in earnest between the ANC and the NP to begin a transition to multi-racial democracy in South Africa. In spite of these gains, some of the most extensive violence of the apartheid era occurred during this period, with extensive bloodshed continuing between the ANC and the IFP. A number of acts of interracial violence also occurred during this time. Right wing Afrikanners assassinated the charismatic leader of the SACP, Chris Hani. The military wing of the PAC, the Azanian People’s Liberation Army (APLA), launched an attack on a white church in Cape Town in 1993, killing 11 and wounding nearly 60 more in what became known as the ‘St. James Massacre.’

However, despite the persistence of violence, negotiations continued and in 1993 a new Interim Constitution of ‘National Unity and Reconciliation’ was agreed upon between the NP and ANC in the hopes of creating “a historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans.” Democratic elections were subsequently held in April 1994, during which the votes of nearly 20,000,000 South Africans firmly established the ANC as the majority party in a new multi-racial government of National Unity under the leadership of President Mandela. As President from 1994 to 1999, Mandela effectively presided over the ‘transformative moment’ of South Africa’s relatively peaceful transition to democracy and

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played a crucial role in setting the magnanimous and reconciliatory tone that marked the post-apartheid period.\textsuperscript{6}

**THE SOUTH AFRICAN TRUTH AND RECONCILIATION COMMISSION**

The South African Truth and Reconciliation Commission was a direct product of the negotiated settlement that brought an end to apartheid-era violence in South Africa. As the transition to multi-racial democracy in South Africa followed neither an outright victory for the apartheid government nor for the ANC and the other liberation movements, it was instead the end result of a gradually – and quite tenuously – negotiated peace settlement. To help protect the stability of the nascent peace process and to prevent any party from being provoked into a return to violence, an amnesty clause was included in the ‘postamble’ of the new 1993 Interim Constitution. This provision mandated that an amnesty would be “granted in respect of acts, omissions and offenses associated with political objectives and committed in the course of the conflicts of the past” for all those who may have violated human rights during apartheid-era violence, including members of both the government security forces and liberation movements.\textsuperscript{7} As Howard Varney of the International Centre for Transitional Justice notes, this conditional amnesty provision was an essential means of protecting South Africa’s peaceful transition towards democracy:

> In the early 90’s when the negotiations were happening, there’s no doubt that the country was in a fragile place. The right wing’s elements in collusion with

\textsuperscript{6} Two notable incidents stand out in this regard. The first was a statement made by Mandela following the murder of Chris Hani in the period just before he assumed the presidency in which Mandela issued a call for nonviolence and peace. This statement was viewed as being critical to tamping down the potential for conflict arising from anger over this incident. The second was Mandela’s encouragements of black South Africans to support the ‘Springboks’ rugby team – long a symbol of white dominance – in the 1995 Rugby World Cup. Following the Springboks’ victory, Mandela appeared in a Springbok jersey to present the trophy to the white Afrikaner team captain, Francois Pienaar. This was widely viewed as a major symbolic step in the interracial reconciliation between white and black South Africans.

\textsuperscript{7} Government of South Africa, *Interim Constitution*. 
elements of the security forces had the real possibility of destabilizing the country. There was still a lot of conflict between Inkatha and the ANC, the unions, and so on...We were teetering on the brink. So the conditional amnesty was a tool by which those involved in activities that could scuttle the whole process could use it as an escape route, a safety valve...it helped to keep people engaged in the peace process, in the transition....to help us cross this historic bridge from the violent past to the peaceful democratic future.8

Taking this constitutionally protected amnesty provision as a starting point, considerable consultation then followed to determine the shape of South Africa’s transitional justice process, including a series of public hearings and discussions with local civil society leaders and international non-governmental organizations. In the end, due largely to sustained pressure from human rights organizations and the influence of the recently-concluded Chilean National Commission for Truth and Reconciliation, it was decided that the conditional amnesty provision would be incorporated into a centralized national ‘truth commission’ framework. As the government’s primary mechanism for dealing with the past, it was decided that the South African truth commission, by necessity, would deemphasize individual criminal prosecutions in favor of truth recovery, societal repair, and a broader moral condemnation of the apartheid system. As one observer argues, the creation of South African Truth and Reconciliation Commission (TRC) should be therefore be understood first and foremost as a transitional justice process born out of a creative political compromise, “an invention of necessity in response to the political constraints and opportunities of the time.”9 Notably, the controversial decision to adopt this amnesty provision was lent a great deal of moral legitimacy by the ardent support of

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8 Personal Interview, Howard Varney, Director of the Truth-Seeking Program, The International Centre for Transitional Justice, Cape Town, South Africa, 24 June 2008.

President Mandela, whose personal calls for forgiveness and reconciliation over revenge against the perpetrators of apartheid’s crimes were to set the tone for the TRC process that followed.\textsuperscript{10}

The structure and mandate of the South African TRC were outlined in the Promotion of National Unity and Reconciliation Act (Act or ‘the Act’), which was adopted with the full support of President Mandela on December 15\textsuperscript{th}, 1995. Under this Act, the TRC was tasked with the overall objective of establishing “as complete a picture as possible of the causes, nature and extent of the gross violations of human rights” committed between March 1960 and May 1994, “including the antecedents, circumstances, factors and context of such violations, as well as the perspectives of the victims and the motives and perspectives of the persons responsible for the commission of the violations, by conducting investigations and holding hearings” and “compiling a report providing as comprehensive an account as possible of the activities and findings of the Commission.”\textsuperscript{11} Further, in addition to these truth recovery functions, the TRC was also explicitly charged with contributing to societal repair, with a mandate to “promote national unity and reconciliation in a spirit of understanding which transcends the conflict and divisions of the past.”\textsuperscript{12} To assist with reaching these ambitious objectives, the empowering Act of the TRC endowed the Commission with unprecedented powers of search, seizure, and subpoena, as well as a comprehensive witness protection program. Given a delineated operational timeframe of roughly two and a half years between mid-1995 and 1998, the TRC was also provided with the largest professional staff and greatest financial resources of any truth commission undertaken to date, with a complement of nearly 400 staff members, several


\textsuperscript{12} Ibid.
dedicated offices throughout the country, and a total operating budget of over $50 million USD. To head the Commission, 17 commissioners were appointed by President Mandela following a public nomination and selection process, including the charismatic and influential Anglican Archbishop Desmond Tutu as Chair and Alex Boraine, himself a former President of the South African Methodist Church and respected South African Parliamentarian, as Deputy Chair.

Structurally, the TRC worked by way of three main interconnected committees, each responsible for the fulfillment of a different aspect of the Commission’s twin goals of truth seeking and reconciliation. The first of these, the Human Rights Violations Committee (HRVC), was charged with “establishing and making known the fate or whereabouts of victims” and “restoring the human and civil dignity of such victims by granting them an opportunity to relate their own accounts of the violations of which they are the victims.” This included the collection of nearly 22,000 statements from those who came forward to identify themselves as the victims of past human rights abuses, with slightly fewer than 2000 of these individuals being given the opportunity to provide their testimony publicly in a series of 80 community hearings held in townships, small towns, and urban centers throughout the country. These hearings each lasted between 1 and 3 days, and were designed to provide a public forum for the victims of apartheid violence to recount their stories of past abuse to a sympathetic and supportive panel of Commissioners. Unique to the South African TRC, these public hearing events drew large local audiences and intense media coverage in newspapers, radio, and on television both within South Africa and around the world. Between April 1996 and March 1998 the South Africa Broadcasting Corporation (SABC) aired a weekly *Truth Commission Special Report* television program which provided a summary of each week’s hearings. This quickly became the most-

13 Ibid.
watched news program in the country and one of the most successful non-entertainment programs ever aired on South African television.\textsuperscript{14}

Second, the TRC’s Amnesty Committee (AC) was assigned the task of processing and facilitating the granting of the conditional amnesties mandated under the constitution to those individual perpetrators of gross human rights violations who made “full disclosure of all the relevant facts relating to acts associated with a political objective” between 1960 and 1994.\textsuperscript{15} The incorporation of these individual amnesties in the truth-recovery process was another unique innovation of the TRC. As opposed to the ‘blanket amnesties’ associated with previous truth commission models employed in Latin America, amnesties under the TRC were conditional, and were granted only to those who fully disclosed their involvement in past crimes, were able to prove a political motivation for their actions, show ‘proportionality’ between the act and the political objective sought, and were willing to appear in quasi-judicial public hearings to answer questions from Committee members. The overall tone of the Amnesty Commission hearings was far more legalistic in comparison to the HRVC, with the majority of the Committee’s members being drawn from the legal community and the hearings themselves being heavily dominated by lawyers, legal arguments, the cross-examination of applicants, and a focus on determining individual responsibility for human rights violations. Of note, however, is the fact that a place for victims was also established in the Amnesty Committee’s public hearings, giving those wronged the opportunity to provide their accounts of past events and to directly challenge the veracity of the statements given by perpetrators in their testimony. Overall, over 7000


\textsuperscript{15} Government of South Africa, \textit{Promotion of National Unity and Reconciliation Act}. 
individuals applied for amnesty through the Amnesty Committee; 5,143 of these applicants were refused outright for not meeting the ‘conditional’ criteria of the amnesty provision, and 1973 of them were granted a public hearing process. Of those given a public hearing, 1167 of these were granted amnesty while 806 were eventually denied.\textsuperscript{16} Like the HRVC, the public AC hearings also drew heavy public interest and were subject to extensive coverage by national and international media. Notably, however, much of the work of the Amnesty Committee took place largely only after the rest of the Commission had concluded, only completing its work in 2001 and submitting its final report in 2003.

Third, the Reparations and Rehabilitation Committee (RRC) was tasked with designing and making recommendations to the President about the “measures that should be taken with regard to the granting of reparations to victims or the taking of other measures aimed and rehabilitating and restoring the human and civil dignity of victims.”\textsuperscript{17} Notably, the reparations and related measures envisioned under the TRC would only apply to a ‘closed list’ of those 22,000 ‘official’ victims who had both suffered an individual gross human rights abuse and filed a certified victim’s statement with the HRVC before December 1997. As one of the RRC Commissioners has noted, this relatively limited definition of victims eligible for reparations under the TRC effectively excluded “millions of South Africans who, while they may not have suffered a gross violation of human rights under apartheid, nevertheless suffered the daily violation of living under apartheid.”\textsuperscript{18} Further, the RRC itself possessed no authority or

\begin{itemize}
  \item \textsuperscript{16} Chapman and van der Merwe, "Introduction: Assessing the South African Transitional Justice Model."
  \item \textsuperscript{17} Ibid.
\end{itemize}
resources to implement a reparations program directly, but could only draft policy proposals to be considered by the President. After much deliberation, the RRC ultimately recommended a financial compensation package of approximately R120,000 for each of the registered victims to be paid out over a six-year period, in addition to a wide range of health, educational, housing, and other support services. However, after a series of delays, victims ultimately received only a small interim payment of R3000 and, over five years after the completion of the TRC’s work, a single one-time payment of R30,000 (equivalent to roughly $4000 USD at the time).19

These Committees were also supplemented by the work of a dedicated Investigations Unit and a Research Department. The Investigations Unit was charged with the substantial dual task of trying to corroborate the accuracy of victim statements made to the HRVC and of reviewing the veracity of claims made to the Amnesty Committee to ensure truthful and accurate ‘full disclosure’ in exchange for amnesty. The Research Department, on the other hand, sought to provide a broader historical background of the abuses committed under apartheid. In addition to these structures, the TRC also held a series of six public institutional hearings focused on key sectors of the previous regime – including the legal system, the health sector, business and labor, and the media – to examine their possible involvement in broader patterns of human rights violations under the apartheid system. These institutional hearings represented another key expansion of the TRC on past truth commission models, in that they tried to sketch a more systemic picture of apartheid’s structural abuses to complement the focus of the HRVC and AC on individual human rights violations. Each of these hearings was held over a brief 2-3 day period, during which key stakeholders in each sector were invited to provide written and oral

submissions and answer questions by TRC Commissioners. Additional ‘special hearings’ were also held on topics considered to be of particular importance to understanding key facets of apartheid-era violence, including the policies of political parties, the use of compulsory military service, the use of chemical and biological weapons against opponents of the government, and the impact of violence on women and youth. Finally, hearings were also held to address the involvement of specific individuals in past violence including, most notably, Winnie Madikizela-Mandela (former wife of Nelson Mandela). Much like the public AC and HRVC proceedings, the TRC’s institutional and special hearings also received significant coverage in the South African press.

The main work of the TRC concluded in October 1998, resulting in the publication of a 3,500 page five-volume *Final Report* of its key findings. Upon the completion of the Amnesty Commission’s work in 2001, a sixth volume was added to the report in 2003. Initial reactions to the TRC and its Final Report among South Africa’s primary political parties were mixed. While praised by President Mandela as having “contributed to the work in progress of laying the foundation of the edifice of reconciliation,” the ANC party itself nonetheless sought a court injunction to block the release of the Final Report, citing numerous inaccuracies in its portrayal of the ANC’s complicity in human rights violations during its liberation struggle. During the life of the Commission, the NP made numerous assertions of unfair bias by the TRC in favour of the ANC, and many of its senior figures – including former President P.W. Botha, one of the principal architects of the apartheid system – refused to engage with the process entirely. While the NP didn’t take legal action against the Commission’s Final Report, its former leader F.W. de Klerk was able to secure an out-of-court settlement that forced the TRC to effectively ‘black out’

sections of its final report detailing adverse findings against him. For their part, Buthelezi and the IFP remained consistently opposed to the TRC from its inception, discouraging its supporters from participating and attacking the Commission as being deeply biased against their organization. Upon the release of the report, these assertions intensified, and a series of court challenges eventually led to an out-of-court settlement. This resulted in changes to the wording of the Report’s dealings with the IFP and the inclusion of an additional supplement in which the IFP laid out its position on the process and its findings.\(^2^1\)

**OVERCOMING INTRACTABILITY IN SOUTH AFRICA**

Despite its remarkably peaceful transition to democracy, the legacy of racial divisions entrenched for nearly six decades under the apartheid system in South Africa meant that the TRC confronted a society riven by deep societal cleavages. As Audrey Chapman and Hugo van der Merwe note, the effects of nearly fifty years of institutionalized racism under the apartheid system proved devastating for social cohesion in South Africa, as “in an effort to divide and conquer, apartheid political policies manipulated and reinforced divisions among and within various South African racial and political groups…[leaving] a legacy of deep social divisions, psychological scars, and distrust between groups.”\(^2^2\) These divides were further compounded by the presence of deep structural and distributive imbalances between racial groups in areas such as income, housing, employment, and education – all the result of decades of discrimination under apartheid legislation. This meant that despite the transition to a multi-racial democracy, the majority of black South Africans still continued to live in the same impoverished conditions and


geographically distant ‘township’ settlements that they had under apartheid. Further, much
disagreement still remained between white and black South Africans concerning the ‘justness’ of
the political violence that had brought an end to apartheid. A number of whites still carried the
view that the state had been defending them from the terrorist tactics of the insurgent Communist
threat represented by the ANC, while for most blacks the liberation struggle was a ‘just war’
fought against the morally corrupt, and inherently racist, system of apartheid. Nevertheless,
nearly fifteen years after South Africa’s initial transition to democracy, evidence suggests that
progress has been made in transforming the antagonistic interracial relations that characterized
apartheid. While certainly not without its critics, many of these reconciliatory gains have been
attributed by both national and international observers to the work of the TRC, an institution that
has become virtually synonymous with interracial reconciliation and the peaceful transition to
multi-racial democracy in South Africa.

To be sure, from its inception, the TRC was widely portrayed by influential figures such
as President Mandela and Chairman Tutu to be one of the primary venues through which
reconciliation would be promoted in the ‘transformative moment’ surrounding South Africa’s
historic transition from apartheid rule. Accordingly, not only was the TRC the government’s
main avenue for addressing the gross human rights violations which had occurred under
apartheid, it was also (as the title of the legislative Act which enacted the Commission indicates)
expected to contribute to the process of building ‘national unity and reconciliation’ among the
broader South African public. Accordingly, while the TRC was mandated to carry out the
conditional amnesty provision, provide acknowledgement for victims, and construct an official
account of the past, its overarching goal nonetheless remained to use its findings and the

23 Gibson, Overcoming Apartheid, 157-58.
processes of its various Committees to help “transcend the divisions and strife of the past, which generated gross human rights violations…and [their] legacy of hated, fear, guilt, and revenge.”24 Indeed, the highly public nature of the TRC’s proceedings is evidence of its broader ‘social engineering’ or ‘public education’ function – its concerted effort to aid processes of reconciliatory social learning among ordinary South Africans. As one observer explains,

the work of the TRC was to a large degree aimed at the general public: to teach South Africans from different backgrounds about past injustices committed during the apartheid past, to raise awareness about human rights, and to foster social solidarity.25

By means of this ‘public education,’ the TRC aimed to promote social learning among South Africans in the pursuit of national unity and reconciliation in several distinct ways. First, by officially establishing apartheid as a crime against humanity, publicly acknowledging the moral worth of victims, and recognizing the injustice of the harms caused by perpetrators, the TRC tried to establish a clear normative break from South Africa’s apartheid past. In this way, the Commission sought to act as a ‘historic bridge’ to a new society based on peaceful co-existence and the rule of law, and to undermine the use of violence – political or otherwise – as a legitimate means to settle future conflicts. Second, and in direct relation, the TRC aimed to use its proceedings to help instantiate a new “culture of human rights” based on a common respect for the humanity and moral worth of all South Africans “irrespective of colour, race, class, belief, or sex,” and to counter the “dehumanizing past” of the institutionalized racism that characterized apartheid.26 Third, by creating an official account of past events that incorporated


diverse perspectives in its truth-recovery processes, the Commission aimed to reduce the potentially dangerous impact of “the narrow memories of past conflicts [that] can too easily provide the basis for mobilization towards further conflicts.”27 As noted in the Commission’s Final Report, establishing and disseminating the ‘truth’ about past abuses was considered to be central to achieving the TRC’s goals of social learning and reconciliation, under the presumption that building “an inclusive remembering of painful truths about the past is crucial to the creation of national unity and transcending the divisions of the past.”28 Fourth, through its work, the TRC attempted to contribute to reconciliation by helping to replace the racial and political divisions of the past with trust, understanding, and a common national identity for citizens of the new multi-racial democracy of South Africa. This overarching goal was most visibly championed by the Commission’s Chairman, Desmond Tutu, who envisioned the creation of a ‘rainbow nation’ in which citizens of all colors would be reconciled within the single ‘rainbow’ of South Africa.29

This emphasis on social learning and reconciliation was also evident in the approach taken by the TRC in regards to providing justice and accountability for past rights abuses. While most truth commissions tend to deemphasize criminal prosecutions to some degree, a defining characteristic of the TRC was the extent to which it associated itself with principles of ‘restorative justice,’ an alternative philosophy of justice that is “concerned not so much with punishment as with correcting imbalances, restoring broken relationships – with healing, harmony, and reconciliation.”30 As opposed to the ‘retributive justice’ traditionally employed in

27 TRC Report, Vol. 1, Ch. 5, Para. 51.
28 Ibid.
30 TRC Report, Vol. 1, Ch. 1, Para. 36.
national trials or international tribunals, in which the primary aim is to secure prosecution and punishment for perpetrators of past human rights abuses, restorative justice remains more concerned with repairing the damage caused to societal relationships caused by past criminal acts.\textsuperscript{31} This means that all those affected by past crime – including victims and perpetrators as well as the broader community – are involved as active participants in the justice process. For victims, a restorative justice approach involves efforts to restore their dignity and moral worth within society both by publicly acknowledging the injustice of the crimes committed against them and by providing them with “opportunities and arenas to express their feelings and their suffering, but also to tell their stories…[and] have their ‘truth’ heard and validated by others.”\textsuperscript{32} Similarly, while recognizing the importance of holding perpetrators responsible for their actions, instead of isolating them through punishment or incarceration, restorative justice tries to find ways to reintegrate them successfully back into society and to involve them directly in helping to repair the harms they caused. Indeed, restorative justice centrally involves providing opportunities for victims and perpetrators to come together in carefully mediated ‘encounters’ to build understanding and to discuss the impact that crime has had on their lives. These encounters are considered key for rebuilding relations through restorative justice, as they offer the chance for victims and perpetrators to begin rebuilding their relationships by challenging the existing stereotypes, misperceptions, and prejudices they might hold about one another. Often these encounters include an apology or some form of compensation, but they can also involve perpetrators simply providing information about their crimes to aid the healing processes of


\textsuperscript{32} Kiss, ”Moral Ambition,” 69.
victims who are often left “want[ing] answers to their questions about what happened, why it happened, and who did this thing to them.” Ultimately, a restorative justice approach centers on attempts to ‘make wrongs right’ and rebalance the suffering caused to victims. While such efforts can be purely symbolic in nature, most often they involve at least some program of tangible restitution or reparation made to the victim directly by the perpetrator.

The TRC’s adoption of a restorative justice approach can be understood, at least in part, as a pragmatic decision: the TRC remained bound by the interim constitution to grant amnesty to perpetrators, so it could never have pursued a program of unrestricted prosecutions. However, the Commission’s restorative mandate was also heavily influenced by Mandela’s calls for interracial harmony and the Judaeo-Christian theology of its Chair, Desmond Tutu, who consistently highlighted the importance of interpersonal reconciliation, confession, and forgiveness in his vision for the TRC. It was also strongly reflective of traditional African values of ubuntu or ‘humaneness,’ a philosophy that envisions crime as a threat primarily to the interconnected web of relationships that bind all individuals together in a harmonious society. In lieu of punishment, ubuntu emphasizes the need to shift from confrontation to conciliation and to seek ways in which to rebuild damaged relationships and restore a common respect for human life by bringing together all members of the community affected by the crimes of the past in the justice process. The restorative principles adopted by the TRC therefore echoed the broader commitment by Mandela’s new South African government to addressing the past in a way that sought to rebuild interracial relationships by promoting social learning, national unity, and reconciliation rather than reinforcing old divisions, and by emphasizing “a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for

33 Ibid.
ubuntu but not for victimization.” The remainder of this chapter considers the contributions that the Commission made to interracial reconciliation in post-apartheid South Africa, with a particular focus on the role it played in promoting crucial forms of instrumental, distributional, and socioemotional forms of social learning.

**INSTRUMENTAL LEARNING AND THE SOUTH AFRICAN TRC**

From its inception, one of the principal aims of both ‘grand’ and ‘petty’ apartheid legislation was to limit opportunities for meaningful interracial interaction by using state apparatuses to force members of different races to live, work, and socialize apart. As a result, while extensive daily contact did still occur between racial groups during the apartheid era, for the most part such interactions were limited to the hierarchical relationships that developed in the workplace between black South African laborers, domestic workers, and servants and their more affluent white employers. Such encounters remained heavily mediated by the great imbalances in socioeconomic and political power between white and black South Africans, and allowed only for largely superficial relationships that were “contiguous, yet utterly remote.” Furthermore, while the workplace may have provided some opportunity for interaction during the day, aside from female ‘live-in’ domestic workers who were assigned a small room or cabin at their employers’ homes at night, most male black South African workers were forced by the pass laws to return either to segregated townships outside the city or to squalid and overpopulated urban ‘migrant worker hostels’ kept separate from the white population. As Professor Deborah Posel, Director of the WISER Institute at the University of the Witswatersrand describes, under apartheid South Africa existed in an all-encompassing system of “interlocking segregation and

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35 Foster and Finchilescu, "Contact in a 'Non-Contact' Society: The Case of South Africa," 125.
interlocking racism” that worked to prevent opportunities for positive forms of interracial contact and communication. As she notes, “not only did white and black South Africans live apart, they traveled on separate trains and buses, they went to separate cinemas, they shopped in separate shopping centers, and in the workplace there were hierarchies of authority that put white people on top and black people on the bottom.”

While little reliable empirical survey data of apartheid-era attitudes exists, it is widely recognized that not only did the apartheid system serve to entrench highly antagonistic perceptions of racial identity, it also prevented meaningful interracial interaction and precluded the possibility of developing crucial bonds of mutual trust, respect, understanding, and empathy between racial communities. Instead, interracial relationships and attitudes remained highly polarized, often being characterized at best by misunderstanding and at worst by negative racial stereotypes, prejudices, and pervasive feelings of fear and threat. Perhaps most tellingly, several expert interviewees also indicated the powerful ‘dehumanizing’ effect that the physical, social, and psychological separation under apartheid had on the way in which many South Africans came to perceive members of other races. For instance, interviewees note that for many whites, black South Africans were considered to be ‘less human’ or ‘less civilized’ than their white counterparts and were therefore correspondingly seen as less deserving of empathy or equality of treatment. Sarah Crawford-Brown of the Trauma Centre for Survivors of Violence

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36 Personal interview, Dr. Deborah Posel, Director of the Wits Institute for Social and Economic Research (WISER) of the University of the Witwatersrand, 3 July 2008, Johannesburg, South Africa.

37 Gibson, Overcoming Apartheid, 158.

38 As Deon Snyman, a Reverend in the Dutch Reformed Church notes, “One of the big problems within the apartheid system was that people did not really get the opportunity to know each other as human beings, and as equals….in a certain sense, we were very close but very far from each other.” Personal interview, Deon Snyman, Cape Town, South Africa, 26 June 2008.
and Torture describes how under apartheid the common tendency for whites to ‘see in racial stereotypes’ meant that many often “didn’t see [blacks] as real people.” Using the relationship between a live-in black domestic worker and her white employers as one example of the pervasiveness of this kind of psychological dislocation under apartheid, Crawford-Brown notes that many whites “didn’t engage with the fact that this was a mother who had three children, was staying in the family house seven days a week with one afternoon off…They didn’t engage with the idea that this woman is only with her children one afternoon a week and she’s going to have to travel one or two hours to get back. And yet this was quite normal.”

Such divides were only further exacerbated by the growing levels of violence and repression that accompanied the latter years of apartheid, as the predominantly black liberation movements began to intensify their armed struggle against the predominantly white security forces of the government. For many black South Africans, the resulting escalation in both the scale and scope of violence employed by the state further cast members of the white community as unjust oppressors who were not to be trusted. Conversely, for many in the minority white population, the rise of civil unrest played into apartheid stereotypes of ‘black barbarism’ and fears that ‘civilized’ South Africa was under attack and in imminent danger of being overrun by a violent and vengeful black majority. The exponential increase in violent crime that began in South Africa during the 1980’s and 1990’s was also widely credited with aggravating interracial division and mistrust. While crime statistics show that the vast majority of violent criminal activity was centralized within predominantly homogenous ‘black’ areas of South Africa, many

39 Personal interview, Sarah Crawford-Brown, Cape Town, South Africa, 26 June 2008.
40 Ibid.
41 Personal interview, Dr. Deborah Posel, Johannesburg, South Africa, 3 July 2008.
whites nonetheless perceived themselves as the primary targets of black criminal violence. As Dr. Garth Stevens, a psychologist with the University of the Witswatersrand illustrates, this has created a highly racialized perception of crime. He notes that a belief developed among whites “that it is, of course, always the black man that is the perpetrator. You don’t need to be careful of other whites, but you need to be careful of those others, the blacks – these are the people you really need to be concerned about.”

Driven both by fear and the reality of increasing levels of violent crime, the predominantly white middle class suburbs of South Africa’s cities quickly turned into virtual walled fortresses, with their residents living in gated communities or private homes fortified by high walls, razor wire, high-tech alarm systems, and private security guards.

The Importance of Instrumental Learning in Post-Apartheid South Africa

In light of the legacy of racial division and segregation under apartheid, finding innovative ways to increase both the quantity and quality of interracial interaction has consistently been identified as a necessary, if not sufficient, condition for the promotion of interracial reconciliation in post-apartheid South Africa. Indeed, as Professor James Gibson has asserted, given the highly divided nature of apartheid South Africa, “[r]acial reconciliation is difficult to achieve without interracial interaction. Such interactions do not necessarily produce more reconciled attitudes,


\[\text{43 Personal interview, Dr. Garth Stevens, Psychology Department of the University of the Witswatersrand, Johannesburg, South Africa, 2 July 2008. This sentiment is echoed by Deon Snyman who underscores the negative impact that the rise of violent crime had for racial relations in South Africa. As he illustrates, "[w]hen people are survivors of crime, very quickly it moves them into stereotyping, its part of the psychological process. So if I was victimized by a black man, quite quickly I will think that all black men are people I can’t trust….that leads to stereotyping and not wanting to engage with people who are the ‘Other.’" Personal interview, Deon Snyman, Cape Town, South Africa, 26 June 2008.}\]
but they certainly make them possible.” Accordingly, Gibson argues that the development of social learning and interracial reconciliation in South Africa will by necessity require that “people come to interact with each other more (the breakdown of barriers across races) and communicate more, acts that in turn lead to greater understanding and perhaps acceptance and result in the appreciation and exaltation of the value of racial diversity.” The crucial role of instrumental forms of social learning has to play in post-apartheid reconciliation has also been echoed by Hugo van der Merwe of the South African Center for the Study of Violence and Reconciliation (CSVR), who notes the importance of increased interracial interaction as a means of ‘rehumanizing’ members of other racial groups. As he contends. “there’s a lot of value in an environment where there’s been such artificial separation in the past that just the fact of contact allows [one] to see some commonalities, to recognize a basic humanity – it counts for a lot.” In a similar vein, Dr. Garth Stevens of the University of Witswatersrand argues that, while certainly not a panacea that is in and of itself capable of reversing the damage of apartheid’s racial segregation, a renewal of positive contact across racial lines is nonetheless “itself going to be critical” to the transformation of antagonistic mindsets and the reparation of interracial relationships. Accordingly, he asserts that in order to provide opportunities for the kind of social learning between racial groups required for eventual reconciliation, “one should create spaces for increased integration, for increased contact, so people can start engaging in ways that

44 Gibson, *Overcoming Apartheid*, 118.

45 Ibid.

46 Personal interview, Hugo van der Merwe, Transitional Justice Program Manager at CSVR, Cape Town, South Africa, 16 June 2008.

47 Personal interview, Dr. Garth Stevens, Johannesburg, South Africa, 2 July 2008.
allow people to start understanding other people’s perspectives, their different worldviews, [and their] different histories.”

However, it is also clear that interracial contact itself is not always enough to overcome prejudice, and that the two may coexist – or even reinforce each other – as they often did under apartheid. Indeed, what is widely considered to matter most for fostering reconciliatory social learning in post-apartheid South Africa is the quality of the contact that occurs, along with its relative ability to establish a sound basis for greater understanding and improved relationships. Additionally, it is also widely asserted that social learning in post-apartheid South Africa ultimately requires not only greater levels of simple interracial exposure, but also opportunities for members of different racial groups to engage in open and meaningful dialogue with one another about the impact of apartheid-era violence in their lives and the divisive influence that apartheid’s policies have had on interracial relations. Indeed, in the IJR’s yearly South African Reconciliation Barometer Survey Report (SARB), it is recognized that “frank and open dialogue about [South Africa’s] racial legacy is an irreplaceable determinant of, but also an important indicator for, national reconciliation.” This entails going beyond superficial and ‘polite’ exchanges to allow space for deeper, and more difficult, discussions about racial identity and race relations. In particular, a number of interviewees cited the importance post-apartheid of creating new arenas for dialogue in which members of different racial groups can be brought together to listen to former antagonists’ experiences and be exposed to different perspectives as a way to better understand and humanize the Other. For instance, as Vincent Williams, Director of

48 Ibid.
49 Ibid.
the Cape Town Democracy Centre of the Institute for Democracy in South Africa (IDASA) argues, aside from basic contact, the movement towards interracial reconciliation in post-apartheid South Africa has to find expression in the way people think about each other and the way in which they relate to each other. And in order to do that, you have to create opportunities for dialogue, you have to put the tough issues on the table…[and] talk about issues of difference. Because unless we do that we’re going to push things under the carpet and not deal with them and it’s going to come back and bite us.51

Similarly, Glenda Wildschut, a former Commissioner on the TRC’s HRVC, contends that the experience of positive encounter, coupled with opportunities for meaningful dialogue with those on the other side of racial divides, has remained a primary requirement for building a new sense of interracial understanding and reconciliation in South Africa. Accordingly, she argues that even following South Africa’s transition to democracy, there exists a very real need to bring people from diverse communities together, so they are able – in a very safe space – to hear each other’s stories…to be able to see the story of the Other through a personal account, not through hearsay or a story that is read somewhere but personal contact…Encounter with a real person and hearing the person’s story, whatever that may be. Somebody who is white but has never been exposed to the horrors of apartheid but had never been a beneficiary of it. To be able to hear someone who has been impoverished, who has been denied schooling, or been imprisoned because of apartheid. To be able to hear their story, or vice versa – I think that’s the power of [dialogue].52

As the primary institution tasked with promoting reconciliation during the transition to a post-apartheid South Africa, it remains important to assess the ways in which the TRC itself may have been able to contribute to the promotion of instrumental social learning between black and white South Africans. Accordingly, the ability of the TRC to facilitate instrumental social

51 Personal interview, Vincent Williams, Director of the Cape Town Democracy Centre of IDASA, Cape Town, South Africa, June 22 2008.

52 Personal interview, Glenda Wildschut, Former TRC Commissioner on the HRVC and Board Member of the South African Institute for Healing of Memories, Cape Town, 25 June 2008.
learning through the promotion of positive contact and dialogue will now be considered in turn, with particular attention being paid to the role each may have played in encouraging interracial reconciliation.

**Encounter and Interracial Contact in the South African TRC**

The early emphasis placed by the Commission on limiting retribution through its conditional amnesty processes in favour of providing a place for both victims and perpetrators to participate in its truth and reconciliation processes has led many observers in the field of transitional justice to label it the “most developed model of a restorative justice truth-telling mechanism to date.”

Nonetheless, despite the Commission’s avowedly restorative mandate, in actual fact it appears to have provided very few opportunities for victims and perpetrators to come together directly in positive encounter with one another. At the most basic level, this may be attributable to the structural design of the TRC itself, one that largely kept separate the processes through which victims and perpetrators engaged with the Commission. For the majority of victims, their interactions with the TRC were limited to the statements and testimonies they made under the auspices of the HRVC. Similarly, all matters related to perpetrators were dealt with through the work of the Amnesty Committee. This meant that while both victims and perpetrators could come forward to relate accounts of their involvement in apartheid-era violence, for the most part they did so in discrete and separated environments. This distance was only further compounded by the fact that the hearings for the HRVC and AC were held not only in separate geographic locations, but also at different times; the AC hearings only began after the work of the HRVC had already been completed. Ultimately, as Jennifer Llwellyn notes, the “separation of

processes” under the TRC greatly “reduced opportunities for face-to-face encounters between the parties involved” and therefore limited the social learning that could result from such exchanges.54

However, one opportunity for meaningful encounter was provided through the AC hearings. While the primary aim of the AC was to hear perpetrators’ accounts of their past transgressions and decide upon their eligibility for amnesty, it was also mandated to notify any victims who were identified in these accounts and to provide them with the opportunity to be present at the hearings and to provide their own accounts of past events. This gave victims a formal space in the hearings process, allowing them to submit evidence, provide statements to the Committee detailing the human rights violations that occurred, and even to directly challenge the versions of events put forward by perpetrators. By including both victims and perpetrators in the amnesty process, the AC hearings therefore helped to create at least a minimal opportunity for mediated interaction and dialogue about the past – elements considered critical to instrumental social learning. Indeed, in a study conducted by the CSVR of perpetrators who came forward to participate in the hearings, the vast majority indicated that they wanted to meet with those victimized by their crimes, and that the possibility of speaking with victims directly and securing their understanding represented a vital aspect of their own reconciliation process.55

Similarly, a study of victims involved in the amnesty process showed that a majority also

54 Ibid.
expressed a desire for interaction with their perpetrator and a belief that such dialogue was necessary for their own personal healing and reconciliation.56

Unfortunately, in practice a number of factors appear to have largely prevented the potential for positive encounter and social learning offered by the amnesty hearings. First, as in the HRVC proceedings, less than 2000 of the more than 7000 perpetrators who applied for amnesty were actually given the opportunity to have their cases heard publicly and to have any kind of interaction with victims. Second, even in those public hearings that did occur, a lack of adequate resources often prevented the AC from being able to locate victims in time to inform them of the pending case. This meant that victims simply were not present in a large number of the cases considered by the AC. Third, it should be noted that statistically the opportunity for meaningful encounter across racial lines remained somewhat limited in these processes, as a majority of both victims (73 percent) and perpetrators (58 percent) who took part in the AC proceedings were black, with most public hearings (60.5 percent) involving both black applicants and victims.57

In addition, even when victims were able to attend the AC hearings they often did not find an environment that was conducive to positive encounter. As the quasi-legal structures of the AC hearings tended to take the form of courtroom proceedings, victims and perpetrators were often not allowed the opportunity to speak with one another directly and instead had their interactions mediated by lawyers acting as their representatives. Accordingly, rather than engaging in a process of interpersonal dialogue, victims and perpetrators were instead instructed


to direct their testimony either to the lawyers hearing the case or to the Commissioners themselves. As Shirley Gunn, Director of the Human Rights Media Centre in Cape Town notes, while the AC hearings could have represented a real opportunity to “get people, to get parties together” to engage in reconciliatory dialogue, her own experience of coming forward to testify as a victim at the AC reveals that this was not the case. As she illustrates:

I sat in a hall, not facing those men who violated my rights. They were facing the Commissioners on the opposite end. There was no eye contact, there was nothing else…the cops came through one door, the families [of the victims] came through another. There was complete separation, there was not an opportunity from them to sit down and talk to each other as human beings…So it was a missed opportunity quite frankly in terms of reconciliation.  

Vincent Williams of the IDASA makes a similar assessment, noting that as a result of the legal restrictions placed on the AC proceedings “you had talking, and you had listening, but you didn’t have talking together, you didn’t have the dialogue…because that was absent, that’s why the reconciliation didn’t happen.” The legalistic nature of the amnesty hearings also meant that the interactions that did take place often had a competitive, rather than conciliatory, tone with both victims and perpetrators being faced with antagonistic cross-examination by legal counsel. Aside from creating an environment that was little conducive to meaningful reconciliation, this also severely limited the ability for victims or perpetrators to give a full and open detailing of their experiences of past violence. As Timothy Sizwe Phakathi and Hugo van der Merwe contend, the legal nature of the AC proceedings therefore further helped to limit opportunities for positive social learning as “[g]enerally the amnesty process was not one suitable for personal engagement and open dialogue.”

58 Personal interview, Shirley Gunn, Director of the HRMC, Cape Town, South Africa, 22 June 2008.
59 Personal interview, Vincent Williams, IDASA, Cape Town, South Africa, 22 June 2008.
60 Phakathi and Merwe, "The Impact of the TRC’s Amnesty Process," 271.
While some notable instances of positive interracial interaction did nonetheless still manage to occur between perpetrators and victims during the AC hearings process, the numerous barriers to dialogue and positive encounter helped to ensure that these moments remained the exception rather than the rule. This appears to have been a source of frustration for victims and perpetrators alike, many of whom had indicated a strong desire to meet directly with the other party and had expected the amnesty process to provide a space conducive to more ‘restorative’ encounters. The lack of opportunity for meaningful encounters between victims and perpetrators in the AC hearings therefore represented a substantial missed opportunity for instrumental social learning within the structures of the Commission. Indeed, as Phakathi and van der Merwe detail,

the amnesty processes, the one place where the TRC managed to get both sides to the same venue, did not create an environment where survivors and perpetrators could engage in a restorative justice process as they understood it… [thus] the amnesty process – where probably the most space existed for dialogue – was not seen as contributing to reconciliation among survivors [and] research shows that even amnesty applicants were disappointed that the TRC did not manage to create a more effective space for dialogue between applicants, their victims, and their communities.

Nonetheless, while the formal structures of the Commission may not have provided many opportunities for positive encounter, many victims nonetheless still voiced a strong desire to meet directly with perpetrators outside of the formal structures of the TRC. Indeed, on a number of occasions following a victim’s testimony in the HRVC, when asked by


63 Kiss, "Moral Ambition," 72.
Commissioners whether or not they would be interested in meeting with those who perpetrated crimes against them, a substantial number indicated their willingness to do so. Similarly, many victims who participated in the amnesty hearings also expressed a desire to meet and talk with perpetrators outside of the legal auspices of the AC. In particular, victims highlighted the need for further dialogue to help them gain a greater understanding of perpetrators’ motivations – an important step towards initiating a process of reconciliation. Interestingly, this appears to have been met by a similar desire among some – though certainly not all – of those perpetrators who applied for amnesty for further interaction and dialogue with their victims. These individuals often expressed the belief that “the amnesty process did not provide adequate space for this [dialogue].”

As one such perpetrator from the Western Cape explained,

I want so desperately to sit down and talk to my victim’s families about the whole situation because I was desperate to rebuild that unity and wanted it to be stronger than the initial one because I want it based in Christianity and genuine and loyal reconciliation but unfortunately I don’t know where they live now. I would love to meet them again.

And indeed, in a very small number of cases in which the identities of both victims and perpetrators were known and both parties indicated a desire to meet, encounters were sometimes facilitated by Commission members working outside of the formal TRC process. When these informal encounters between victim and perpetrators did occur, there is substantial anecdotal evidence showing that they often led to remarkable displays of generosity and understanding

64 Phakathi and Merwe, "The Impact of the TRC’s Amnesty Process," 131.
65 Ibid., 131-132.
66 Ibid., 317.
67 As quoted in Therese Abrahamsen and Hugo van der Merwe, “Reconciliation through Amnesty?” 10.
amongst those who took part.\textsuperscript{69} One such example recorded in the TRC’s Final Report is that surrounding the ‘Trust Feed Massacre’ of 1998, an incident in which Captain Brian Mitchell, a white Station Commander at the local police station, collaborated with members of the IFP in an attack on a rival political organization that resulted in the deaths of 11 black civilians, 6 of whom were women and children. After being sentenced to life imprisonment, Captain Mitchell applied for and was granted amnesty through the AC in 1997, during which he expressed remorse, asked for forgiveness, and pledged to help rebuild the Trust Feed community he had damaged. Through the facilitation of the TRC, a meeting was arranged between Captain Mitchell and the Trust Feed community in which “the community was given enough time to express its feelings and ask direct, clarifying questions of Captain Mitchell who was also given an opportunity to express his feelings and ask for forgiveness.”\textsuperscript{70} This was followed by a process of mediation in which it was discussed how Captain Mitchell might best help to repair the harm he had done to the Trust Feed community. While the meeting was very emotional, it was nonetheless by all accounts predominantly characterized by goodwill and a willingness to work towards rebuilding relationships on all sides, with plans for future meetings made between parties to continue the “long process of reconciliation.”\textsuperscript{71} Unfortunately, however, while several interviewees cited examples of informal meetings such as those at Trust Feed as having led to “genuine reconciliation” between victims and perpetrators, due to their ad hoc nature these opportunities


\textsuperscript{70} \textit{TRC Report}, Vol. 5, Ch. 9, Para. 78.

\textsuperscript{71} \textit{TRC Report}, Vol. 5, Ch. 9, Para. 80.
ultimately remained “very, very few and far between” with their impact limited to only a handful of extraordinary cases.\textsuperscript{72}

However, based on the success of these informal initiatives, a number of reconciliation-oriented civil society organizations in South Africa attempted to create a more structured framework to expand the process of mediated victim-perpetrator encounters. The idea was that these organizations would seek to build on the small number of existing ad hoc encounters facilitated alongside the TRC and would help to develop them into a more sustainable mediation program that could extend beyond the limited timeframe of the Commission. Unfortunately, as Phakathi and van der Merwe note, this initiative largely failed “to get off the ground” due to a lack of interest by the TRC itself, as well as a widespread reluctance among amnesty applicants’ lawyers to allow their clients’ participation for fear it might unfairly prejudice their ongoing cases in the Commission’s AC hearings.\textsuperscript{73}

\textbf{Societal Dialogue and Social Learning in the South African TRC}

While opportunities for direct interracial encounter remained relatively minimal throughout the TRC process, there is evidence to suggest that the Commission may nonetheless have been able to contribute to instrumental social learning among South Africans in a more indirect way. Indeed, it has been widely recognized that one of the most important innovations of the TRC in relation to previous truth commissions was the degree to which its hearings were made open, transparent, and accessible to the public.\textsuperscript{74} This related to one of the central aims of the

\textsuperscript{72} Personal interview, Dr. Tshepo Madlignza, Professor of Psychology at the University of Pretoria, Pretoria, South Africa, 7 July 2008. See also Llewellyn, “Restorative Justice in Transitions and Beyond.”

\textsuperscript{73} Phakathi and Merwe, "The Impact of the TRC's Amnesty Process," 139.

\textsuperscript{74} \textit{TRC Report}, Vol. 1., Ch. 1, Para. 3.
Commission, which was to use the public hearings to help promote national unity and reconciliation by engaging the broader South African public through “interaction, discussion, and debate” in the process of truth recovery.\textsuperscript{75} As the TRC has noted in its Final Report, by making the hearings process open to the public, its goal was

\begin{quote}
to try to transcend the divisions of the past by listening carefully to the complex motives and perspectives of all those involved. It made a conscious effort to provide an environment in which all possible views could be considered and weighted, one against the other. People from all walks of life were invited to participate in the process…[and] the public was engaged through open hearings and the media.\textsuperscript{76}
\end{quote}

As has been discussed, throughout the duration of the TRC’s mandate the personal accounts and findings provided in its public hearing processes all received extensive attention in South Africa’s print, radio, and television media and were widely followed by South Africans of all races (in addition to a great many international observers).\textsuperscript{77} In this way the public hearings afforded millions of ‘ordinary’ South Africans – black, white, and otherwise – who could not participate directly in the Commission’s proceedings a chance to nonetheless engage with its work. As Audrey Chapman and Hugo van der Merwe recount, “the individual stories and media images arising from the TRC hearings turned the process of dealing with the past into a visceral

\begin{footnotes}
\textsuperscript{75} This refers to the TRC Report’s own stress placed on the need to establish a ‘social’ or ‘dialogue’ truth to contribute to national unity and reconciliation by involving the public as participants in the TRC process through interaction, discussion, and debate. See TRC Report Vol. 1, Ch. 5, Para. 40.

\textsuperscript{76} Ibid.

\textsuperscript{77} Indeed, survey evidence from 2000 reveals that public interest and awareness of the TRC’s activities remained relatively high throughout its mandate, with only 11 percent of blacks and 12 percent of white respondents claiming to know ‘little’ or ‘nothing’ about the work of the TRC. Thiessen, “Object of Trust and Hatred,” 201.
\end{footnotes}
experience which all South Africans across the board could (or had to) engage."\textsuperscript{78} Accordingly, the highly public nature of the TRC hearings effectively enabled the Commission to reach out on a daily basis to large numbers of people inside and outside South Africa, and to confront them with vivid images on their television screens or on the front pages of their newspapers. People saw, for example, a former security police officer demonstrating his torture techniques. They saw weeping men and women asking for the truth about their loved ones…[and this] helped generate public debate on central aspects of South Africa’s past and to raise the level of historical awareness.\textsuperscript{79}

Therefore, while opportunities for direct interracial encounter remained limited through the TRC, coverage of its proceedings nevertheless provided a crucial forum for members of different racial groups to engage in a vicarious ‘societal dialogue’ about the past with one another. For many South Africans emerging from apartheid this represented the first opportunity they had ever been given to listen to the stories, perspectives, and motives of individuals who had historically existed on the other side of racial and political divides. As such, the shared experience of engaging with coverage of the TRC’s public hearings helped to create a ‘dialogical space’ in South African society through which individuals could begin to critically reassess the preconceived perceptions and prejudices they may have held about other racial groups. In so doing, they began to lay the groundwork upon which more positive interracial relationships might be built. As Charles Villa-Vicencio, former Director of Research for the TRC has noted, by helping to create the space for this kind of societal dialogue in post-apartheid South Africa the public hearings of the TRC may therefore have provided “the initial public step in the process of

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\textsuperscript{78} Audrey R. Chapman and Hugo van der Merwe, "Did the TRC Deliver?,” in \textit{Truth and Reconciliation in South Africa: Did the TRC Deliver?}, ed. Audrey R. Chapman and Hugo Van Der Merwe (Philadelphia: University of Pennsylvania Press, 2008), 279.

\textsuperscript{79} TRC Report, Vol. 1, Ch. 5, Para. 5.
South Africans getting to know one another after generations of isolation, exploitation, estrangement and mutual suspicion.”

Indeed, among those experts interviewed, a consensus emerged that the opportunities for societal dialogue fostered by the public hearings of the TRC may have been one of the Commission’s most important contributions to social learning and interracial reconciliation in post-apartheid South Africa. For instance, several interviewees highlighted the powerful effect that being exposed to the personal testimonies of victims had on helping to ‘humanize’ members of other racial groups by helping to build a new sense of empathy and moral equality across racial lines. In particular, exposure to the testimony provided by victims through the HRVC hearings was widely acknowledged as having put an important ‘human face’ on the suffering caused by past human rights abuses. For instance, as Madeleine Fullard, current Head of the National Prosecuting Authority’s Missing Persons Task Team and former Senior National Researches with the TRC details, under apartheid

white people hardly encountered black people at a human level, they encountered them as units of labour, as domestic workers, as gardeners. Literally alien beings….And suddenly you have this forum created where black people are speaking about their experiences in their lives and it’s a kind of humanizing process…It’s an insight into the experience of the Other, however fleeting. Just to see a man crying on the TV screen about his experience of torture…It has a humanizing component…It’s at a human level that it has an impact.

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81 Indeed, in its own assessment of the importance of the public nature of the victims hearings, the Commission notes that “[m]any people who witnessed the accounts of victims were confronted, for the first time, with the human face of unknown or silenced victims from the past. The public victims hearings vividly portrayed the fact that not only…was there a disrespect of human rights in the abstract, but the very dignity and ‘personhood’ of individual human beings were centrally violated.” TRC Report, Vol. 1, Ch. 5, Para. 90.

82 Personal interview, Madeleine Fullard, Pretoria, South Africa, 7 July 2008.
Still other interviewees highlighted the importance of hearing the stories and perspectives of those who testified before the TRC for challenging entrenched racial stereotypes and for allowing South Africans of different races to begin to view each other as fully realized individuals. As Tlhoki Mofokeng, Chairperson of the Khulumani Support Group for Victims in South Africa describes, during the TRC “the nation was listening and hearing” to coverage of the public hearings “[and] for a number of blacks who saw white as white or white is the same – it basically disappeared because they saw humanity in that aspect, that there’s other human beings who are more human than being white or being black.”83 In addition, the fact that the public hearings included testimonies from black and white South Africans who had been both victims and perpetrators during the struggle over apartheid helped to begin breaking down existing prejudices that ‘all blacks’ or ‘all whites’ were to be feared or mistrusted.84 Taken together, these observations suggest that the opportunity for societal dialogue provided by the TRC’s public hearings was therefore crucial for softening the rigidified perceptions of racial identity that had been formed under apartheid and for helping to lay the initial groundwork for more reconciled relationships in the future.

Furthermore, by bringing to the fore contentious issues related to human rights abuses under apartheid, the public hearings of the TRC also served as an important catalyst for South Africans to begin engaging with one another about the past. As Howard Varney, a former member of the TRC’s Investigative Unit and now Director of the Truth-Seeking Program for the International Centre for Transitional Justice recounts, during the TRC’s mandate the public

83 Personal interview, Tlhoki Mofokeng, Johannesburg, South Africa, 1 July 2008.

84 For instance, the TRC Report itself notes that the new information provided to many victims by perpetrators through their testimonies at the AC hearings may have helped to “dispel the lies they were told about ‘criminals,’ ‘terrorists,’ or ‘informers.’ TRC Report, Vol. 1, Ch. 5, Para. 91.
hearings provided the ‘focal point’ around which critical conversations about past violence and issues of race could began to coalesce in South African society. Indeed, as Varney contends,

I’m really of the view that [its highly public nature] was the most successful aspect of the South African TRC. It really was the trick in that aspect of South Africa’s transition….It was the public nature of the inquiries that really managed to involve a big section of the South African society. We became involved in the daily debates that were going on….It was always on the radio, always in the press, almost on a daily basis. Almost every TV bulletin would carry something. There was a one hour TV show that wrapped up the previous week’s activities. There was lots of debates – that’s really what made the South African TRC process successful…I think its still true to say that the TRC played quite a key role in South Africa’s transition because it engaged with the wider public in confronting the past. Of course, not all the engagement was necessarily positive, but still, the fact that people were engaging was what this process was all about.85

In essence, by ‘lifting the lid’ on South Africa’s history of human rights abuses and antagonistic racial relations, the public hearings helped to bring these formerly taboo subjects into open conversation among South Africans. As former TRC Commissioner and former Director of the Black Sash nongovernmental organization Mary Burton observes, through the public hearings “things were said that had remained unspoken, and they were now in the public domain and had to be taken into account by everybody…[and] that led to better relationships.”86

At the very least, this provided South Africans with the opportunity for social learning about the Other by creating an environment in which people were able to critically address issues of past violence and racial division in both public debate and private conversation. Vincent Williams of IDASA illustrates the profound effect that the TRC had on societal dialogue and social learning during South Africa’s transition, arguing that

All things considered, [its public nature] was probably the most important aspect of the TRC. It was a nation having to confront itself through the stories of

85 Personal interview, Howard Varney, Cape Town, South Africa, 24 June 2008.

86 Personal interview, Mary Burton, Cape Town, South Africa, 23 June 2008.
particular groups and individuals. So when I sit at home at night and watch TV – and it was broadcast on TV, on radio – there was no way you could actually avoid knowing what was going on. And the fact that as a nation we had to confront that past history was, I think, critically important for reconciliation. If, for example, the amnesty hearings or the victim hearings were not held in public, it would have been completely different. But suddenly the whole country was exposed to what happened, you saw people telling their stories, you saw people asking questions about what had happened to my son, or my husband, or whatever…And I think that was an important stepping stone for the entire nation….and that, in some ways, even if that was all that had happened I think that would have been important.  

This point is echoed by Dr. Fanie du Toit, Director of the nongovernmental Institute for Justice and Reconciliation, who contends that the TRC’s public hearings aided the reconciliation process in South Africa by helping to expose and challenge antagonistic perceptions of the past and of those who once existed on the other side of political and racial divides, in effect “playing a role as a dialogue platform in society where a new kind of discourse could be formed.”

However, while the societal dialogue facilitated by the TRC may have proved an important component for instrumental social learning in South Africa, its effects may also have been limited by several factors. First, while the extensive media coverage of the TRC hearings did manage to reach a wide portion of the population, there were still millions – particularly in the poorer black townships of South Africa – effectively left out of the societal dialogue process because of illiteracy and a lack of ready access to radios and televisions sets. At the same time, white South Africans who didn’t want to engage with the TRC could always simply ‘tune out’ of

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87 Personal interview, Vincent Williams, Cape Town, South Africa, 22 June 2008.
88 Personal interview, Dr. Fanie du Toit, Cape Town, South Africa, 18 June 2008.
89 As Piers Pigou, Director of the South African History Archive (SAHA) at the University of the Witswatersr and former TRC investigator illustrates, “Love it or hate it, you couldn’t ignore [the public hearings of the TRC], it was there in your face everywhere you turned. That’s presupposing you had access to television and radio of course, or other media which of course a significant portion of the population doesn’t have.” Personal interview, Piers Pigou, Johannesburg, South Africa, 1 July 2008.
the societal dialogue process by switching off the television or turning the dial on the radio.  

This was reflected in the fact that white South Africans consistently registered a lower interest in the TRC proceedings than their black counterparts, a trend that intensified over time as many white South Africans grew increasingly uncomfortable with the revelations coming out of the Commission.  

Second, while the vicarious societal dialogue process initiated by the TRC appears to have had a positive impact on the attitudes and mindsets of those who did tune in to the proceedings, it is uncertain how sustainable this kind of social learning may prove if not followed by a concomitant increase in sustained direct interpersonal encounters. That said, there is evidence to suggest that the societal dialogue facilitated by the TRC may have increased future willingness to engage with members of other racial groups in direct interpersonal encounters by reducing some of the social and psychological barriers to future interracial contact and dialogue.  

Third, the degree to which the beneficial effects of societal dialogue can extend beyond the timeframe of the Commission itself remains unclear. Indeed, while the TRC received extensive media coverage and attention in its earliest years (particularly during the highly publicized HRVC hearings) this had already begun to wane somewhat towards the end of its mandated timeframe. This seems a particularly important point, as research on the relationship

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90 As Natalie Jaynes, Project Leader for Memory, Arts, and Healing of the IJR notes, “During the TC process, white people generally ignored it for the most part. The whole thing. You could just not buy the newspapers or even if you had the newspaper, turn the page, just ignore it, change radio stations, not watch the news. Whatever it is there were ways of ignoring it and many people did for whatever reason.” Personal interview, Natalie Jaynes, Cape Town, South Africa, 18 June 2008.

91 For instance, white television viewers of the TRC ‘Special Report’ coverage on the SABC remained at roughly 4.1 percent between 1996-1998, while African TV owners had a viewership of 13.7 percent. Towards the end of the Commission, these numbers had further dropped from an an average viewership of 7 percent to less than 3 percent. See Thiessen, “Object of Trust and Hatred,” 202.

92 As Gibson notes, the media surrounding the TRC played an important role in engaging black and white South Africans and challenging their pre-existing conceptions of one another by “getting people to rethink their attitudes…and stimulating South Africans to re-evaluate their understandings of race and racial conflict.” See Gibson, Overcoming Apartheid, 158-163.
between dialogue and social learning suggests that building reconciliation relies on opportunities for sustained conversation. While survey evidence shows that many South Africans have remained very interested in continuing this societal dialogue through other forums such as current affairs programs, live public debates, and the broadcasting of public events, to date the government appears to have shown little interest in creating these kinds of opportunities following the conclusion of the TRC.93

**The Role of Civil Society: Encounter and Dialogue After the TRC**

However, despite this lack of government interest, a small network of civil society organizations has emerged in South Africa following the end of the TRC’s mandate with the express aim of carrying forward the reconciliatory goals of the Commission by facilitating carefully mediated dialogue encounters among formerly divided South Africans. Such groups include the highly regarded ‘Institute for Healing of Memories’ (HOM) led by Father Michael Lapsley, a white South African and anti-apartheid activist who himself became the victim of apartheid-era violence when he lost both hands and the use of an eye after receiving a parcel bomb from South African security forces. The HOM originally emerged alongside the TRC as a parallel forum through which South Africans of different racial backgrounds could meet with one another to tell their personal stories and have them acknowledged by others in a safe and supportive environment. By engaging South Africans in these dialogues with one another, the HOM sought to “facilitate reconciliation between the racial groups and to heal psychological wounds [thereby] making it possible for individuals to contribute effectively towards the reconstruction of South

93 As evidenced in 2003 survey data collected by the IJR, “the overwhelming majority (78%) of South Africans believe the government should require both the print and broadcast media to provide citizens with more opportunities for engaging in meaningful dialogue” that is “about issues pertinent to the reconciliation process.” See Karin Lombard, *Report of the First Round of the SA Reconciliation Barometer Survey* (Rondebosch: Institute for Justice and Reconciliation, September 2003), 51.
Africa.” Following the end of the TRC process, the HOM has continued to provide a range of storytelling and dialogue workshops among small groups of South Africans designed to build a “growing empathy with the experience of others” and ultimately to contribute to “a transformation of the relationships between people of different ethnic groups [and] races” by using these encounters to directly challenge the “[a]ttitudes and prejudices that have developed out of anger and hatred between groups that can lead to ongoing conflict and spiraling violence.”

In a similar fashion, The Center for the Study of Violence and Reconciliation (CSVR) based out of Johannesburg has been running an ‘Ex-Combatants Reintegration and Restorative Justice Project’ which, since 2004, has sought to provide mediated spaces for further dialogue between ex-combatants and victims of human rights abuses. This program originated from surveys conducted among both victims and perpetrators who had participated in the TRC’s amnesty process that had “identified the need for further direct dialogue between survivors and perpetrators as a key need from both sides that would help with healing, reconciliation and community reintegration of ex-combatants.” Additionally, there have also been a small number of independent faith-based community groups that have engaged in similar forms of dialogue work, as well as a handful of professional groups such as the Centre for Conflict Resolution at the University of Cape Town that have focused on using skills training, mediation

95 Ibid.
96 See “Transitional Justice: Amnesty, Accountability and Ex-Combatant Reintegration,” CSVR: Centre for the Study of Violence and Reconciliation, http://www.csvr.org.za/index.php?option=com_content&task=bogcategory&id=5&Itemid=43&limit=1&limitstart=1. While these dialogue projects run through CSVR tend to focus primarily on community reintegration following so called ‘black on black violence,’ they have also been shown to extend very successfully to interracial reconciliation projects between victims and perpetrators.
services, and workshops to bring parties together in dialogue encounters to help resolve racial or community conflicts.97

Evaluations carried out on several of these projects suggest that they have indeed had a positive impact on the majority of those who have taken part in them, with participants evidencing a greater understanding of the Other’s perspective, improved attitudes towards the Other, and a greater willingness to reconcile.98 Many of the experts interviewed in South Africa were also extremely positive in their own assessments of the impact that civil society organizations’ dialogue workshops have had on ongoing processes of social learning and reconciliation following the conclusion of the TRC. As Vincent Williams of IDASA contends, in many respects the work of these organizations has created new spaces for the crucially important processes of interpersonal encounter and dialogue that ideally “should have happened at the time of the [TRC] hearings.” As a result, Williams notes that these civil society efforts are really beginning to achieve the kind of reconciliation that was envisaged, where people are actually sitting down and talking about what had happened, engaging in some kind of dialogue, and they are emerging out of that with a much stronger sense of what they have in common and what they need to do collectively for reconciliation….It was left to others to subsequently pick up where the TRC left off to try and achieve real reconciliation in that sense.99

Still others interviewees stressed the critical role these efforts play in enabling individuals from different racial groups to come together in reconciliatory dialogue who might not otherwise be


98 These findings are derived largely from external assessments carried out of these programs through interviews and questionnaires posed to participants to gauge changes in their attitudes and perceptions that may have occurred as a result of their participation in these programs. See Bryant Greenbaum, External Assessment of Centre for the Study of Violence and Reconciliation (CSVR) Ex-Combatants Reintegration and Restorative Justice Project (Johannesburg: CSVR, February 2006). Available online at: http://www.csvr.org.za/wits/papers/papgreen.htm. See also Alphonse Niyodusenga and Stephen Karakashian, Program Evaluation of Healing of Memories Workshops (Cape Town: Institute for Healing of Memories, March 2008). Available online at: http://www.globalgiving.org/pfil/3396/proidoc.pdf.

99 Personal interview, Vincent Williams, Cape Town, South Africa, 22 June 2008.
able to do so in the course of their daily lives.\textsuperscript{100} As former TRC Commissioner Glenda Wildschut argues, these kinds of workshops therefore remain crucial to the ongoing process of instrumental social learning in post-TRC South Africa as they “[c]reate a moment where people have an opportunity to begin a conversation of reconciliation, to begin a conversation about healing the divisions between communities and individuals.” Accordingly, while Wildschut notes that the TRC may have initiated a process of broader societal dialogue in South Africa, she underscores the need for this reconciliatory momentum to be consolidated and extended by encouraging ongoing interpersonal encounters, interactions where those separated by racial and political divides are able – in a very safe space – to hear each other’s stories… allowing people to be able to see the story of the Other, through a personal account, not through hearsay or a story that is read somewhere…there’s this personal contact and I think that’s been the power of the workshops – encounter with a real person, and hearing the person’s story, whatever that may be.\textsuperscript{101}

Nevertheless, despite these positive assessments, the number of mediated encounters following the TRC has remained very small, with only a handful of civil society organizations actively engaging in these in these initiatives across South Africa. Even among these, constraints on available resources have tended to greatly limit both the number of workshops and mediations available and the opportunity to turn these initiatives into sustained long-term processes. This constraint is attributable, at least in part, to the lack of funding and support for reconciliation initiatives on the part of the Mbeki government that came to power following the conclusion of the TRC. Thabo Mbeki himself – who was never a wholehearted supporter of the TRC process –

\textsuperscript{100} As Wildschut details, after the TRC “[w]e still have spatial, geographical, [and] economic divides. People don’t normally get together who have been separated in the past…People that live in townships hardly meet the people that live in the city. So [the workshops are] a deliberate attempt to bring people from diverse communities together.” Personal interview, Glenda Wildschut, Cape Town, South Africa, 25 June 2008.

\textsuperscript{101} Ibid.
appeared to have largely considered the question of reconciliation settled following the Commission’s work and therefore deemphasized support for both government and civil society programs aimed at instrumental social learning. Accordingly, as Piers Pigou of SAHA contends,

I think that a lot of what was invested into the Truth Commission process has effectively been lost in the post-commission process in South Africa. Largely for political reasons, of course. You know Mbeki was never a fan of this process and he’s been instrumental in ensuring this never receives any kind of political support for his own reasons. He didn’t like the commission, he didn’t like what the commission found.\textsuperscript{102}

Similarly, Executive Director of the Foundation for Human Rights in South Africa and former TRC Commissioner Yasmin Sooka notes that the relatively small number of NGOs engaged in reconciliation work today is largely due to a lack of government funding – a direct result of the political environment created under the Mbeki regime that approached such issues with the attitude of “this period is over, let’s move on.”\textsuperscript{103} This has meant that organizations engaged in such work in South Africa have had to remain self-supporting or to rely on funding assistance provided by foreign governments, private foundations, and non-governmental organizations. As a result, while South Africa is home to a thriving civil society sector, only a very small proportion of this sector has been able to remain focused on programs designed to promote opportunities for instrumental social learning through interracial contact and dialogue. Given the limited scale of these initiatives and the relatively large population and geographical size of South Africa, it seems likely that the ability of this work to have a broader impact on social learning processes in South African society – outside of the small number of individuals who have been able to participate in these programs directly – will remain

\textsuperscript{102} Personal interview, Piers Pigou, Johannesburg, South Africa, 1 July 2008.
\textsuperscript{103} Personal interview, Yasmin Sooka, Johannesburg, South Africa, 6 July 2008.
minimal. As a result, the prospects for the advancements of broader intergroup reconciliation will also remain significantly restricted.

**DISTRIBUTIVE LEARNING AND THE SOUTH AFRICAN TRC**

One of the defining characteristics of the apartheid system was its structural and material inequality, deeply entrenched along racial lines. This disparity existed most starkly between the minority white and majority black populations, extending into nearly every facet of socioeconomic and political life: income, land ownership, access to political power, employment, education, and voting rights. For instance, the system of ‘Bantu education’ subjected generations of black South Africans to education that was grossly inferior (and vastly underfunded) compared to that enjoyed by their white counterparts. Group Areas Acts, Land Acts, and Pass Laws all limited the areas in which black South Africans could move freely, live, and own land. ‘Separate Representation’ Acts effectively disenfranchised black voters from the South African government, restricting citizenship and voting rights to their assigned Bantustan regions. The apparatuses of the state, including the legislature, judiciary, policing and security forces, were effectively co-opted by the white minority and used to dominate the black majority, as were key elements of business and the media. As detailed in the TRC’s Final Report, driven by the guiding policy of ‘separate development’ which underlay the strategies of ‘petty’ and ‘grand’ apartheid, the minority white population effectively “redrew the map of South Africa:”

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The wealth, the cities, the mines, parks and the best beaches became part of white South Africa. A meager thirteen percent of largely barren land was parceled out in a series of homelands in which African people were forced to live, while the able-bodied were driven to seek a living as migrant labourers in the cities...All over South Africa, public buildings and amenities were divided and sometimes even duplicated according to race group, retaining the best for the white group...Separate meant far from equal and often resulted in no facilities at all for those who were not white.\textsuperscript{106}

Statistics from the apartheid-era reveal the staggering scale and scope of these inequalities. For instance, in 1975 the Gini coefficient of inequality for personal household incomes stood at 0.68, which at the time gave South Africa the dubious distinction of having the highest levels of recorded income inequality in the world.\textsuperscript{107} A 1980 study revealed that the average per capita income of whites was thirteen times greater than that of black South Africans, while a similar report from 1984 showed that 30 percent of urban black households had incomes well below the poverty line – a figure that rose to over 70 percent in rural areas and the Bantustans.\textsuperscript{108} The concentration and depth of poverty throughout the black townships under apartheid was striking, with 81 percent of those living in these areas in 1980 subsisting on incomes well below minimal living standards and 13 percent having no measurable income level whatsoever.\textsuperscript{109} Indeed, levels of black unemployment in a number of these areas during the 1980’s were estimated at nearly 50 percent.\textsuperscript{110} Housing for black South Africans, particularly in the urban townships, was heavily overcrowded, with upwards of a dozen individuals often living

\textsuperscript{106} TRC Report, Vol. 1, Ch. 4, Para. 46-47.

\textsuperscript{107} With zero on this scale being perfect equality and one being perfect equality. Merle Holden and Mike McGrath, "Economic Outlook: Retrospect," \textit{Indicator South Africa} 34, no. 1 (1986).

\textsuperscript{108} Mike McGrath, "Global Poverty in South Africa," \textit{Social Dynamics} 10, no. 2 (1984).


in a single room in substandard housing, workers’ hostels, and squatter camps. These high levels of poverty and poor living conditions were compounded by widespread inadequate access to basic living necessities such as food, clean water, fuel, health care, and sanitation. At the same time, whites enjoyed levels of education, employment status, income, and services equal to or better than their contemporaries in Europe and North America. As Chapman and van der Merwe note, in effect the “institutionalized racism, injustice, and violence at the heart of the apartheid system of compulsory racial separation enabled a white minority, amounting to some 13 percent of the population, to monopolize economic and political power and to relegate the black majority, constituting 75 percent of the population, to a subordinated and politically powerless state.”

Not surprisingly, these economic inequalities had an extremely damaging impact on intergroup relations between black and white South Africans. Studies of black South African attitudes during apartheid revealed consistent findings of dissatisfaction, a sense of socioeconomic injustice, and perceptions of deprivation in relation to members of the white minority. These attitudes, in turn, are shown to have engendered widespread feelings of hostility towards whites and to have fostered intergroup mistrust and animosity. In addition, as previously discussed, physically and geographically segregated housing limited opportunities for meaningful cross-racial relationships and proved the breeding ground for racial stereotypes,

111 Ibid., 615-617.
112 Ibid., 605.
prejudices, and misunderstandings. 116 While some opportunities existed for sustained interracial contact in the workplace, this too was heavily mediated by the hierarchical relationships and unequal power dynamics tied to socioeconomic status, with minimally educated blacks often performing unskilled or semi-skilled labour under the direction of better educated, better paid, and more highly skilled white employers who lived and socialized in worlds vastly different than those of their employees. 117 To sum, the legacy of apartheid was the creation of “a society that was deeply divided between haves and have-nots, a division mainly between whites and blacks.” 118

Not surprisingly, many of those experts interviewed in South Africa argued that these deeper and more pervasive divisions of “structural apartheid,” perhaps even more than the legacies of physical violence, represented the greatest challenges to the reconciliatory goals of the TRC. 119 As Madeleine Fullard explains,

[w]hat is the real challenge facing South Africa [post-apartheid]? It’s not the fates of what happened to 60,000 political activists. It’s addressing the extreme racial inequalities that structure every aspect of life in South Africa...because every single black person suffered discrimination and oppression – there was no facet of black life in South Africa that wasn’t hyper-structured by law: where you could live, where you could work, where you could sit, who you could marry – everything. Every single black person experienced these things. 120

Accordingly, as structural inequalities based on racial identity served as one of the most pervasive points of division under apartheid, ultimately it is widely recognized that post-

116 Foster and Finchilescu, "Contact in a 'Non-Contact' Society: The Case of South Africa."
117 Ibid. See also Treimen, “The Legacy of Apartheid,” 14-18.
119 Personal interview, Yasmin Sooka, Johannesburg, South Africa, 6 July 2008.
120 Personal interview, Madeleine Fullard, Pretoria, South Africa, 7 July 2008.
transition “reconciliation will be impossible without economic redistribution, without any material changes in people’s lives.”121 This sentiment is evident in the responses of many black victims of apartheid violence who have indicated that material compensation and improved access to social services such as housing and health care remain the most important factors for their own processes of reconciliation, even surpassing demands for the criminal prosecution of perpetrators.122 The inherent interrelationship between the alleviation of material inequalities and the achievement of broader goals of social repair, interracial reconciliation, and national unity were themselves underscored by the Commission in its Final Report, where it was noted that

[g]ross socio-economic inequalities are the visible legacy of the systematic, institutionalized denial of access to resources and development opportunities on grounds of colour, race and sex…The road to reconciliation, therefore, means both material reconstruction and the restoration of dignity. It involves the redress of gross inequalities and the nurturing of respect for our common humanity. It entails sustainable growth and development of the spirit of ubuntu. It implies wide-ranging structural and institutional transformation and the healing of broken human relationships. It demands guarantees that the past will not be repeated. It requires restitution and the restoration of our humanity – as individuals, as communities and as a nation.123

**Distributive Interventions Within the South African TRC**

However, while the Commission may have recognized the importance of addressing the structural and material inequalities of the past as a central component of the reconciliation process, under the National Unity and Reconciliation Act the TRC was only given the very

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121 Personal interview, Tlhoki Mofokeng, Chairperson, Khulumani Support Group, Johannesburg, South Africa, 1 July 2008.


123 TRC Report, Vol. 1, Ch. 5, Para. 25.
narrow mandate of investigating gross human rights violations that led to physical infringement of the ‘bodily integrity’ of victims, including “the killing, abduction, torture or severe ill treatment of any person.”\textsuperscript{124} As a result, from the TRC’s inception the more systematic repression and pervasive daily suffering that occurred as a result of racial inequality under apartheid remained largely beyond its purview. Indeed, the work of all three main branches of the TRC (the HRVC, the AC, and the RRC) remained focused on individual cases in which direct acts of physical or mental injury were committed over the course of past political conflict.\textsuperscript{125} While this focus was dictated by the Commission’s empowering Act, there is also evidence to suggest that it reflected an early recognition amongst the Commissioners that the TRC simply would not have the time or resources required to address structural and material inequalities in addition to individual rights abuses. Instead, it was hoped that other initiatives beyond the TRC would ultimately be employed to attend to these issues.\textsuperscript{126}

That said, the TRC did incorporate some attempts to address the broader legacy of racial inequality alongside the focus on individualized violations shown in its public hearings. For instance, the Commission’s unique Institutional Hearings shed light on some of the larger structural elements of apartheid society that helped to reinforce racial inequality, investigating the roles played by the health sector, the legal system, media, business, labour, and faith institutions.

\textsuperscript{124} \textit{TRC Report}, Vol. 1, Ch. 4, Para. 42.
\textsuperscript{125} \textit{TRC Report}, Vol. 1, Ch. 4, Para 55.
\textsuperscript{126} Indeed, as noted in the \textit{TRC Report}, “in making its own limited contribution, the Commission had to walk a tightrope between too wide and too narrow an interpretation of gross violations of human rights. The Commission would have neither the life span nor the resources to implement a broadly constituted interpretation.” As a result, “the Commission resolved that is mandate was to give attention to gross human rights violations committed as specific acts, resulting in severe physical and/or mental injury, in the course of past political conflict. As such, the focus of its work was not on the effects of laws passed by the apartheid government, nor on general policies of that government or of other organizations, however morally offensive these may have been. This underlines the importance of understanding the Commission as but one of several instruments responsible for transformation and bridge-building in post-apartheid South Africa.” See \textit{TRC Report}, Vol. 1, Ch. 4, Para. 43,55.
communities – all areas under the control of the white minority. Overall, however, these inquires were met “primarily with intransigence and obfuscation” from the actors involved and so provided little new insight as to how these institutions functioned as part of the broader system of inequity under apartheid.\(^{127}\) Therefore, these hearings led to very little meaningful acknowledgement of responsibility on the part of these institutional actors as to how they had benefited from – or contributed to – apartheid’s structures of racial inequality.\(^{128}\)

As a result, the relatively narrow focus adopted by the TRC has received a good deal of criticism from scholars and practitioners alike. As former TRC Commissioner Yasmin Sooka has argued, the “fundamental problem” of the Commission may have been its attempt to separate individual rights violations from the broader structural dynamics in which they occurred. As she notes, by so doing, “you’re looking at the political crimes which are manifestations of an unjust system, but you don’t look at the unjust system itself which is structural in nature.”\(^{129}\) Indeed, as several critics contend, by focusing attention on the physical abuses committed by the relatively small number of perpetrators who appeared before the Commission, the TRC may have helped to obscure the much more pervasive system of structural oppression in South Africa – a system that daily affected much of the population through the racial repressions resulting from social, political, economic, and legislative inequality.\(^{130}\) More specifically, many have suggested that by concentrating on the individual complicity of perpetrators in the TRC, the Commission may


\(^{128}\) Ibid.

\(^{129}\) Personal interview, Yasmin Sooka, Johannesburg, South Africa, 6 July 2008.

have propagated a perception that sole responsibility for the crimes of the past should be laid at the feet of the small number of ‘bad apples’ who appeared before the AC. This is particularly problematic in regard to the perceptions of white South Africans, who were able to assign the majority of responsibility for the harms caused by apartheid to the seemingly aberrant actions of a handful of police and security force members who admitted to crimes of abduction, murder, and torture in their amnesty applications. However inadvertent, this may have hindered processes of social learning and reconciliation by leading to a distancing of responsibility among those in the broader white community who, while they may not personally have engaged in acts of physical violence, may have supported or otherwise indirectly benefitted from the structural inequities of apartheid. As Chapman and van der Merwe note, one of the potential side effects of the individualized focus adopted by the Commission was that

it did not require white South Africans to confront their complicity in the abuses that were revealed in the TRC…[as] it neglected to portray the privileged position of the white community (wealth, education, etc.) as something that was gained at the expense of other South Africans. Therefore, white South Africans do not see the present socioeconomic inequalities in the country as something they helped create or have a responsibility to redress.

This distancing appears to have contributed directly to a marked lack of willingness among many white South Africans to feel a personal compulsion to engage in processes of societal restitution or redistribution in the post-apartheid era. As Professor Amanda Gouws of

\[131\] See Nahla Valji, "Race and Reconciliation in a Post-TRC South Africa," in Ten Years of Democracy in South Africa (Queen's University, Canada: South African Research Centre, May 2004).

\[132\] Chapman and van der Merwe, “Did the TRC Deliver?,” 273. There is evidence to suggest that this has contributed to a marked failure among many in the white community to acknowledge their status as the direct beneficiaries of apartheid polices or to countenance the need for their own socioeconomic sacrifice to help redress the legacies of racial disparity post-apartheid.

\[133\] For instance, a 2001 study by Gibson and Macdonald shows only one-third of whites believe that companies who directly benefitted from apartheid ought to be required to pay any form of compensation and only 10 percent felt that white farmers (often one of the primary benefits of apartheid’s land redistribution policies) should make any kind of
the University of Stellenbosch notes, “many white people would say, why do I have to do this, what do I have to say sorry for, I didn’t kill anybody…[white] people don’t understand that the privilege of having good education, having middle class parents, all of that, contributed to where you are today.”\textsuperscript{134} This attitude is clearly reflected in survey responses from 2000, which showed that even after the work of the TRC, only a minority of whites (38 percent) agreed with the view that “in the past whites profited greatly from apartheid and most continue to profit today from the legacy of apartheid.”\textsuperscript{135} A similar survey from 2001 reveals that only 10 percent of whites believe that they should be personally involved in paying compensation to black South Africans, while 78 percent of blacks believe they should have a role in doing so.\textsuperscript{136} One telling example of this resistance has been the widespread failure of support for the ‘Home for All Campaign Initiative,’ a program following on the TRC which aimed to have white South Africans sign a commitment acknowledging responsibility as beneficiaries of the apartheid system and to voluntarily contribute to a ‘Development and Reconciliation Fund’ to support disadvantaged communities belonging to other racial groups.\textsuperscript{137} This is also reflected in the rejection by the members of the predominantly white business community of a proposal recommended by the TRC that would require those individuals and businesses identified as

\textsuperscript{134} Personal interview, Professor Amanda Gouws, Chair of Political Science at the University of Stellenbosch, Stellenbosch, South Africa, 17 June 2008.


\textsuperscript{137} Personal interview, Mary Burton, Cape Town, South Africa, 23 June 2008.
having benefitted the most financially from apartheid-era policies to pay a one-time ‘wealth-tax’ to go towards alleviating poverty and services to the neediest black South Africans.  

In particular, the distancing of white responsibility from the broader systematic or ‘structural violence’ of racial inequality has manifested itself in the strong opposition amongst many in the white community to redistributive efforts undertaken by the post-apartheid government such as land reform and affirmative action programs in employment and education. In a 1998 poll, a majority of whites (87 percent) indicated resistance to the implementation of any kind of affirmative action program in South Africa that would work to address race-based employment imbalances in either the public service or private companies. 139 Tellingly, a second poll conducted by Independent Newspapers in 1999 showed that only 8 percent of whites were in favour of redistributive policies, compared to 73 percent of black respondents. 140 This is in line with comments made by a number of expert interviewees, who note that as a result of the distancing of responsibility unwittingly allowed by the TRC, many whites continue to view policies such as affirmative action as ‘reverse racism’ that unfairly victimize the white community. 141 As Madeleine Fullard describes:

You basically have a white generation now, a generation of whites – whether they are young or old – that basically depict themselves as victims. They are the victims…It’s so sensational that a kind of cultural or racial group that was quite happy to live with the benefits of the most radical or the most extreme affirmative actions – because what was apartheid except the most radical legislated and extreme form of affirmative action. Ensuring that you got the best share, the best school, the best everything. But the moment there’s the least sense of even slight

139 See Thiessen, "Object of Trust and Hatred," 213.
140 Ibid.
change its ‘we’re being victimized.’ You look at white unemployment and it’s very low, but you get people saying it’s impossible for whites to get a job now and it’s such a load of nonsense...[but] there’s this extraordinary sense of white victimization that has developed. 142

As former TRC Commissioner Mary Burton argues, this sense of victimization evidences the limited social learning of many whites regarding their shared responsibility for racial inequalities, a limit that may present a very real barrier to future interracial reconciliation. Indeed, as Burton notes, despite the Commission’s best efforts, “still white South Africans do not acknowledge their beneficiary status and do not acknowledge they were part of an unjust system and that they did benefit from it. To the extent that doesn’t happen, I have my doubts that we can ever say national reconciliation has happened.” 143

However, while the TRC itself largely lacked the mandate to directly address issues of structural or material inequality, it was tasked with making a number of recommendations to the President regarding institutional, legislative, and administrative reforms that should be introduced in the interest of promoting national unity and reconciliation. Many of these recommendations targeted socioeconomic inequality. For instance, aside from the aforementioned proposal of a wealth tax, the TRC also recommended a one-time donation from major businesses equivalent to one percent of their overall net worth and the creation of affirmative action and employment equality legislation to help alleviate racial disparities in the workplace. 144 It also suggested that compensation be paid to those who had had their land appropriated or who had lost their businesses as a result of apartheid-era policies. Major reforms were suggested to housing services, the media, the prison system, the legal system, the health

142 Personal interview, Mary Burton, Cape Town, South Africa, 23 June 2008.
143 Ibid.
144 TRC Report, Vol. 5, Ch. 8, Para. 24
care system, the security forces, and the policing services, in order to make these areas more responsive to, and representative of, South Africans of all races. The TRC also recommended that South Africa ratify major international covenants regarding civil, political, economic, social, and cultural rights and ensure that law and practice operate in line with international human rights standards. Nonetheless, it should be noted that all of the recommendations forwarded by the TRC were non-binding and, as a whole, the Final Report appears to have had very little influence on the Mbeki government. As Chapman and van der Merwe detail, “[t]he various recommendations contained in the TRC final report have not been taken seriously by the government. Government departments do not refer to them, and there has been no systematic monitoring of their implementation.”

More recently, in 2005 a dedicated ‘TRC Unit’ was created by the government within the Department of Justice that was tasked with helping to educate, advise, and coordinate various government sectors to speed their implementation of the Commission’s recommendations. However, it would appear that the work of the TRC Unit remains largely supervisory, and, despite the strong efforts of its staff, there is little evidence that this TRC Unit it has seen any real success to date in actually influencing government departments to move forward substantively on the TRC’s recommendations.

Reparations, Reconciliation, and the TRC

Perhaps the most visible aspect of the TRC’s work in addressing material inequalities was the emphasis it placed on providing a reparations program for the victims of apartheid violence. Reparations, defined as “any form of compensation, ex gratia payment, restitution, rehabilitation

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145 TRC Report, Vol. 5, Ch. 8.
146 Chapman and van der Merwe, “Did the TRC Deliver?,” 282.
147 Personal interview, Ambassador Mochubela Seekoe, Head of the TRC Unit in the South African Department of Justice, Pretoria, South Africa, 9 July 2008.
“or recognition,” feature prominently in the founding Act of the TRC, where they are framed as one of the basic requirements for the promotion of national unity and reconciliation.\textsuperscript{148} Several outside observers have noted the centrality of reparations to “making or breaking” the work of the TRC, while the TRC itself recognized that “without adequate reparation and rehabilitation measures, there can be no healing or reconciliation.”\textsuperscript{149} Indeed, a survey conducted in 2000 revealed that 91 percent of black South Africans supported government compensation for victims, and of these respondents, 70 percent felt that “national reconciliation requires material compensation for victims of apartheid.”\textsuperscript{150} This sentiment was clearly not shared by the majority of white South Africans, of whom only 20 percent indicated that they agreed with the need for victim compensation to achieve reconciliation, while 59% directly opposed any program of widespread compensation.\textsuperscript{151} Further, likely due in large part to the ‘distancing of responsibility’ discussed above, while a majority of whites (63 percent) polled in 2000 felt that perpetrators who applied before the AC should be required to pay direct compensation to their victims, there was little evidence of a sense that the broader white community should be involved in a reparations process. Indeed, while 80 percent of black respondents indicated that white farms and businesses that profited from apartheid should be involved in any compensation process, only 35 percent of white South Africans shared this view.\textsuperscript{152} The singular importance placed on reparations for victims by the black community can likely be attributed to two factors. First, reparations offered

\begin{itemize}
\item South African Government, \textit{The Promotion of National Unity and Reconciliation Act}, Section 1.1, Section 3(c).
\item Buford and van der Merwe, “Reparations in Southern Africa”; \textit{TRC Report}, Vol. 5, Ch. 5, Para. 2.
\item Thiessen, “Object of Trust and Hatred,” 213.
\item Ibid. Unfortunately, reliable survey data does not exist beyond 2000 on this issue. However, information gained from interviewees strongly suggests these attitudes largely remain present today.
\end{itemize}
one direct way in which the government could help to address the dire economic conditions in which black South Africans found themselves post-apartheid. Second, the issue of reparations became bound up with questions of justice, and for many it came to represent a way to counterbalance for victims the potential ‘justice deficit’ caused by the granting of conditional amnesties to perpetrators.153

Accordingly, alongside the AC and HRVC, the Committee on Reparations and Rehabilitation (CRR) was created as one of the three central pillars of the TRC and was tasked with determining which individuals would qualify as victims for the purposes of receiving reparations. The CRR was also mandated with making recommendations to the President as to what these reparations should entail, both in the form of ‘urgent interim reparations’ and a longer-term reparations policy designed to help rehabilitate and restore “the human and civil dignity of victims.”154 Over a period of 18 months the CRR consulted with victims, civil society leaders, and local community organizations in an attempt to gauge the extent of harm suffered by victims, assess their needs, and design appropriate recommendations for reparations policies to be included in the TRC’s 1998 Final Report.155 These recommendations included immediate and long-term financial payments to individual victims, programs designed to aid community rehabilitation (including housing, education, health, and social services), the provision of ‘symbolic reparations’ to aid in commemorating the past (such as memorials, monuments, a day of remembering, and the renaming of public facilities), and broader suggestions for institutional reform in South African society. These programs were to receive funding from a special

153 See Colvin, "Overview of the Reparations Program in South Africa."
155 *TRC Report*, Vol. 5, Ch. 5.
President’s Fund comprised of monies from the new South African government and private and international donors.\textsuperscript{156}

However, from its outset the reparations program proposed by the CRR faced several limitations. First, it was decided that both the urgent and long-term reparations programs (as well as access to many of the services proposed under the community rehabilitation program) would only be open to the limited number of ‘official’ victims who had registered to give statements through the HRVC. This meant that while the TRC recognized that nearly all non-white South Africans had suffered – and often continued to suffer – under the structural and material inequalities entrenched under apartheid, only those 22,000 registered on the HRVC’s closed list of official victims who had endured gross physical human rights violations would be eligible to receive any form of reparations.\textsuperscript{157} Under the Urgent Interim Reparations (UIR) program, approximately 14,000 of this number received a small one-time grant of between R2000-R7500 (approximately $250-$1000 USD per individual) designed to help meet the costs of immediate medical, emotional, or economic needs. However, despite the ‘urgent’ nature of these reparations they only began to pay out in June 1998 (with the process largely completed by 2001), resulting in a total payment of approximately R44,000,000 ($5.5 million USD).\textsuperscript{158} Evidence suggests that many victims remained highly dissatisfied with the delays experienced in receiving the UIR and the perceived inadequacy of the sums finally dispensed, with a number indicating that this left them feeling even more alienated from the TRC’s mission of

\textsuperscript{156} Ibid.
\textsuperscript{157} Orr, "Reparation Delayed."
\textsuperscript{158} Ibid.
reconciliation.\(^{159}\) As Crawford-Pinnerup notes, as a result, the UIR grants did not ultimately make “a meaningful and substantial impact on the lives of recipients and cannot, therefore, be considered a significant or even an adequate attempt at reparations.”\(^{160}\)

Beyond the UIR payments, the other components of the CRR’s reparations program were delayed even further, and effectively left unaddressed by the Mbeki government until 2003. At this time, President Mbeki declared that the government’s main focus would be on providing services for community reparations and symbolic reparations rather than direct financial compensation. In particular, he agreed to renew attention to building memorials, changing apartheid-era place names, and establishing a National Day of Prayer and Traditional Sacrifice. However, aside from the creation of a massive 52-hectare ‘Freedom Park’ memorial to commemorate the liberation struggle (scheduled for completion in 2009 at an estimated cost of over $50 million USD) and changes to a small number of official place names, to date there has been little forward movement on these initiatives.\(^{161}\) However, despite sustained pressure from victim’s groups and other civil society organizations, no action was taken by the government in regard to the larger ‘interim reparation grants’ (IRG) recommended by the CRR until late 2003 – more than three years after the original payment date suggested by the TRC. Furthermore, in its Final Report the CRR recommended IRG payments of R17,000 - R23,000 (approximately $2100 and $2900 USD respectively) dependent upon individual need over a period of six years.\(^{162}\) However, in April 2003 the government announced it would instead only provide victims with a

\(^{159}\) Colvin, “Overview of the Reparations Program in South Africa,” 189.

\(^{160}\) Ibid.


\(^{162}\) The suggested IRG payments had a total estimated cost of R2, 864, 400, 000 ($358, 000, 000 USD) divided among the 22,000 official victims eligible for the program.
single one-time cash grant of R30,000 (approximately $4000 USD at the time), a fraction of the original, and already conservative, amount that had been recommended by the CRR. 163

The persistent delays and the perceived failure of the government to follow through on the TRC’s recommendations for reparations have been cited by many observers as having severely damaged the ongoing reconciliation process in post-apartheid South Africa, particularly by serving as a major source of anger for victims from the black community. In particular, a number of observers note that the government’s lack of investment in reparations was perceived as a “betrayal of the promise made to victims” that the ‘sacrifice of justice’ they were asked to make by accepting conditional amnesties for perpetrators would be matched by a government commitment to improving the lives of victims through financial assistance. 164 As Madeleine Fullard notes, for many in the victim community this feeling of being ignored by the government led to an intense sense of grievance and revictimization, with the result that “[t]he legacy of reparations has spoiled what would [otherwise] have been a positive experience for many victims” with the TRC process. 165 This sentiment is echoed by Professor Piet Miering who himself worked on Reparations and Rehabilitation Committee and notes that “there’s a sense among the victims that they were left in the lurch, that there were many promises made and many expectations in terms of reparations and that all of that did not come true.” 166 Accordingly, even when the final reparations payments were made, there is a consensus that they were simply

163 These payments have an estimated total of R660,000,00 ($82,500,00 USD).
165 Personal interview, Madeleine Fullard, Pretoria, South Africa, 7 July 2008.
166 Personal interview, Dr. Piet Meiring, Pretoria, South Africa, 6 July 2008.
“too little, too late” and so did little to ease victim’s grievances or positive social learning.\footnote{Chapman and van der Merwe, “Reflections on the South African Experience,” 286.} In the end, as Wendy Orr, a TRC Commissioner assigned to the CRR argues, the government’s failure to follow through on an adequate reparations program may have run the risk of undermining the goals of the TRC by raising and then frustrating victims’ expectations, ultimately doing more harm than good in regard to building national unity and reconciliation.\footnote{Orr, "Reparation Delayed."}

**Distributive Interventions Post-TRC**

Nonetheless, it must be noted that efforts to address the vast racial inequalities facing post-apartheid South Africa were not limited to the work of the TRC. Many have speculated that the inattention paid to reparations by government was largely due to a position adopted by the post-apartheid Mbeki administration that the right way to address the legacy of racial inequality was broader structural reforms rather than individual reparations. Accordingly, upon coming to power the newly formed ANC government initiated a series of reforms to address some of the major inequalities inherited from the apartheid era. This began with the adoption of a highly progressive Constitution in 1996 that, among other things, removed racial discrimination from public policy and extended full citizenship and franchise rights to all South Africans. It also enshrined a Bill of Rights containing extensive legal protections for equal treatment (including protection of socioeconomic rights) regardless of race.\footnote{This built upon the protections already established under the 1993 *Interim Constitution* which ushered in South Africa’s first multiracial election in 1994.} Alongside these political reforms, an array of legislative and financial initiatives were introduced in an attempt to begin bridging the vast socioeconomic inequalities dividing racial groups and the extreme levels of poverty faced...
by the majority of black South Africans. In 1994 the government introduced the Reconstruction and Development Program (RDP) as an integrated framework with the goals of stimulating job creation through public works, engaging in redistribution through land reform, and initiating major infrastructure projects in the areas of housing, education, and other social services. This was followed by the Growth, Employment, and Redistribution (GEAR) initiative, a broad macroeconomic program that built upon the initiatives of the RDP to increase economic growth and stimulate job creation.\textsuperscript{170} In addition, under Mbeki, the government initiated targeted policies that opened up new economic opportunities for black South Africans. The Employment Equity Act, passed in 1998, put pressure on employers to implement affirmative action practices to ensure the inclusion of blacks and other underrepresented groups in the labour market and to expedite their movement into more highly-skilled (and higher-paid) occupations. This was followed by the 2003 Black Economic Empowerment Act (BEE), which introduced a series of state-subsidized policies designed to increase the number of black entrepreneurs and business owners.\textsuperscript{171}

As a result of the government’s interventions, a good deal of progress has been made in improving the lives of the most impoverished South Africans, particularly in terms of their ability to access basic services and provisions like electricity, water, and housing. The political and legal barriers to racial advancement are now a thing of the past, with many more black South Africans having access to better education, holding higher-level occupations, and making middle

\textsuperscript{170}For an excellent summary of these programs (and an assessment of their impact) see Johannes G. Hoogeveen and Berk Ozler, "Not Separate, Not Equal: Poverty and Inequality in Post-Apartheid South Africa," in \textit{William Davidson Institute Working Paper Series No. 739} (Ann Arbor: University of Michigan, January 2005).

and upper-class salaries. However, recent evidence shows that fifteen years after transition South Africa remains a highly inequitable society and the majority of black South Africans continue to be severely impoverished. While trends do show a small decrease in the overall numbers of those living in poverty, the extent of that poverty has deepened for many of the most disadvantaged black South Africans. Moreover, the number of unemployed black South Africans has actually grown since the end of apartheid, as have overall levels of socioeconomic inequality within the country. Interestingly, while inequalities between racial groups have generally declined during this period, levels of intragroup inequality have increased at an accelerated rate. Overall, these trends indicate that while life has improved for some black South Africans, many of these gains are attributable to a small percentage of upwardly mobile middle-class individuals or an even smaller subset of black ‘super-elites’ who have managed to amass sizeable personal fortunes through policies like the BEE. Accordingly, as Professor Garth Stevens of the University of the Witwatersrand notes, “for a large potion of the population, where the majority of the people are still located in townships in South Africa, the majority of those people still remain black, still remain poor.”

Indeed, the majority of experts interviewed indicated that the lack of real socioeconomic change post-apartheid in the lives of most black South Africans presents perhaps the greatest barrier to social learning and intergroup reconciliation. For instance, as Thloki Mofokeng, Chairperson of the Khulumani Victim Support Group has noted


173 In fact, the Gini coefficient of income inequality has actually grown to over .70 since the end of apartheid. See Servaas van der Berg et al., “Trends in Poverty and Inequality,” in Development Policy Research Institute Working Paper Series No. 104 (Development Policy Research Institute: Stellenbosch University, March 2006).

174 Personal interview, Dr. Garth Stevens, Johannesburg, South Africa, 2 July 2008.
for the overwhelming majority of [black South Africans] their lives have not changed. They’re still unemployed, they’re still very marginalized from structures of government and from any kind of decision making forums. So for many there’s been no change at all…So a lot of them are very bitter at what the new dispensation has meant to them. They feel marginalized, they feel betrayed, their position has not changed at all.\footnote{\textit{Personal interview, Tlhoki Mofokeng, Johannesburg, South Africa, 1 July 2008.}}

In a similar fashion, Professor Amanda Gouws of Stellenbosch University has illustrated how the continued experience of poverty and inequality for many black South Africans reinforces feelings of anger and resentment towards white South Africans who appear to continue to benefit from the structures of apartheid. As she contends,

part of the problem with reconciliation [in South Africa] is that it lacks that socioeconomic dimension…The poor in this country have gotten so much poorer and they get poorer every week…So because of that lack of a socioeconomic dimension people feel that their lives have actually gotten worse since 1994…so you blame apartheid, you blame the past. And in that sense there is no reconciliation.\footnote{\textit{Personal interview, Professor Amanda Gouws, Stellenbosch, South Africa, 17 June 2008.}}

Still others note that the presence of these stark disparities between the standards of living of black and white South Africans has been a continued source for racial animosity in post-apartheid South Africa. For instance, Marcella Naidoo, Director of the Black Sash nongovernmental organization in Cape Town, observes that

in many ways this [racial] inequality drives tension. Because you drive past a fancy place like Constantia and yes, there’s a few black people sprinkled in between, but it's still not a very mixed community…And then you have a large majority of black people, very, very poor and very few white people sit in that community. So there’s still that divide, and I think that does drive tensions…the attitudes change in my view as the structural arrangements change.\footnote{\textit{Personal interview, Marcella Naidoo, Cape Town, South Africa, 26 June 2008.}}

Overall, the prevailing consensus among those interviewed was that more conciliatory racial relationships would ultimately only be made possible with a concomitant reduction in
levels of material inequality and an improved standard of living for the black majority in South Africa. As Naidoo herself has noted, “it is economic change that needs to happen, and the sharing in the wealth of this country which I think is going to bring about less of an emphasis on white and black. Because as long as we have that inequality we don’t have reconciliation.”

This was a sentiment echoed time and again by other expert interviewees, including Mary Burton, who is herself a former TRC Commissioner. Tellingly, while emphasizing the importance of the TRC to the interracial reconciliation process in South Africa, Burton asserts that ultimately the Commissions contributions will remain limited in the face of the ongoing inequalities that continue to serve as a deep source of division in contemporary society. Indeed, as Burton concludes

In the end it all comes down to the huge inequity, the huge disparity between wealthy and poor. And the fact that the wealthy now includes some black people doesn’t make a difference, it still means that the vast majority, more than 50 percent of the population, feel themselves to be marginalized, hopeless, and angry. And relations will not get better until we deal with that point.

SOCIOEMOTIONAL LEARNING AND THE SOUTH AFRICAN TRC

In addition to its mandate to help promote reconciliation during South Africa’s transition to democracy, the primary aims of the TRC remained to provide elements of both truth and justice for the legacy of gross human rights abuses committed during the apartheid era.

Truth Through the TRC

As institutions of transitional justice, truth commissions focus primarily on providing a full and official acknowledgement of past abuses “to establish an accurate record of a country’s past,

178 Ibid.

179 Personal interview, Mary Burton, Cape Town, South Africa, 23 June 2008.
clarify uncertain events, and lift the lid of silence and denial from a contentious and painful period of history.”

The South African TRC was no exception. From its inception, the primary mandate of the Commission was to use its powers to investigate, document, acknowledge, and disseminate an account of the truth about South Africa’s apartheid past to help establish “as complete a picture as possible of the causes, nature and extent of the gross human rights” committed during the struggle over apartheid between 1960 and 1994. In describing the nation’s transition from apartheid rule, former Deputy TRC Commissioner Alex Boraine notes that “South Africa has come out of a period in which its society was based on lies and deceit…[one] in which radio and television were little more than giant propaganda factories producing a packaged product to reinforce oppression and exclusivity.” Accordingly, establishing an official, unbiased account of past events was recognized as a necessary component of the Commission’s broader goal of building national unity and reconciliation, as it offered a corrective to interpreting the past in “partisan, selective ways” or through “narrow memories” that might otherwise “all too easily provide the basis for mobilization towards further conflicts.”

Instead, by including victims, bystanders, and perpetrators in its truth-recovery processes, the Commission set out to build “an inclusive remembering of painful truths about the past” that would be shared among South Africans of all races, a task considered “crucial to the creation of national unity and transcending the divisions of the past.”

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182 *TRC Report*, Vol. 1, Ch. 5, Para. 51. Elizabeth Kiss notes that, from its outset, the TRC “made a special point” to discredit “widely circulated accusations and counteraccusations” that could otherwise serve to spark further conflict. See Kiss, "Moral Ambition."
183 *TRC Report*, Vol. 1, Ch. 5, Para. 51.
Several of the TRC’s innovations in regards to truth recovery were designed to contribute to this more ‘inclusive remembering’ of the past. The first of these was the inclusion of victim statements and public testimonies collected through the HRVC. This helped to establish an official record of the personal stories and sufferings of nearly 22,000 victims of apartheid-era violence, comprised of accounts from South Africans of all racial backgrounds. As Fanie du Toit suggests, this provided a “personal truth to victims about what happened to their loved ones,” while also building a broader historical record of the abuses that were committed under apartheid. Second, the unique conditional amnesty provision of the TRC helped to encourage over 7000 perpetrators – including members of the liberation movement as well as those who fought against them in the police and security forces of the apartheid government – to provide full accountings of their own past complicity in human rights violations. As many observers have noted, by combining the ‘carrot’ of amnesty with the ‘stick’ of threatened prosecutions for those who didn’t participate in the process, the TRC was able to gain access to information from perpetrators that would likely have remained out of reach had a blanket amnesty or adversarial criminal prosecutions been employed.

Indeed, as Priscilla Hayner contends, the TRC effectively “turned the amnesty application process into a tool to uncover details of past crimes,

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184 However, it should be noted that due to the discriminatory racial nature of apartheid and the population demographics in South Africa, nearly 90 percent of statements were forward by black South Africans. See Audrey R. Chapman and Patrick Ball, "Levels of Truth: Macro-Truth and the TRC," in Truth and Reconciliation in South Africa: Did the TRC Deliver?, ed. Audrey R. Chapman and Hugo van der Merwe (Philadelphia: University of Pennsylvania Press, 2008), 153.

making South Africa the first country in the world to hear detailed testimony about crimes from
the perpetrators themselves.”

In addition, the Commission’s ‘Institutional Hearings’ offered a window onto the roles
played in apartheid-era oppression by several key organizations within South African society,
such as business, the media, the legal system, and state security forces. Its ‘Special Theme’
hearings, on the other hand, were designed to build an understanding of some of the broader
patterns of the abuses committed under apartheid, such as the impact of violence on children,
youth, and women, as well as to illuminate the details of several key past events. The
Commission’s Investigation Unit worked to collect and analyze information in order to
corroborate statements made on behalf of the HRVC and AC. Similarly, its Research
Department examined submissions made to the TRC and used existing archival material to help
establish a broader historical picture of the patterns of human rights abuses committed under
apartheid. The TRC also created a ‘Register of Reconciliation’ where bystanders – those neither
directly victimized by, nor perpetrators of, apartheid violence – could contribute personal
reflections on their own experiences under apartheid. This meant that the Commission included
those who had little connection to individual acts of violence but who may have contributed to,
or benefited from, the everyday structural inequalities of apartheid. A detailed official

186 Hayner, “Same Species,” 36.

187 TRC Report, Vol. 1, Ch. 10, Para. 15.

188 TRC Report Vol. 1, Ch. 10, Para. 14.

189 As Mary Burton, the TRC Commissioner who proposed the establishment of the Register explains, “The Register
has been established in response to a deep wish for reconciliation in the hearts of many South Africans – people who
did not perhaps commit gross violations of human rights but nevertheless wish to indicate their regret to do all the
could have done to prevent such violations; people who want to demonstrate in some symbolic way their
commitment to a new kind of future in which human rights abuses will not take place.” See the Register of
summary of the findings from all of these facets of the Commission’s truth recovery efforts were then collected and published in the TRC’s Final Report. Also, as previously mentioned, the extensive media attention paid to the HRVC and AC hearings helped to ensure that many of the accounts revealed during these processes were exposed to the public through television, radio, and print media.

Among the principal findings of the TRC’s Final Report was an unambiguous condemnation of apartheid as a crime against humanity for its system of enforced racial discrimination and separation. The TRC also made important findings regarding responsibility for the over 30,000 recorded gross human rights violations committed during the 34-year mandate period of the TRC, including killings, abductions, torture, and severe ill-treatment. It found that the former state (including the South African government of the National Party) and its security and law-enforcement agencies were responsible for the greatest number of these violations in their efforts to apply apartheid policies and eliminate dissent, often under the deliberate planning of senior politicians and security officials. The TRC also determined the Inkatha Freedom Party (IFP) to be the primary non-state perpetrator of gross human rights violations and the major overall perpetrator of killings of a national scale, with evidence that the IFP had operated in direct collusion with elements of the apartheid state in many of these actions, most of which directly targeted supporters of the ANC. Finally, to a lesser extent the TRC also held the ANC culpable for gross human rights violations carried out in pursuit of its armed liberation struggle, noting, in particular, the crimes that were carried out in ANC camps while in exile and the large numbers of civilians killed by members of its ‘MK’ military wing.

However, there were several significant limitations to the truth that emerged through the truth-recovery structures of the TRC. For instance, the voices of many potentially eligible
 victims were left out of the HRVC hearings since some people were unaware of how to apply to participate. Additionally, some groups, such as the liberation movements, remained grossly underrepresented in the process due to pressure from political leaders who discouraged them from coming forward or personal reluctance to portray themselves as victims. Similarly, while the AC did provide an avenue for hearing accounts from perpetrators, most key leadership figures from the apartheid government, the ANC, and the IFP simply refused to participate in the hearings, and those who did come forward were most often simply foot soldiers or ‘trigger-pullers’ who had little knowledge of the broader scope of human rights abuses. Perpetrators belonging to certain groups, including the South African Defence Force, the IFP, and the National Party, were also significantly underrepresented, which may have created a somewhat distorted view of political responsibility for past crimes. Further, among those perpetrators who did come forward, their testimony was frequently limited to disclosing the bare minimum amount of truth about past abuses required to meet the ‘full disclosure’ criteria of the conditional amnesty.

In addition, the work of the Investigation and Research Units was severely hampered by the wholesale destruction of state documents by the National Party government prior to South Africa’s transition – an act that eliminated a key source of primary data on the human rights

190 Chapman and Ball, "Levels of Truth."
191 Ibid., 165. Notably, only one cabinet minister of the National Party, Adriaan Vlok, the Minister of Police, applied for amnesty. He was joined by Eugene de Kock, commander of the feared Vlakplaas policing unit. As Howard Varney of the ICTJ notes, “A lot of senior people who knew the truth didn’t come forward…[w]e didn’t see National Party leaders in the form of De Klerk or PW Botha coming through and acting like statesmen. Most of the security force and military hierarchy didn’t come forward to speak the truth.” Personal interview, Howard Varney, Cape Town, South Africa, 24 June 2008.
193 Ibid.
abuses committed under apartheid.\textsuperscript{194} As the TRC Final Report details, “the former government deliberately and systematically destroyed a huge body of state records and documentation in an attempt to remove incriminating evidence and thereby sanitize the history of oppressive rule.”\textsuperscript{195} Finally, there were severe problems with the ultimate dissemination of the TRC’s findings to the general public. While many South Africans were exposed to the public hearings of the TRC through the extensive media coverage they received, very few have ever had access to the volumes of the Commission’s Final Report that remain the only detailed source of many of its findings. In large part, this is due to the fact that no easily accessible copy of the Report was ever created for widespread consumption aside from the rather ponderous (and very expensive) official multi-volume hardcover set released by the Commission.\textsuperscript{196} As a result, many of the findings included in the TRC Report have remained beyond the reach of the majority of the South African population for whom they were supposedly intended, and have ironically been read primarily by foreign researchers and academics. As Madeleine Fullard, a former member of the TRC’s Research Unit notes, within South Africa “essentially the TRC Report is invisible…you can’t really say that the report has had an impact on South African society. I wonder if even one percent of South Africans have ever looked at the TRC Report…I worked on

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\item Indeed, the \textit{TRC Report} devoted an entire chapter solely to the destruction of documents committed by the apartheid government. See \textit{TRC Report} Vol. 1, Ch. 8.
\item \textit{TRC Report}, Vol. 1, Ch. 8, Para. 1. As Fanie du Toit of the IJR notes, “once the TRC started working, the government shredding machines worked twice as hard” leading to a major destruction of documents that prevented access to some aspects of the truth. Personal interview, Fanie du Toit, Cape Town, South Africa, 18 June 2008.
\item More recently, an online PDF edition of the TRC Final Report has been made available on the internet by the South African government and can be accessed at: \url{http://www.info.gov.za/otherdocs/2003/trc}. However, given the lack of affordable high speed internet access for most in South Africa, this still largely remains beyond reach for many in the majority black population.
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writing sections of it and I can tell you I’ve never read it from cover to cover and I doubt I ever will [as it’s a] vast thing.”

**Socioemotional Learning from the TRC’s Truth**

Overall however, in spite of these limitations, evidence suggests that the truth-recovery efforts of the TRC have been largely successful in helping to create a shared understanding of apartheid-era violence and a common memory of the past that has been widely accepted across racial groups in South Africa. Survey data collected during a major empirical study by James Gibson in 2001 reveals that a majority of both black and white South Africans agree that the system of apartheid itself represented a ‘crime against humanity’ that needed to be brought to an end, and that many horrific acts were committed by the government in the name of racial separation.

Further, the same survey data shows that as a result of the TRC’s work, a majority of both black and white South Africans have accepted that gross human rights violations were committed by members of both racial groups during the struggle over apartheid and therefore recognize a degree of mutual complicity for the violence of the past. For many, this recognition seems to be directly related to widespread public exposure to the stories of victims and perpetrators from both racial groups who came forward to testify at the Commission’s public hearings. For whites, hearing the stories of murder, torture, and other human rights abuses committed by the police and government security forces made it impossible to deny that gross violations had been

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197 Personal interview, Madeleine Fullard, Pretoria, South Africa, 7 July 2008. See also Chapman and van der Merwe, “Did the TRC Deliver?,” 253.

198 This includes 94.3 percent of black respondents and 72.9 percent of white respondents respectively. See Gibson, *Overcoming Apartheid*, 80.

199 Ibid. This data shows that 76.1 percent of blacks and 73.8 percent of white respondents agreed that “those struggling for an against apartheid did unforgiveable things.”
committed on behalf of the apartheid state.\textsuperscript{200} Similarly, for many blacks the TRC findings showed that actions taken on behalf of the liberation struggle were not always just, while also revealing that whites too had been unfairly victimized during the course of past violence. As a result, it would appear that the TRC contributed to a widespread acceptance of a ‘balanced truth’ of the past that helped to moderate some of the more polarized views developed during the apartheid period. As Gibson notes,

\begin{quote}
[a]s a result of the revelations of the TRC, many whites seem to have been convinced to abandon the view that those struggling to preserve the apartheid state were noble and that those challenging the state were vile. Many blacks, on the other hand, learned from the TRC that the liberation forces also committed heinous acts, just as they were shown that at least some of the worst abuses of apartheid were associated with rogue individuals. If nothing else, the TRC seems to have laid to rest some of the fictions that each side in the struggle mobilized to defend its positions and legitimacy. The effect of the TRC seems to have been to move blacks and whites closer together in their understandings of the country’s past.\textsuperscript{201}
\end{quote}

Perhaps most importantly, the acceptance of this shared collective memory of the past appears to have created an opportunity for social learning that has led, in turn, to an increase in positive attitudes and perceptions regarding members of the Other racial group. Indeed, Gibson’s study shows that among white South Africans in particular, an acceptance of the moderated truth of apartheid created by the Commission led to a “substantively significant” and “remarkably strong” increase in the likelihood that individuals would hold more racially reconciled attitudes towards black South Africans, including a decrease in stereotypes, prejudices, and existing feelings of intergroup threat and hostility.\textsuperscript{202} While somewhat weaker, a similar correlation between acceptance of the TRC’s truth and racially reconciled attitudes

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\item \textsuperscript{200} Minow, \textit{Between Vengeance and Forgiveness}, 75.
\item \textsuperscript{201} Gibson, \textit{Overcoming Apartheid}, 98-99.
\item \textsuperscript{202} Gibson, \textit{Overcoming Apartheid}, 132.
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towards whites is evidenced among a large portion of the black population. Again, this social learning appears to be directly linked to the findings revealed through the TRC’s truth-recovery process, which showed undeniably that atrocities had been committed by members of both groups during the apartheid struggle and therefore directly challenged existing perceptions that either side was engaged in a wholly ‘just war’ or was the only party victimized by past conflict. In so doing, the TRC’s findings worked to break down existing myths propagated by the government of the time suggesting that the state was only acting to protect whites against a terrorist onslaught being waged by ‘godless black Communists.’ Indeed, prior to the work of the TRC, over 77 percent of whites had indicated they had little or “no idea that the state was committing horrific atrocities against those struggling against apartheid” and frequently expressed shock when confronted by the stories and images of human rights abuses revealed during the Commission’s hearings.

Similarly, the TRC hearings also revealed that not all whites were committed to the cause of racial repression, and that a number of innocent white victims (and many innocent black victims alongside them) had suffered as a result of the liberation struggle. As Gibson illustrates, the truth revealed by the TRC process helped to open the space for reconciliatory social learning about the other as “whites who were attentive to the truth and reconciliation process learned that their side was less than noble in creating and defending apartheid, that they had been duped and lied to by their own leaders, and that the opposition was perhaps less radically evil in its efforts

203 Ibid., 149. One potential reason for this weaker correlation is that black South Africans, being more exposed to the ‘truth’ of apartheid injustices and atrocities on a daily basis, did not perceive the revelations of the TRC process as a radical new source of information. See Gibson, Overcoming Apartheid, 161.

204 Ibid.

205 Gibson and Macdonald, Truth - Yes, Reconciliation - Maybe.
to create a new system in South Africa."\textsuperscript{206} At the same time, he notes that “many black South Africans most likely came away from the truth and reconciliation process believing that the struggle against apartheid was indeed a ‘just war’ but that many unjust and inhumane actions were taken in the name of liberation.”\textsuperscript{207}

That said, there appears to have been a limit to the shared collective memory that was established by the work of the TRC and the amount of social learning it was able to foster, particularly among white South Africans. As previously mentioned, the Commission’s focus on physical acts of gross human rights abuse led to the formation of a ‘truth’ about the past that emphasized the actions of individuals over the everyday abuses suffered by non-white racial communities at the hands of the apartheid government. Accordingly, while the TRC appears to have been successful in helping to convince many white South Africans that apartheid was a crime against humanity and that unconscionable acts were carried out in its defense, the individualized focus of its truth recovery efforts may also have inadvertently made it possible to write these incidents off as rogue behaviour of a handful of ‘bad apples’ working within the government. Indeed, as Charles Villia-Vincencio, former head of the Research Department for the TRC has noted, “such killers and torturers [were] represented as psychopaths, aberrations, and misfits….the ‘rotten eggs’ among the other disciplined, professional security force members.”\textsuperscript{208} As a result, many white South Africans seem to agree that apartheid-era problems were caused by the criminal actions taken by individuals rather than holding the system of

\textsuperscript{206} Gibson, \textit{Overcoming Apartheid}, 161.

\textsuperscript{207} Ibid., 162.

apartheid itself responsible for past abuses. As Gibson’s 2001 survey data reveals, 43.2 percent of white South Africans surveyed agreed that “the abuses of apartheid were due to evil individuals, not state institutions themselves.” Further, and perhaps more troubling, over half (51 percent) of white South Africans indicated a belief that “despite its abuses, apartheid ideas were good ones,” while a third (33.7 percent) still believed that ultimately “the struggle to preserve apartheid was just.” Similarly, when surveyed in 1996 during the TRC process, 45 percent of white South African respondents held the view that life under apartheid was better than life post-apartheid, with only 14 percent indicating they thought it worse.

In addition, there is also a large discrepancy among racial groups in terms of the degree to which they believe that the TRC was able to succeed in providing a relatively impartial and unbiased account of the past. Even before the work of the Commission began, this divide was apparent, with many whites fearing that the TRC would function as a political tool of the ANC party, one that would be used to engage in a witch-hunt and to scapegoat members of the white community. In May of 1995, just as the work of the TRC was beginning, 63 percent of whites doubted that the TRC would be able to uncover ‘what really happened’ with regard to past crimes, while 72 percent of blacks remained confident the TRC would succeed in its goals. This view appears to have remained largely unchanged following the Commission’s completion, with survey data from late 2000 revealing that 48 percent of all white respondents perceived the

\[\text{209} \text{ Of particular interest, this individualized interpretation of past rights abuses also would appear to have been internalized by a similar number of black South Africans (41.1 percent). See Gibson, } \text{Overcoming Apartheid, } 80-81.\]

\[\text{210} \text{ Ibid.}\]

\[\text{211} \text{ Gibson and Gouws, } \text{"Support for the Rule of Law," } 172-91. \text{ See also Gibson and Macdonald, } \text{Truth - Yes, Reconciliation - Maybe.}\]

\[\text{212} \text{ Human Science Research Council, } \text{Omnibus Survey: May 1995 (Pretoria: HSRC/Mark Data, 1995).}\]

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‘truth’ produced by the TRC as biased in favour of the ANC and other members of the liberation movement, a view shared by only 7 percent of the black population.\textsuperscript{213} That said, other public opinion polls would seem to indicate that despite these perceptions of bias amongst the white community, most South Africans do believe that the TRC did a good job of uncovering the ‘truth’ about past abuses. For instance, a poll in 1998 showed that every second respondent (both black and white) felt the Commission had ultimately been successful in its truth-recovery efforts. Of this number, only 5 percent of blacks believed that the TRC failed in obtaining the ‘truth’ of past events, though a somewhat larger number (39 percent) of white South Africans felt this was the case.\textsuperscript{214} Nevertheless, by late 2000 over 63 percent of white South African respondents were ready to agree that the TRC had done a “pretty good job” in helping the families of victims find out what had happened to their loved ones.\textsuperscript{215}

Among those experts interviewed in South Africa, there was a general consensus that the truth which did emerge from the TRC, while by no means perfect, did help to contribute to a shared understanding of the past and therefore remained a vital component of social learning and a platform on which future interracial reconciliation could be built. In particular, several indicated that despite the potential gaps in the ‘truth’ it was able to collect, the TRC was able to create an official ‘big picture’ account of the abuses committed during South Africa’s apartheid past that is now widely accepted amongst members of all racial groups. As Howard Varney of the ICTJ explains,

If there’s no truth on the table, if people don’t know what happened, there’s little chance for reconciliation. Knowledge of the basic story, I think, is an essential

\textsuperscript{213} Gibson and Macdonald, \textit{Truth - Yes, Reconciliation - Maybe.}


\textsuperscript{215} Thiessen, “Object of Trust and Hatred,” 207.
requirement. The fact is most people have a good idea of what the story is anyways, but it is good to see it in an official form. I think the SATRC report, although it can be criticized, put that basic story down for the official record...the truth commission placed what I would call the ‘essential truth’ on the table, the central story, which was largely correct. There was a lot missing from it...but I don’t think it’s true to say those omissions and shortcomings mean that there was no reconciliation – there was some.216

This is a point echoed by former TRC Commissioner Mary Burton, who notes that as a result of the TRC’s truth recovery efforts it is now “impossible to deny that apartheid was a crime against humanity [as] the grand narrative and the broad strokes of this narrative are in place and there is consensus about that...You cannot deny the general parameters of what apartheid was about and what actually happened – that’s all in place and that’s all official in a sense.”217

In relation, other interviewees, such as former member of the TRC’s Research Unit Wilhem Verwoerd, contend that the truth assembled by the Commission has been a crucial element in the ongoing process of national reconciliation, as “even though not everything was told, it provide[d] a basis on which we can say we have a shared understanding of what happened in the past...Basically it said to the entire nation, this is where you come from, this is your past, and this should never happen again.”218 Indeed, as Brandon Hamber and Richard Wilson have noted, while the broader ‘truth’ about the past recovered by the TRC may not in itself be sufficient for the creation of national unity in post-apartheid South Africa, it nonetheless has helped to lay the groundwork for a more reconciled future. As they detail, “by having this

217 Personal interview, Mary Burton, Cape Town, South Africa, 23 June 2008.
218 Personal interview, Wilhelm Verwoerd, Glencree, Ireland, 28 April 2008.
shared memory of the past, and a common identity as a traumatized people, the country can, at least ideally, move on to a future in which the same mistakes will not be repeated.”

Achieving Justice Through the TRC

Due to the conditional amnesty provision included in the Act empowering the TRC, from its inception it was clear that the Commission would not seek criminal retribution against the perpetrators of gross human rights violations as its primary aim. Instead, the TRC pursued a ‘third course’ of justice that lay somewhere between unrestrained legal prosecutions and impunity. In essence, the mandate of the TRC was marked by a series of trade-offs in which retributive justice – in the form of criminal prosecutions for perpetrators – remained limited in order to ensure the stability of the nascent peace process and to forward the more restorative goals of truth-recovery, acknowledgement, reconciliation, and reintegration espoused by the Commission. Nonetheless, for many critics both within South Africa and internationally, the limitations placed on criminal prosecutions by the TRC process were viewed as a sacrifice of justice made in exchange for political expediency and national stability. This view was propagated particularly by a group of victims led by representatives of the Azanaian People’s Organization (AZAPO) and the family of Steve Biko, the leader of the Black Consciousness movement in South Africa who died while in the custody of apartheid security forces, who unsuccessfully sought to challenge the Commission’s power to grant amnesty in South Africa’s constitutional courts.

219 Hamber and Wilson, "Symbolic Closure," 144.

220 Boraine, "Truth and Reconciliation."; Minow, Between Vengeance and Forgiveness.

221 See Antje du Bois-Pedain, Transitional Amnesty in South Africa (Cambridge: Cambridge University Press, 2007), 29-30; Lyn S. Graybill, Truth and Reconciliation in South Africa: Miracle or Model? (London: Lynne-Rienner, 2002), 59. This challenge was denied by the Constitutional Court of South Africa.
Despite this resistance, evidence shows that to a surprising degree South Africans were willing to countenance the provision of amnesty to perpetrators who had committed politically-motivated human rights abuses under apartheid in exchange for their contributions to the TRC’s truth recovery process. In public opinion surveys conducted during 1996, 49 percent of black respondents (and 39 percent of whites) indicated they were inclined to support granting amnesty in exchange for full disclosure.\(^{222}\) Of the broader population, 48 percent indicated that perpetrators “should be given amnesty if they come clean and offer to testify to the Truth Commission,” while only 28 percent disagreed.\(^{223}\) At least among black South Africans, this number only grew over the course of the TRC’s operation, with 72 percent of respondents approving of amnesty by the end of 2000 (though it should be noted that support of white South Africans decreased to 29 percent).\(^{224}\) Similarly, by the end of 2000 63 percent of all respondents surveyed indicated that they approved of amnesties given to those who committed human rights abuses during the struggle over apartheid, though most remained adamant that these amnesties needed to be restricted to a limited number of people and that all those who failed to apply should be punished.\(^{225}\) At least in part, this willingness to accept amnesty would appear to be linked to the perception that it was necessary for moving forward with the process of interracial reconciliation and solidifying post-apartheid peace. As evidenced by a 2000 survey, 69 percent of black South African respondents identified the conditional amnesty as an integral part of

\(^{222}\) Thiessen, “Object of Trust and Hatred,” 204.

\(^{223}\) Ibid., 203.

\(^{224}\) Gibson and Macdonald, Truth - Yes, Reconciliation - Maybe.

\(^{225}\) Thiessen, “Object of Trust and Hatred,” 203.
South Africa’s movement towards national unity and reconciliation, though again a much smaller number (29 percent) of whites appeared to share this belief.\(^{226}\)

Further, the potential ‘sacrifice of justice’ represented by the conditional amnesty provision was counterbalanced by the extensive emphasis placed on victims in the TRC’s restorative justice mandate, a focus which led many national and international observers to label the Commission as one of the most ‘victim-centered’ transitional justice processes to date.\(^{227}\) In particular, a primary aim of the TRC was to help restore the “human and civil dignity” of victims by acknowledging the suffering they had experienced at the hands of apartheid-era violence, offering them the chance to relate their own accounts of past violations, and making recommendations for services and reparations to help them begin to rebuild their lives.\(^{228}\) As previously mentioned, the TRC developed many positive innovations in this regard, including the unique opportunities provided for victim acknowledgement by having individuals tell their stories publicly in the Commission’s HRVC hearings, recording their accounts in the Final Report, and giving them the option of becoming active participants in perpetrators’ amnesty hearings. As Sarah Crawford Brown of the Trauma Centre for Survivors of Violence and Torture in Cape Town argues, the public acknowledgement provided by the TRC was central to the processes of healing and reconciliation of many victims in South Africa. As she notes, when societies have been divided by a past history of violence, “survivors need to be acknowledged, and empowered, and need to tell their stories...they need acknowledgement, they need the story


\(^{228}\) Government of South Africa, *Promotion of National Unity and Reconciliation Act*. 

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to be heard they need the perpetrators and society to know that this has happened and not to forget it.”

Similarly, Thloki Mofokeng of the Khulumani Victims Support Group in South Africa illustrates that for many black South Africans, the official acknowledgement paid to victims in the TRC was crucial to social learning by reducing the sense of injustice suffered by the victims of apartheid violence. As he contends, “by saying [a human rights violation] was committed, by denouncing that, and by officially recognizing the pain of victims – that official recognition of the pain of all Black South Africans – that means a lot, that means something. The official recognition of injustice, that we recognize injustice for all of you, that means something. People feel acknowledged, officially, and recognized, officially.” Further, for many black South Africans in particular, the official recognition provided to victims by the TRC symbolized an important shift away from their previous treatment as second-class citizens within apartheid society and an indication of their status as equal members of the moral and political community of South Africa. As noted South Africa scholar Professor Tom Lodge illustrates, the TRC gave people who testified at the human rights hearings a sense that they were being acknowledged. That their experiences were important, that they were somebodies at last. So it was important in that sense, in helping to reconstitute people as citizens. And of course that happened vicariously as well, affecting a much larger number of people than those who testified because the truth commission projected its activities very effectively, very dramatically through the media.

229 Personal interview, Sarah Crawford Brown, Cape Town, South Africa, 26 June 2008.
230 Personal interview, Thloki Mofokeng, Johannesburg, South Africa, 1 July 2008.
232 Personal interview, Dr. Tom Lodge, Professor of Peace & Conflict Studies at the University of Limerick, Limerick, Ireland, 15 April 2008.
Accordingly, while a large number of victims remained adamantly opposed to the conditional amnesty provisions of the TRC, evidence suggests that given these other sources of acknowledgement and recognition, most appeared willing to accept amnesties as the “price that had to be paid” to glean the truth of past events from perpetrators and to forward the broader goals of peace and reconciliation in South Africa.\textsuperscript{233} For instance, as Chapman and van der Merwe illustrate,

while the public seems to have recognized the amnesty provision as an injustice, there seems to have been a general recognition that amnesty was the price to pay for democracy: it was a necessary evil...survivors were not overwhelmingly opposed to the idea of amnesty. Many survivors apparently hoped that their perpetrators would apply for amnesty...where survivors did not know the identity of the perpetrator and were anticipating that new information would be revealed through the amnesty process.\textsuperscript{234}

Indeed, based on extensive interviews carried out with a cross-section of victims and members of the TRC staff, Phakathi and van der Merwe show that for most victims, correcting the injustices of the past was tied less to the punishment and incarceration of perpetrators and was instead more dependent on the receipt of personal acknowledgement, a truthful account of perpetrator responsibility, and the provision of an adequate program of reparations to meet their most immediate material needs.\textsuperscript{235} Similarly, in a 1997 study conducted by van der Merwe among black victims in the communities of Duduza and Katorus, he found that “quite a few [victims] supported the concept of amnesty because of its potential benefits.” As he recounts,

\begin{itemize}
\item [m]any victims, in fact, were hoping that their perpetrators would apply for amnesty so that the facts of their case would come to light and there would be some prospect for dialogue, apology, or greater public recognition. Most victims
\end{itemize}

\begin{itemize}
\item \textsuperscript{233} Personal interview, Hugo van der Merwe, Cape Town, South Africa, 16 June 2008. See also Chapman and van der Merwe, “Did The TRC Deliver?,” 266.
\item \textsuperscript{234} Ibid.
\item \textsuperscript{235} Phakathi and Merwe, "The Impact of the TRC's Amnesty Process," 135-36.
\end{itemize}
and community leaders accepted restorative justice as an appropriate or even preferable approach in addressing human rights violations.\textsuperscript{236}

The same trend was reflected in a public opinion study conducted by James Gibson in 2001, in which he found that if victims were provided with the opportunity to tell their stories in the AC hearings, received apologies from perpetrators, and, most importantly, were provided with financial compensation by the government, then the number of South Africans who considered granting amnesties to perpetrators to be ‘fair’ and ‘just’ increased exponentially.\textsuperscript{237}

Furthermore, despite the inclusion of the conditional amnesty provision in its mandate, it is clear that the Commission nonetheless still sought to ensure that perpetrators faced a modicum of justice by ensuring that those who applied for amnesty had to acknowledge and take public responsibility for their actions. This meant that even those perpetrators who were ultimately successful in their applications for amnesty still faced a measure of accountability by way of the ‘public shaming’ associated with testifying before the AC hearings. Indeed, as Professor Tom Lodge notes, the process of having perpetrators come forward publicly to the AC to take responsibility for their actions may have helped to “make the initial process of amnesty a little more palatable” to many South Africans.\textsuperscript{238} This is reflected in survey evidence from 2000, which shows that a considerable percentage of black respondents felt that the public shaming associated with the amnesty process represented a form of justice, with 75 percent indicating


\textsuperscript{237} James L. Gibson, ”Truth, Justice, and Reconciliation,” *American Journal of Political Science* 46, no. 3 (2002). For instance, as Gibson illustrates only 7 percent of respondents judged amnesty to be fair when no compensation, apology, or voice was given to victims. When these three conditions were met, roughly 46 percent of respondents deemed the conditional amnesty to be fair.

\textsuperscript{238} Personal interview, Dr. Tom Lodge, Professor of Peace & Conflict Studies at the University of Limerick, Limerick, Ireland, 15 April 2008.
they believed that the TRC had made “sure that those guilty for atrocities were punished.”

Indeed, as Lodge contends, “the kind of public shaming that was involved in confession [to the AC] represented to many people a form of punishment. So in some ways the Commission’s proceedings didn’t wholly abrogate the need for justice.”

In addition, the TRC also assigned a further degree of moral responsibility to perpetrators by including a section in its Final Report dedicated to ‘Perpetrator Findings,’ in which it recorded the testimonies made by those who applied for amnesty through the AC. As Professor Andre du Toit of the University of Cape Town notes, in this way, while the TRC remained bound by the interim constitution to grant conditional amnesties to qualifying perpetrators, it nonetheless “did its damndest to give some effect to the requirements of justice” by acknowledging and recording crimes in the historical record. As du Toit explains, “this was the closest the Commission could get to [retributive] justice. It was bound by the amnesty provision, it had to oversee the whole amnesty process, and it couldn’t initiate prosecutions and bring to trial any of the perpetrators that appeared before it, but what it could do, it thought, was to have at least these perpetrator findings. It’s an attempt to have the minimum of justice.”

It should also be noted that while great attention has been paid to the limitations on retributive justice imposed by the TRC’s conditional amnesty provision, in actual fact its impact on criminal prosecutions for perpetrators was ultimately quite limited. Indeed, while the

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239 Gibson and Macdonald, *Truth - Yes, Reconciliation - Maybe.*

240 Similar, as Dr. Piet Meiring recounts, the act of confessing to the AC “was in a sense a shaming process. Because you have to stand up and give account of your deeds, before the nation, before your family who did not know what you were doing the past years. It was hard, it was difficult.” Personal interview, Dr. Piet Meiring, Pretoria, South Africa, 6 July 2008. This ‘shaming’ element of the AC hearings has also been recognized in Rigby, *Justice and Reconciliation*, 188.

241 Personal interview, Dr. Andre du Toit, Cape Town, South Africa, 24 June 2008.

242 Ibid.
conditional amnesties granted to perpetrators represented a key component of the TRC’s restorative approach to national unity and reconciliation, this process nonetheless still relied on an underlying ‘backstop’ of traditional retributive justice in the form of criminal prosecutions. For instance, as previously discussed, perpetrators had to meet a series of fairly stringent qualifying criteria to be eligible for amnesty, including the ability to show that their crimes were political in nature and were committed in ‘proportion’ to stated political objectives, as well as the willingness to provide a full and truthful account of their past crimes to the AC. Notably, only 1167 of the already relatively small pool of 7000 potential applicants were ultimately successful in securing amnesty through the TRC.\footnote{243} All those perpetrators who refused to take part in the Commission’s justice process by applying for amnesty through the AC continued to remain susceptible to prosecution for their crimes. Similarly, those who did come forward to the AC but somehow failed to meet the AC’s strict criteria for conditional amnesty also remained liable for criminal prosecution. To be sure, it was this ‘stick’ of threatened prosecution as much as the ‘carrot’ of the conditional amnesty itself that encouraged many perpetrators to come forward to participate in the TRC’s avowedly restorative truth-recovery process.\footnote{244}

Unfortunately, however, evidence shows that the initial magnanimity of black South Africans – and of the victim community in particular – towards the TRC’s amnesty provision quickly deteriorated when it became apparent that several aspects of the Commission’s ‘victim-centered’ restorative justice approach would not live up to expectations. Much of this

\footnote{243}{However, it should be noted that a substantial number of the original 7000 amnesty applicants included those currently in jail for having committed crimes that were clearly not ‘political’ in nature but who nonetheless wanted to take a ‘chance’ on qualifying for the TRC’s amnesty provision. As a result, the proportional number of those who received amnesty for cases under the TRC’s remit is somewhat higher than this figure appears.}

\footnote{244}{Goldstone, “Justice and Reconciliation,” 192; Hayner, \textit{Unspeakable Truths}, 98-100; Rigby, \textit{Justice and Reconciliation}, 139.}
dissatisfaction centered on the government’s apparent disregard for the reparations program recommended by the TRC. At the same time, victims watched as those perpetrators who successfully applied for amnesty were immediately released from prison or granted immunity from prosecution. As a number of expert interviewees noted, this disparity left many victims feeling “marginalized,” “ignored,” or “sacrificed” by a government who appeared to be giving greater value to the needs of perpetrators. As Professor Amanda Gouws of Stellenbosch University recounts, “this wasn’t about putting a price to life, this was about a symbolic gesture that you have made sacrifices so we will pay you something. On the other hand, the perpetrators got off scot-free. If you disclosed everything, you got amnesty…What did the victims get? Nothing – many reparations still haven’t been paid…People are very, very embittered about that.”

While the TRC only had the power to make recommendations to the President in regard to reparations, as the public face of the reparations process, the Commission nonetheless remained the primary target for the growing sense of anger, frustration, and injustice felt by victims. For many victims, these feelings appear to have led to the conclusion that despite its claims to the contrary, the TRC was a perpetrator-centered rather than a victim-centered institution. As Nahli Valji, Senior Research with the CSVR in Cape Town has argued, this compounded the sense of injustice felt by many victims and may have hindered their willingness to reconcile. Valji notes that “reparations dragged on for years before it was paid, and yet government was quick to move on things that have benefitted perpetrators…in terms of reconciliation it left a bad taste in the mouth of a lot of the victims who came forward to

245 Personal interview, Professor Amanda Gouws, Stellenbosch, South Africa, 17 June 2008.
participate in the Commission.”246 Indeed, victims’ frustration at the TRC’s lack of delivery in reparations convinced many to withdraw their support for the Commission’s restorative justice approach and helped to build new levels of resistance to the amnesty process.247

Perhaps even more damaging for perceptions of justice among victims has been the government’s marked failure to follow through on criminal prosecutions for those perpetrators who either chose not to take part in the amnesty process or who were refused on the basis of not meeting the specified amnesty criteria. As previously mentioned, few of those in positions of leadership within the NP, the ANC, and the IFP came forward to participate in the AC hearings. The TRC remained fairly lenient in its approach to these figures, very rarely invoking its extensive subpoena powers to compel senior officials to testify or to help build cases for prosecution against them.248 As a result, only relatively low-level ‘foot-soldiers’ who had a need to seek amnesty for fear of being otherwise prosecuted for their crimes came forward. Even of this number, many – particularly among the apartheid-era police and security forces – simply chose to not apply based on a calculated risk that they, like their leaders, would be able to avoid prosecution. Indeed, an analysis of those amnesty applications that received public hearings through the AC reveals that the majority of individuals (between 53 and 61 percent) who applied for amnesty were from ANC-aligned structures (many of whom were already imprisoned under sentences previously enacted by the apartheid government), while applications from members of

246 Personal interview, Nahla Valji, Senior Research, CSVR, Cape Town, South Africa, 24 June 2008.


248 Piers Pigou, “Reaping What You Sow.”
government security forces remained well in the minority (18 to 23 percent). As Howard Varney, a former member of the TRC’s Investigations Unit details,

the fact is that most perpetrators didn’t come forward [to the AC]. The vast majority of applicants were in fact serving prisoners who were just taking the chance they could grab an amnesty for whatever they had done. With a couple of notable exceptions, those perpetrators who could have qualified for amnesty would only come forward if they were aware there was a police docket with certain information that could lead to prosecution, or there was an imminent prosecution. Only then would they come forward, but then they confined their disclosure to what was already in the hands of investigators.

For the most part, the risks taken by perpetrators in either limiting the accounts they provided to the AC or in avoiding the process completely appear to have paid off due to an apparent lack of desire by the ANC government to pursue prosecutions. While the TRC reportedly handed over nearly 300 cases for possible prosecution to the National Prosecuting Authority (NPA), except in a handful of instances, very few prosecutions have actually been pursued even when sufficient evidence has been available to do so. Indeed, of the thousands of potential cases that may have been viable for prosecution, only four cases involving apartheid-era human rights abuses have been heard in court since the close of the TRC in 2001, with only one conviction being made to date. As Chapman and van der Merwe note, despite the mandate of the TRC, “to date there has been very little indication of serious government commitment to pursuing further prosecutions against those denied amnesty or those who did not apply for amnesty.”


251 Chapman and van der Merwe, “Did the TRC Deliver?,” 268

252 Ibid., 267.
As many expert interviewees indicate, the failure to follow through on the promise of prosecutions for those perpetrators who didn’t receive amnesty deepened the injustice felt by many victims already angered by the lack of reparations. As Howard Varney contends, the failure to carry out these prosecutions amounted to a fundamental betrayal of the “historic bargain” or “national compact” made with victims who were assured a measure of criminal justice if perpetrators failed to participate in the more restorative processes of the TRC.253 As he argues,

If you don’t intend to prosecute, you can’t imply that you will when you set up a conditional amnesty because that, in effect, is making false promises. Because you’re asking victims to buy into a program in which they give up a measure of their rights in the hope that they’ll get truth, perhaps together with reparations, but ultimately justice — if you don’t get the truth you’ll get justice…Make these compromises for the sake of crossing this historic bridge, but we will prosecute those who were denied amnesty or those who didn’t apply for amnesty – that just simply hasn’t happened.254

Similarly, Thloki Mofokeng of the Khulumani Support Group details that while many black victims were willing to countenance amnesty in exchange for truth and reconciliation, this was premised on an understanding that those who did not participate would face criminal sanction. Accordingly, as he suggests, the lack of prosecutions has led victims to question the commitment of the government and the TRC to providing justice: “We understand it was a compromised justice, but there was no follow-through. So people felt very, very betrayed. These guys are not only economically still empowered, still very privileged, but have essentially gotten off scot-free.”255

Not surprisingly, survey data collected by the Centre for the Study of Violence and

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254 Ibid.

255 Personal interview, Thloki Mofokeng, Johannesburg, South Africa, 1 July 2008.
Reconciliation in 2004 reveals that an overwhelming majority of victims (88 percent) interviewed indicated they did not feel that justice had ultimately been achieved for them through the amnesty process.\textsuperscript{256} A similar 2005 study carried out by David Backer based on a survey of 228 victims in Cape Town found that only 28 percent felt that justice had been achieved.\textsuperscript{257}

\textbf{The Impact of the TRC’s Justice on Social Learning}

Perhaps most troubling is the unintended effect this perceived impunity may have had for social learning among both victims and the broader South African population. Indeed, a number of interviewees drew a direct link between the failure to follow through on the promise of prosecutions for apartheid-era perpetrators and the development of a more widespread distrust or disregard for the rule of law in contemporary South Africa – a sentiment that may be tied to a recent increase in violent crime and to high levels of domestic and xenophobic violence.\textsuperscript{258} As Mofokeng argues,

\begin{quote}
If there had been vigorous prosecutions for those who did not come forward to the TRC, victims would have felt the state recognized that what happened to me was evil, and that those who did that to me and those who did not take part in this compromise arrangement, people would have felt that this sense of impunity is prevented, that impunity is not perpetrated. But right now people think that people have got away with all of this, therefore impunity is entrenched in our broader society. You see this in our crime problem, or in people attacking people and knowing that nothing will happen to them – we can trace it back to the fact that people were never prosecuted.\textsuperscript{259}
\end{quote}

\textsuperscript{256} Jeffrey Sonis and Hugo van der Merwe, "Survivor Perspective in the South African TRC," in \textit{CSVR Research Reports} (Johannesburg: Centre for the Study of Violence and Reconciliation, 2004). This survey was conducted in Johannesburg between 2000 and 2002 and interviewed 176 victims. See also Chapman and van der Merwe, “Did the TRC Deliver?,” 270.


\textsuperscript{258} Thiessen examines the impact that the TRC process may have had on improving ‘Human Rights Awareness’ in South Africa and hints at this connection. See Thiessen, “Object of Trust and Hatred,” 214-215.

\textsuperscript{259} Personal interview, Tlhoki Mofokeng, Johannesburg, South Africa, 1 July 2008.
This point is reiterated by Professor Posel of the University of the Witwatersrand, who notes that in addition to the injustice to victims caused by the failure to follow through on prosecutions, the dangerous lack of respect for the rule of law this modeled for South African society has been damaging to the goals of national unity and reconciliation. As she warns,

>[i]f it turns out there was no bite in the law, then we’re at risk of trivializing a large part of that exercise, and not just in terms of the effect it had at the time. The risk with our TRC was that we prioritized reconciliation over punishment with the idea of amnesty. The worst of all worlds would be that this led a society that is not reconciled, and simultaneously that has no respect for the law. Where the assumption is that if you just have to say sorry enough times, or there is just no legitimacy or efficacy attached to the system of law and justice. That’s very much the danger in SA at the moment – this is an exceedingly lawless society.\textsuperscript{260}

Indeed, evidence from Gibson’s 2001 survey seems to suggest that despite the TRC’s attempts to provide accountability for the violence of the past, among ordinary South Africans it appears to have had little influence in altering attitudes towards the rule of law that prevailed under apartheid.\textsuperscript{261}

Despite these potential dangers, at the time of writing there appear to be no plans by the government to pursue prosecutions for apartheid-era abuses in the near future. In fact, under a decision made by the government in 2005, a policy was introduced into the NPA that would give those perpetrators who failed to appear before the TRC a “second bite at the amnesty cherry.”\textsuperscript{262}

This policy effectively gives the NPA the authority to not pursue charges (or dismiss existing charges) in all current cases that are retroactively deemed to have met the TRC’s original

\begin{footnotes}
\item[260] Personal interview, Dr. Deborah Posel, Johannesburg, South Africa, 3 July 2008.
\end{footnotes}
amnesty criteria. Importantly, however, the NPA has been empowered to make these decisions behind closed doors, without the involvement of victims, and without releasing any information – besides the final decision about whether or not to grant amnesty – to the general public.\textsuperscript{263} As several critics have noted, not only does this grant perpetrators a second chance at clearing their names, but it also removes several elements considered vital to the original amnesty process, including the transparency of the hearings, public admissions of responsibility, and perhaps most importantly, the trading of a perpetrator’s full account of the ‘truth’ in exchange for clemency.\textsuperscript{264} Nahla Valji predicts that for many victims this policy is likely to further hinder reconciliation, as it is viewed as yet another “breaking of the social compact” by the government and by the TRC, another “sell-out point, another betrayal.”\textsuperscript{265} This is confirmed by Thloki Mofokeng, who notes that given the angry reaction among the 50,000-member constituency of victims in the Khulumani Support Group, the perception of continued injustice associated with the new NPA amnesty policy is likely to serve as a threat to the ongoing process of reconciliation:

Not only did [victims] get inadequate reparations, but now perpetrators that did not come to the TRC will get a second chance…It will have a huge impact on social reconciliation. One has to remember that reconciliation is a process and it can fade away at any point depending on what happens. And things like [the new NPA amnesty policy] can have a huge impact against the gains we’ve made in terms of reconciliation.\textsuperscript{266}

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\textsuperscript{264} Klaaren and Varney, "A Second Bite."

\textsuperscript{265} Personal interview, Nahla Valji, Senior Research, CSVR, Cape Town, South Africa, 24 June 2008.

\textsuperscript{266} Personal interview, Thloki Mofokeng, Johannesburg, South Africa, 1 July 2008.
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CONCLUSION: ASSESSING THE TRC’S IMPACT ON INTERGROUP RECONCILIATION

Over ten years after the completion of the TRC’s work, it is clear that South Africa remains a society still seeking to overcome the deep racial divisions entrenched under apartheid. To be sure, given the systematic way that apartheid enforced racial separation, inequality, and antagonism in nearly all facets of daily life, it is perhaps unreasonable to expect South Africa, despite its seemingly ‘miraculous’ peaceful transition to democracy, to have so quickly achieved the goal of racial harmony envisioned in the dream of a ‘Rainbow Nation.’ As many observers note, the long-term process of reconciliation required to overcome the social, psychological, and economic legacies of apartheid will likely be generations in the making. That said, fifteen years after the inception of multi-racial democracy in South Africa, there are many positive signs of change in the nature of intergroup relations between white and black South Africans that would indicate at least an initial step on the road to greater interracial reconciliation. However, to what extent has the South African Truth and Reconciliation Commission aided this process?

The preceding analysis suggests that one of the greatest successes of the Commission was the extent to which it was able to capture the imaginations of ordinary South Africans, serving as a symbol of both the end of apartheid and the beginnings of a commitment to a more racially reconciled society. This was in no doubt facilitated by the support of charismatic leaders such as Archbishop Tutu and Nelson Mandela for the work of the Commission, figures who tirelessly committed themselves to – and in fact themselves embodied – moving beyond the abuses of the past in service of creating a more inclusive and reconciled future for South Africa. As one of the first initiatives of the new government of National Unity that spoke on behalf of both black and white South Africans, the TRC also benefitted from the official legitimacy and (at least early)
public support of political figures. Indeed, for better or worse, as the main institution tasked with addressing issues of the past in South Africa, for many South Africans and international observers the TRC came to embody the transition itself and became the public face of the reconciliation process. This was due in no small part to the openness and transparency of the TRC process itself, an innovation which led to extensive media coverage of its public hearings processes and rapt attention paid to their underlying message of reconciliation. Accordingly, one of the greatest strengths of the Commission’s work was its ability to serve as a prominent societal platform for instrumental social learning among members of different racial groups. In this way, the TRC served as a crucial catalyst for a ‘societal dialogue’ about the past in South Africa, one that provided an important humanizing window onto the perspectives of victims and perpetrators of other races and also helped to spark a broader public debate about the past.

The highly public nature of the TRC also appears to be directly linked to the success it enjoyed in using its focus on truth recovery to help fashion a ‘common memory’ of the past that offered a crucial starting point for socioemotional social learning. While several factors ultimately limited the extent of the factual information the TRC was able to recover, it nonetheless appears to have been quite successful in creating a widespread consensus among all South Africans that apartheid represented a crime against humanity and that both black and white South Africans were complicit in carrying out gross violations of human rights. In large part, this acceptance stemmed from the Commission’s decision to use the public hearings and the amnesty process itself as a way to involve victims, perpetrators, and bystanders in the truth-telling process. This helped to create a more inclusive and balanced truth of the past that proved vital to countering many of the myths, misunderstandings, and polarized beliefs about members
of Other racial groups that were pervasive under apartheid – beliefs that otherwise would have presented a significant barrier to future reconciliatory prospects.

However, there is reason to suggest that the Commission was far less successful in forwarding other key mechanisms of social learning in its work, failures that appear to have consequently limited or even actively impeded its ability to promote interracial reconciliation. For instance, despite the emphasis placed on embracing a more ‘restorative’ approach to justice, little room was provided in the TRC process for the kinds of meaningful interpersonal contact and dialogue across group boundaries that are essential to instrumental social learning. While some very positive informal encounters were arranged outside of the official auspices of the Commission, and while attempts have been made by several civil society organizations to carry similar programs forward post-TRC, the relatively small number of these efforts and the lack of support they have received from the government have minimized their broader impact on society. Given the recognized importance of sustained contact and communication for overcoming entrenched prejudices, stereotypes, and hostility in divided societies, the TRC’s failure to appropriately emphasize dialogue certainly represents a major missed opportunity to facilitate social learning and interracial reconciliation in South Africa.

Further, it is clear that for many South Africans the TRC failed to provide a sense of acknowledgement and justice that sufficiently addressed the harms of the past. Many black South Africans and direct victims of abuses under apartheid indicated a surprising willingness to accept the conditional amnesty provision of the TRC as a sacrifice that needed to be made for national unity and reconciliation. However, this was quickly replaced by a sense of anger and betrayal when the government failed to adequately follow through on promises for victim reparations and prosecutions for those perpetrators who did not receive amnesty. For many
victims, this meant feeling used and discarded by the supposedly ‘victim-centered’ Commission, a sentiment that appears to have largely undermined other aspects of social learning provided by the TRC. Further, current plans for future amnesties and pardons to be granted to perpetrators behind closed doors have helped to create the sense of impunity and lack of respect for the rule of law that mark South Africa today.

Finally, and directly linked to the issue of reparations, the Commission appears to have contributed little to aspects of distributive social learning. While many South Africans were the victims of physical violence, far more – particularly amongst the black population – suffered on a daily basis under the vast structural and material inequalities entrenched by the apartheid system. Indeed, many victims indicated that their willingness to reconcile was less attached to punishing perpetrators than to addressing inequalities that existed between racial groups as a legacy of apartheid. However, for the most part, the Commission neglected to address these broader structural issues, focusing almost exclusively on individualized cases of physical rights abuses and only rarely drawing connections to the broader socioeconomic context in which they occurred. This appears to have had the unintended consequence of creating a record of the ‘truth’ that obscured the complicity of most white South Africans in indirectly supporting and benefitting from the inequities of apartheid – a potentially dangerous limit to the socioemotional social learning the TRC was able to produce. One outcome of this constraint was a marked resistance among the white community to any government attempts at redistribution or affirmative action post-TRC, and a growing sense of having been unfairly targeted for victimization by the ANC government. While it is unrealistic to expect the TRC by itself to have been able to address the vast inequalities of apartheid given its limited timeline and resources, it is readily apparent that the continued presence of racial inequalities remains a constant source of
tension in post-apartheid South Africa, as well as the largest existing barrier to social learning and interracial reconciliation.

In assessing the overall impact of the TRC on interracial relations, several common threads emerge. First, it is clear that perceptions of the Commission’s work – and by extension, its potential influence on the social learning of South Africans – remain strongly divided along the same racial and political lines that existed in South Africa under apartheid. This is reflected in the disparate reactions between white and black South Africans to nearly every aspect of the TRC, including the acceptability of amnesty, the need for reparations and compensation, and the overall validity of the ‘truth’ that the Commission was able to glean. In large part, these racial divides appear to reflect the entrenched fear and mistrust felt by many in the white community towards the very idea of a TRC process well before the substantive work of the Commission began. Indeed, while a survey conducted by IDASA in August 1994 revealed that 60 percent of all South Africans favored the establishment of a Commission to investigate human rights abuses, this sentiment was shared by 65 percent of black respondents but only 39 percent of whites.267 Similarly, in 1992, 83 percent of white South Africans reacted strongly against the notion that any attempts should be made to punish perpetrators of past injustice, while 74 percent of blacks demanded that “whites who harmed blacks during apartheid” should be held accountable.268 A retrospective survey conducted in 2000 further underscores this tension, showing that while 65 percent of blacks felt that ultimately “the TRC was essential to avoid civil war in South Africa during transition,” only a small minority of whites (18 percent) agreed.269


269 Gibson and Macdonald, Truth - Yes, Reconciliation - Maybe, 6.
Following the conclusion of the TRC’s work, these divisions have remained largely in place and appear to have influenced perceptions of the Commission’s overall impact on interracial reconciliation. While public opinion surveys conducted in 1998 showed that the majority (57 percent) of South Africans evaluated the work of the TRC as having been ‘good for the country,’ attitudes towards the Commission were revealed to be sharply divergent among black and white respondents. For instance, while 72 percent of black South Africans indicated they believed that the TRC had been a “good or very good” thing for South Africa, most white respondents (55 percent) instead charged that the commission had been ‘very bad’ for the country. When asked directly about the TRC’s contribution to reconciliation in 1998, surveys show that 56 percent of blacks believed strongly that the Commission had contributed to peace and reconciliation in South Africa, while 54 percent of whites maintained that it had failed to promote reconciliation. These findings were further reflected in an earlier survey conducted by the IJR, which, while highlighting that most South Africans (67 percent) believed that “the TRC initiative was important for building a united South African nation,” also showed this to be a sentiment held by a minority of whites (29 percent) but a majority (77 percent) of blacks. Similarly, a 2000-2001 survey conducted by the IJR also showed that 76 percent of black South Africans strongly believed that the TRC had made a contribution to national unity and reconciliation, while only 37 percent of white respondents indicated a similar view.

272 Macdonald, 2000 Pilot Reconciliation Survey.
273 Gibson and Macdonald, Truth - Yes, Reconciliation - Maybe, 3.
identity in the transitional justice processes of divided societies and, in particular, the substantial impact that identity can have on the nature of the relationships between these institutions and intergroup reconciliation.

**Positive Contributions to Social Learning by the TRC**

As little empirical data exists on the levels of self-identification with group or national identities during the apartheid era, the appropriate longitudinal data does not exist to speak with absolute certainty about the impact that social learning promoted through the TRC itself may have had on changing perceptions of identity. However, given the highly racialized nature of the apartheid system and the fact that blacks were legally denied South African citizenship, it seems reasonable to suppose that levels of identification with racial identities likely remained high under apartheid while perceptions of common national identity remained low. Operating on this presumption, it would appear that post-TRC the salience of racialized identities continues to remain very high amongst both black and white South Africans, with a large number choosing a racial category as their primary group identity.\(^{274}\) Interestingly, however, following the work of the Commission these identifications seem increasingly to include an attachment to a broader and more inclusive ‘South African’ national identity. Compared against earlier survey data collected in 1996 (when the work of the TRC was just beginning), the survey research conducted by James Gibson shows that the number of both black and white respondents identifying themselves as ‘South African’ as either a primary or secondary label of identification grew markedly by 2001 (following the conclusion of the Commission’s work). Among blacks, this margin increased from 35.2 percent in 1996 to 47.8 percent in 2001, while for whites it grew

\(^{274}\) Gibson, *Overcoming Apartheid*, 54.
from 53 to 62.9 percent in the same period.\textsuperscript{275} Further, of these numbers self-identifying as ‘South African,’ the vast majority of both black and white respondents assert that this national identity remains “very important to them” and that they are “proud to call themselves South African.”\textsuperscript{276} Perhaps just as importantly, Gibson’s study also suggests that this growing sense of shared national identity does not come at the expense of zero-sum tension with existing racial identities, but rather that both identities have come to exist “simultaneously and without apparent conflict” with one another.\textsuperscript{277} At least in part, this would seem to suggest that the social learning that was successfully promoted through the TRC may have helped to lay the groundwork for Tutu’s conception of a more reconciled ‘Rainbow Nation’ following the transition from apartheid, with distinct racial identities coming to coexist within the broader ‘rainbow’ of South African nationalism. Indeed, as Gibson concludes, “to the extent that reconciliation implies that all South Africans express some degree of allegiance to the country, this data indicates a fairly high level of reconciliation.”\textsuperscript{278}

Further, evidence from the same research indicates that the number of South Africans who evidence feeling more racially reconciled following the conclusion of the TRC has grown. As Gibson illustrates, prior to the transition “both black and whites most likely understood and trusted each other very little, rarely integrated, held vicious stereotypes about each other, and disliked and were highly threatened by those of other races. This is almost certainly the landscape that faced the TRC when it began its efforts at creating a more reconciled South

\textsuperscript{275} Ibid., 55.
\textsuperscript{276} Ibid., 56.
\textsuperscript{277} Ibid., 59.
\textsuperscript{278} Ibid., 56.
Africa."\textsuperscript{279} However, in survey data collected in 2001, 37.2 percent of black respondents and 57.4 percent of whites reported that they now felt ‘somewhat or highly’ reconciled with members of Other racial groups. In addition, taken as a whole, roughly 44 percent of the South African population indicated that they felt ‘at least somewhat reconciled.’\textsuperscript{280} While these figures may appear low, given the extraordinarily racially divisive nature of apartheid and the fact that these responses were taken a mere six years after South Africa’s transition to multi-racial democracy, this seems a remarkable advancement in interracial reconciliation. Admittedly, while this data does not itself allow for a direct causal inference to be drawn with the social learning facilitated by the TRC, the correlation remains highly suggestive.

Taken together, the argument forwarded here that the TRC likely had an independent effect on interracial reconciliation by acting as a key instrument of social learning in South Africa appears to be supported by Gibson’s earlier findings collected in \textit{Overcoming Apartheid}. Gibson proposes that the causal impact of the Commission on interracial reconciliation was tied to its ability to serve as a crucial site of “social persuasion” in post-apartheid South Africa, one capable of creating a powerful sense of ‘cognitive dissonance’ for many South Africans and therefore of helping to foster new beliefs and establish improved cross-racial relationships.\textsuperscript{281} In particular, he emphasizes the impact that the revelations of the TRC’s public truth-recovery process and the creation of a common collective memory have had on challenging existing perceptions of unjust victimization with the recognition of mutual complicity by all sides. In addition, he cites the increased interracial contact and dialogue facilitated alongside the TRC as

\textsuperscript{279} Gibson, \textit{Overcoming Apartheid}, 158. A similar assessment was shared across the range of experts interviewed in South Africa.

\textsuperscript{280} Ibid., 331-333.

\textsuperscript{281} Ibid., 159.
having played a key part in helping South Africans to cast off existing racial stereotypes and build new relationships of trust and understanding. Ultimately, Gibson illustrates the links in the causal chain connecting the TRC to increased interracial reconciliation, arguing that

the truth and reconciliation process may have changed the way South Africans think about each other by creating cognitive dissonance and by mitigating cognitive dogmatism... In its attempts to reshape South Africa’s understanding of its apartheid past, the truth and reconciliation process is a force perhaps capable of getting people to rethink their attitudes. If the TRC was successful in stimulating South Africans to reevaluate their understandings of race and racial conflict in South Africa, perhaps it was capable of creating enough attitudinal dissonance to provide an engine for change in racial attitudes.

However, while Gibson’s work provides important insight into the relationship between the TRC, social learning, and reconciliation, he nonetheless neglects the importance that key issues such as justice and material inequality might have on attitudinal change in his model of ‘social persuasion.’ As the findings presented here strongly suggest, for many South Africans these issues remained of central importance during the post-transition period and have been inextricably linked to prospects for reconciliation as well as to the ways in which members of different races perceive and relate to one another. This seems a particularly salient point, as this analysis of the TRC’s contribution to interracial reconciliation in South Africa also suggests that socioemotional, distributive, and instrumental forms of social learning remain deeply interrelated, with success or failure in one area directly impacting the reconciliatory potential of another.

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282 Ibid.

283 Ibid., 158-159.

284 To be certain, Gibson does address issues of justice and distributive inequality throughout *Overcoming Apartheid*. However, he never makes the link that these too remain key components (alongside truth and interracial interaction) of social learning, attitudinal change, and interracial reconciliation.
One clear example of this can be found in the way that questions of distributive social learning appear to have been bound up with the potential for reconciliation derived from the Commission’s efforts at forwarding both truth and justice. For instance, many black victims appeared to be willing to accept the potential ‘sacrifice of justice’ represented by the TRC’s amnesty provision if they received forms of financial compensation and access to social services. Indeed, for many victims, positive perceptions of ‘justice’ having been served often relied more on personal acknowledgement and the amelioration of material inequalities than on the punishment and incarceration of perpetrators. Conversely, the lengthy delays and inadequate payments that ultimately marked the reparations process only seem to have exacerbated the sense of injustice felt by many victims, and have therefore directly impaired the positive impact of this process on reconciliation. At the same time, the highly individualized ‘truth’ produced by the Commission’s near-exclusive focus on acts of physical violence appears to have led to a distancing of responsibility among many in the white community for the benefits they received under the systematic racial inequalities of apartheid. As a result, most whites have remained consistently opposed to redistributive efforts such as compensation, affirmative action, and land reform programs that would potentially lessen the inequalities of the black majority, viewing these interventions as examples of unjust victimization by the ANC government. Accordingly, in considering how the TRC may have contributed to changing the attitudes, identities, and beliefs of white and black South Africans in service of interracial reconciliation, this study clearly underscores that the interrelationship of all three ‘types’ of social learning must be taken into account.
Limits on Social Learning and Reconciliation Through the TRC

There is little doubt that in the ‘transformative moment’ of South Africa’s transition to multi-racial democracy the Commission marked a clear break with the violence and inequitable moral order of apartheid. The innovative hearings of the TRC and the rapt public attention they received indicates that one of the Commission’s greatest successes was its ability to capture the South African imagination. In these respects, perhaps more than any other transitional justice mechanism employed to date, the TRC offered a powerful platform for social learning. At the same time, however, it must be noted that much of the TRC’s work was confined to a relatively short two-year period, and even in that brief time, much of the initial enthusiasm for the Commission shown by the public and South Africa’s political parties began to wane. Given the scholarly consensus that post-conflict reconciliation is necessarily a long-term endeavour, this raises questions about the sustainability of the social learning processes initiated by the TRC. Put differently, while the aspects of social learning engendered by the TRC may have been a crucial first step on South Africa’s long road to interracial reconciliation, sustaining this momentum will ultimately require ongoing efforts beyond the work of the Commission itself.

Perhaps the most significant impediment to the TRC’s ability to effect long-term interracial reconciliation has been the consistent lack of follow-up and follow-through on the initiatives it introduced – a failure which was evident across all five mechanisms of social learning deemed essential to transforming intergroup relationships. In some cases, this seems to be the result of oversights made by the Commission itself, but much more often it appears to be attributable to the marked lack of interest shown by subsequent ANC governments in carrying on
the legacy of the Commission’s work. For instance, while the Commission did support a small number of informal encounters between victims and perpetrators during its mandate, it neglected to take advantage of the opportunity to work with civil society organizations so that these kinds of reconciliatory encounters could be continued and expanded post-TRC. This problem was compounded by the lack of government funding and support for the ad-hoc encounters initiated by reconciliation-oriented NGO’s, and consequently the overall impact of these encounters has remained fairly minimal.

These observations only underscore the need for longer-term efforts by government and civil society to continue the unfinished work of the Commission in addressing the structural, social, and psychological legacies of apartheid’s divided past in order to improve race relations in contemporary South Africa. The TRC was always intended to be the beginning, rather than the end, of a range of initiatives ultimately required to move South African society towards interracial reconciliation following its transition. For instance, alongside ongoing efforts by the ANC government to address structural and material inequalities, there remains a very real need for targeted interventions to increase positive contact and dialogue between members of different racial groups by way of advancing the process of breaking down existing prejudices and building greater levels of trust and understanding. Indeed, data collected from the IJR’s Annual ‘Reconciliation Barometer’ survey in 2007 shows that 26 percent of all South Africans do not speak to members of different races during the course of an ordinary day, while 48 percent

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285 Many interviewees underscored this point, most often linking the government’s inaction to the ANC’s anger at the findings released in the Final Report implicating that party in past abuses or to the apparent opinion held by Thabo Mbeki that the ‘one-off’ TRC had itself been a sufficient response to addressing the past and that the government’s energies should now be focused solely on addressing issues of material inequality.
indicate that they never socialize with members of other groups. For the majority black population, these figures climb even higher, to 30 and 54 percent respectively.  

Perhaps most troubling, the authors of the Reconciliation Barometer correlate this lack of interaction directly with the maintenance of fear, prejudice, mistrust, and misunderstanding between racial groups in contemporary South Africa. For instance, only 31 percent of all South Africans surveyed in 2007 indicated a desire to increase their levels of contact and communication with members of different racial groups, with only 15 percent of white respondents revealing a preference for increased interaction. In a similar vein, when asked about whether they would approve of future integration with other racial groups, nearly one quarter of both black and white respondents (24 and 23 percent, respectively) indicated that they would disapprove of sharing their neighborhood with a member of the Other group. When asked if they would approve of a deeper level of socialization – such as a close relative marrying someone from the other group – 27 percent of black South Africans indicated disapproval while a much greater number of white respondents (73 percent) responded that they too would dislike a racially mixed union. Even more problematic is the fact that these surveys continue to show very high levels of interracial mistrust and misunderstanding. Nearly half (44 percent) of all South African respondents indicated that they still considered people belonging to racial groups

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286 Hofmeyr, *Seventh Round of the SARB*, 43. Notably, these figures have remained little changed since the First SARB survey conducted in 2003.

287 Ibid., 42-43. 31 percent of all South African’s indicated a desire for greater contact and communication with members of another racial group. This number rose to 34 percent for black South Africans, and decreased to 15 percent for white South Africans. Notably, these preferences remained little changed since the first round of the SARB survey in 2003.

288 Ibid., 45.
other than their own as inherently ‘untrustworthy.’ At the same time, 61 percent of South Africans surveyed responded that they still found it “difficult to understand the customs and ways of groups” other than their own. As a result, nearly half of all black and white respondents indicated that they found individuals belonging to other racial groups to be difficult to associate with.

Further, continued prejudice and lack of interaction also appear to have ensured that when interracial interaction does occur, most often it does not provide the space for meaningful or potentially transformative dialogue about race and racial relations. Indeed, when questioned as to whether they would be willing to openly discuss the impact of racial issues in their lives with members of other racial groups, only 23 percent of whites and 26 percent of blacks responded in the affirmative. As Vincent Williams of the Institute for Democracy in South Africa notes,

As in the past, there’s a lot of suspicion, a lot of prejudices, a lot of stereotyping that was going on and I think those continue to govern the relations between different races…black people still tend to have very stereotypical pictures of who and what whites are and similarly whites will have very stereotypical images and those define the parameters of how people relate…[Their interactions] are very much characterized by not dealing with issues – not hostile, not showing

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289 Ibid., 4. Black South Africans, in particular, evidence the highest level of distrust in regards other racial groups at 48 percent, while 24 percent of white South African respondents indicate feeling a similar lack of interracial trust. Of interest, this survey data also reveals a strong and significant positive correlation between perceived levels of ‘understanding’ between racial groups and willingness to trust across racial lines. Accordingly, respondents who indicate a higher level of understanding are more likely to report trust, while those indicating less understanding tend to show less trust.

290 Ibid. Of these overall respondents, 64 percent of blacks and 48 percent of whites indicated a similar lack of understanding.

291 Ibid., 45. Of blacks, 54 percent indicated that whites were the most difficult to associate with while 45 percent of whites, on the other hand, selected blacks in a similar response.

292 Ibid., 29. Of note, these trends continued even when respondents were asked if they would be willing to discuss this issues with members of their own race. Indeed, only 37 percent of both whites and blacks indicated they would be open to doing so.
animosity – but not addressing the problems in South African society. People are just living past each other.²⁹³

At least in part, the relationship between low levels of interracial interaction and continued prejudice appears to be a cyclical one: little opportunity for contact and communication means that there is little chance to challenge prejudicial mindsets, while the persistence of fear, mistrust, and racial stereotypes in turn limits the desire or willingness to build new interracial relationships. The self-fulfilling nature of this cycle has manifested itself perhaps most clearly in the patterns of ‘self-segregation’ or ‘informal segregation’ that continue to divide racial groups even in the absence of the apartheid laws that originally kept them apart. Studies have shown that segregated patterns of socialization remain prominent in South Africa following the transition, including in what would seem to be highly integrated spaces such as ‘nonracial’ student residences on University campuses and urban restaurants, bars, and clubs.²⁹⁴ As Don Foster, Professor of Psychology at the University of Cape Town explains, despite the new opportunities provided in these ‘mixed’ areas for interracial contact and communication, often people still tend to “gather in little areas of their own making,” with the result that “the degree of everyday contact between and among these still racialized groups is just about zero.”²⁹⁵ These patterns of ‘informal segregation’ were most strikingly illustrated in a 2005 study by Kevin Durrheim and John Dixon that investigated the extent of informal contact and socialization between members of different racial groups by looking at patterns of socialization on South

²⁹³ Personal interview, Vincent Williams, Cape Town, South Africa, 22 June 2008.


²⁹⁵ Personal interview, Professor Don Foster, Cape Town, South Africa, 24 June 2008.
Africa’s beaches – a favored leisure spot for members of all races but one that was clearly demarcated and segregated by race under the laws of apartheid. Durrheim and Dixon found that nearly ten years after the formal end of apartheid, when members of different racial groups went to the beach they still chose to sit in separate areas and would even get up and move farther away if members of a different race came within close proximity.\textsuperscript{296} This process is illustrated in detail by Professor Don Foster, who explains that

\begin{quote}
[\textit{o}nce upon a time the whole beach was white, now it’s opened up – and the point of this is important because there’s no rules governing this anymore, the apartheid rules are gone – but this informal segregation continues at astonishingly high levels...As black people come onto the beaches, the whites and the Indians disappear. Everyone sits under their own umbrella and that racialized space is still 99.9\% racialized. Whites sit with whites, Indians sit with Indians, coloreds with coloreds, blacks with blacks – certain parts of the beach become resegregated.\textsuperscript{297}
\end{quote}

That said, perhaps the most prominent impediment to interracial interaction and improved race relations is the divisive legacy of apartheid’s structural and material inequalities. While highly progressive equality legislation and affirmative action policies have meant that members of different races are now brought together to mix formally in the workplace during the day, in large part they are again separated in the evening as they return home to the very same segregated areas to which they were assigned under apartheid. This means that the majority of whites return to relatively affluent suburbs while the majority of blacks continue to return to townships and informal settlements often located far outside urban centres. As Fanie du Toit, Director of the non-governmental Institute for Justice and Reconciliation argues, the spatial segregation enforced by the ‘geography of apartheid’ remains a key barrier to the kinds of


\textsuperscript{297} Personal interview, Professor Don Foster, Cape Town, South Africa, 24 June 2008.
contact and socialization that might otherwise help to improve interracial relations over time. As he notes, a major “bane in terms of race relations is that people sleep in different places. Although they work together, at nighttime they withdraw into their communities and they are reminded that they are a certain race or not.”

Piers Pigou of SAHA echoes this point, noting that even post-apartheid many South Africans continue to live in “parallel worlds” and lead “parallel lives” that all too infrequently intersect in meaningful ways:

> We still live in societies that are essentially separated from one another…Go downtown into the centre of Jo’Burg at the end of the working day and look who stands in what bus queues. Different race groups going back to their different locations. Of course there’s some graying of that area, but we still live in our silos – in our community silos, in our racial silos. I’m not saying there isn’t crossover, but we’re still siloed, we’re still in our racial silos to a large extent here…So we’re light years away from discovering each other in this country and what our experiences are.

Notable exceptions to these post-transitional patterns of continued racial separation do exist, and they can most often be found among the more affluent and highly-educated members of South African society. Recent 2007 survey data from South Africa has shown a direct correlation between levels of economic prosperity and interracial contact, suggesting that “as material disposition improves, the higher the likelihood for inter-racial contact becomes.”

These survey findings reflect a common theme mentioned by many expert interviewees, who consistently pointed to increased economic prosperity as a key determinant not only of greater levels of interracial contact, but also of the increased levels of trust and understanding that such
interactions bring. There are several possible ways in which this correlation operates. Perhaps most importantly, interviewees note that increased levels of prosperity among a growing minority of the black population have enabled these individuals to move into the more affluent (and predominantly white) neighbourhoods of South Africa’s cities, allowing them to socialize in the same shopping malls, restaurants, bars, and leisure centers as their middle or upper-class white neighbours. This has also provided the opportunity for the children of more affluent black families to attend racially mixed schools with their white counterparts – an integration that many interviewees credit with greatly helping to improve racial relations among the younger post-apartheid generation. Finally, interviewees also noted that an increase in economic prosperity tends to go hand in hand with a greater equality of status in the workplace, meaning that more affluent members of different races have the opportunity to interact as equals on a daily basis. This in effect provides a baseline platform on which relationships of trust and friendship can begin to be built.

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301 As Nahla Vaji, senior researcher with CSVR notes, “there’s a thin layer of black middle class who have integrated in different ways: they can afford to live in Sandton, [an affluent white suburb of Johannesburg], shop in the same shopping malls, buy in to the same activities, and their children can attend the same schools…at that level there’s a kind of integration that’s happened around the commodification and commercialization of middle class…[but] at other [economic] levels its been incredibly minimal.” Personal interview, Nahla Valji, Cape Town, South Africa, 24 June 2008.

302 Indeed, citing their own experience and the experience of their peers, many interviewees credited integrated education, in particular, as having helped to create a relatively ‘non-racialized’ mindset among those children able to participate by providing an opportunity to play, socialize, work, and learn together. Personal interview, Ivor Jenkins, Director of the Institute for Democracy in South Africa, Pretoria Office, Pretoria, South Africa, 6 July 2008; Personal interview, Fanie du Toit, Director of the Institute for Justice and Reconciliation, Cape Town, South Africa, 18 June 2008.

303 As Jan Hofmeyer, a political analyst with the IJR noted in discussing the positive impact that interracial interaction in the workplace provides, “By and large, we still live in racially dominant neighbourhoods where really the only exposure you get to someone who’s your age, someone who’s your peer is at the workplace. So the opportunity to expand this kind of exposure is closely linked to questions of the economy and those of job creation…people get exposed to each other, see they’ve got the same intellectual capacities.” Personal interview, Jan Hofmeyer, Cape Town, South Africa, 23 June 2008. Fanie du Toit, for instance, notes that “race relations in this country, in the upper bracket, continue to improve and normalize. I mean by that those people who are earning middle to middle-upper class income who are in the formal sector and they are working together on a daily basis.”
However, the percentage of black South Africans who have risen to this level of economic prosperity since transition still remains relatively small, leaving the majority of the black population living in the same segregated townships, attending the same separated and underfunded schools, and suffering under the same conditions of poverty that they did during apartheid. Accordingly, as Dr. Garth Stevens of the University of the Witwatersrand illustrates, many of the benefits of increased contact and interaction associated with increased economic prosperity remain limited in the new South Africa – particularly for the majority of the black population that remains socioeconomically disadvantaged. As he notes,

> there’s greater levels of integration at the levels of the new middle class, upper class, and the new elites that are emerging in South Africa. At that level I do think you have greater levels of engagement, contact, and trust and friendship. And I do think things have certainly changed for that particular cohort of the population. But for a large part of the population, where the majority of the people are still located in townships in South Africa…the majority of those people still remain lacking, still remain poor….For the majority of black people who continue to live in the same situations they did prior to 1994, I have grave doubts they view other racialized communities very differently in South Africa…I think there are possibilities [for better relations], but it’s for a very particular group in South Africa.\(^{304}\)

This point was echoed by Michele Ruiters of the non-governmental Institute for Global Development in South Africa, who contends that in terms of race relations, “among ordinary South Africans, I don’t think the perceptions have changed at all because they don’t have to mix with each other outside, they don’t have to mix with each other socially…Low income

\(^{304}\) Personal interview, Fanie du Toit, Director of the Institute for Justice and Reconciliation, Cape Town, South Africa, 18 June 2008.

Similarily, Fanie du Toit, while emphasizing that gains certainly have been made for the poorest populations post-apartheid, notes that a “big problem for race relations in this country remains the fact that about 30-40 percent of our [black] population sits outside the formal sector and they have very little contact with anybody else. By far the most isolated section of our population is this group. So they’re not only economically marginalized, they’re also socially marginalized…they live in a sort of parallel universe to mainstream society.” Personal interview, Fanie du Toit, Director of the Institute for Justice and Reconciliation, Cape Town, South Africa, 18 June 2008.
communities remain extremely segregated – it’s still the old townships [and] there hasn’t been much mobility in those areas.”

Taken together, these findings suggest that advancing prospects for interracial reconciliation post-TRC will necessarily depend on finding new and innovative ways to increase instrumental social learning in South African society. Given the self-fulfilling nature of racial segregation and the array of structural and psychosocial factors that continue to perpetuate it in contemporary South Africa, it is likely that some form of external intervention will be required to initiate these processes. The interventions already underway from civil society organizations such as CSVR and HOM provide one such pre-existing model for how these interventions might be structured. Nonetheless, to have any kind of sustainable impact at a broader societal level the scale of these interventions must necessarily be greatly expanded. However, this kind of expansion would require a significant investment of funds and resources from the current ANC government, one that historically has shown little interest in such ‘bottom-up’ peacebuilding efforts following the TRC.

In addition, it remains highly unlikely that any such interventions will meet with success unless greater headway is made by the government in addressing issues of distributive social learning and ameliorating the pervasive socioeconomic and structural divides that continue to keep racial groups apart and reinforce perceptions of difference. That said, with the vast inequalities that need to be overcome and the intransigence of many in the white community regarding early attempts at redistributive policies, this remains an accomplishment far easier said than done. Moreover, it is clear that previous policies such as BEE that have resulted in the creation of a small subset of black ‘super-elites’ in South African society are not the answer in

305 Personal interview, Michelle Ruiters, Johannesburg, South Africa, 9 July 2008.
this regard. Instead, in order to move forward, efforts must be made to find ways to bring the majority black population into greater parity with the members of the white minority and, in so doing, to both alleviate the continue sense of injustice these continued inequalities foster and to create new opportunities for positive interracial interaction and reconciliatory social learning.

At the same time, additional work remains to be done in countering the perceptions of impunity that continue to serve as a source of tension between racial groups in South Africa despite the TRC’s attempts to provide socioemotional learning through truth and justice. The first key step in this process is following through on the promise to prosecute those who did not receive a conditional amnesty for the abuses they committed during the struggle over apartheid. Failure to do so, combined with current plans to give perpetrators a ‘second bite at the amnesty cherry,’ will otherwise run the risk of perpetuating a disrespect for the rule of law and support for a continued ‘culture of violence’ in post-apartheid South Africa. Further, despite the significant gains made by the TRC’s truth recovery efforts in shedding light on individual cases of physical abuse during apartheid, additional efforts are still required to bring attention to the impact that broader patterns of structural violence had on the daily lives of black South Africans, as well as to the benefits that these inequalities did – and continue to – provide for the white minority. This would appear to be a key corrective to the perceptions of unjust victimization that continue to characterize white reactions to current government attempts to extend greater material equality to the poorest black South Africans. In the end, it is clear that there is still a long journey ahead to achieve the dream of a truly reconciled ‘rainbow nation’ in South Africa. However, as this analysis has suggested, it may be the creation of long-term, sustainable interventions designed to meet South Africa’s continued need for instrumental, socioemotional, and distributive social learning that will ultimately provide the crucial next step on the road to interracial reconciliation.
Chapter V

Conclusion:
Insights and Implications for Transitional Justice

It remains clear from the foregoing analyses of Northern Ireland and South Africa that these are both societies that, in many ways, continue to remain deeply divided along the same lines of collective ethnonational and racial identity that underlay their histories of conflict. In South Africa, while the highly racialized system of apartheid was brought to an end with a relatively peaceful transition to multi-racial democracy in 1994, the majority of white and black South Africans continue to live largely separate lives. Similarly, in Northern Ireland, despite the historic end of the Troubles brought about by the signing of the Belfast Agreement in 1998, societal relations continue to largely be defined by oppositional communal identities: Nationalist or Unionist, Catholic or Protestant. In both countries, while widespread political violence is now largely a thing of the past and intergroup relations typically take the form of relatively peaceful coexistence, many of the scars of past violence still remain visible in continued patterns of physical, social, and psychological separation. In short, this analysis reveals that in both Northern Ireland and South Africa the process of intergroup reconciliation remains incomplete. That said, put in the context of the deeply entrenched divides and long histories of communal violence in these countries and the relatively short amount of time that has elapsed since their transitions to peace, the gains that have been made towards reconciliation are nonetheless
remarkable. Given that these countries are often cited as relative success stories in overcoming intractable social conflict, both South Africa and Northern Ireland serve as cautionary reminders of the fact that post-conflict reconciliation must be understood as a long term endeavour that can take generations to unfold, and that there are no ‘quick fixes’ or ‘miracle cures’ when it comes to repairing relationships between once-antagonistic groups.

However, as this analysis has shown, in both Northern Ireland and South Africa it would appear that many of the early positive gains made in advancing intergroup reconciliation to date are may be attributable to the very different transitional justice interventions that have been employed in each of these countries to address the legacies of past violence. In South Africa, transitional justice took the form of the highly-regarded Truth and Reconciliation Commission that accompanied its transition to multi-racial democracy, a unique twist on previous truth commission models that deemphasized legal prosecutions and instead provided a conditional amnesty provision for the perpetrators of apartheid-era violence in an effort to promote truth recovery and encourage societal repair. In Northern Ireland, a ‘decentralized’ approach to transitional justice emerged following the end of the Troubles, one that has combined a uniquely ‘piecemeal’ strategy for addressing the past with discrete government programs to improve socioeconomic equality and an array of projects led by local community groups and civil society designed to improve ‘community relations’ from the bottom up.

KEY FINDINGS

Taken as a whole, the findings presented in this study appear to confirm the broader hypothesis presented in much of the existing literature on transitional justice that such interventions are indeed crucial to helping deeply divided societies come to terms with their violent pasts and are therefore vital components of post-conflict reconciliation processes. In both cases under study
there is strong counterfactual evidence to suggest that the absence of these transitional justice mechanisms would at best have impeded the development of more positive relationships, and at worst would perhaps have served as the basis for renewed cycles of violence. Furthermore, while it remains difficult to separate out the specific impact of transitional justice processes from the ‘noise’ of other societal factors accompanying post-conflict transitions, in both Northern Ireland and South Africa extensive evidence has been presented detailing the positive – and sometimes the negative – impact that these interventions have had on intergroup reconciliation. Such findings are important in and of themselves, and would seem to support the growing consensus that transitional justice interventions are a necessary, if not sufficient, component of broader peacebuilding programs in deeply divided societies.

More importantly, this study has provided valuable new insights into how exactly it is that transitional justice interventions might contribute to processes of intergroup reconciliation in divided societies. Indeed, the primary aim of this research has been to shed new light on the causal mechanisms linking transitional justice interventions to reconciliation – in effect, to provide an early first effort to peer into the ‘black box’ surrounding this relationship. To this end, one major contribution of this analysis has been to lend substantial support to the underlying supposition that, at least in deeply divided societies, the ability of transitional justice strategies to contribute to intergroup reconciliation is heavily influenced by the politics of identity. As this study has shown, this relationship appears to work in two main ways. First, the work of transitional justice strategies will be deeply affected by the current state of intercommunal relations in the environment in which these strategies operate, and will likely be directly impacted by the relative levels of trust, understanding, and empathy that exist between groups divided by past abuses. Where these groups remain deeply polarized and interact in relationships
characterized by mutual mistrust, prejudice, and hostility, efforts to address the past will remain much more difficult. This is perhaps most clearly evidenced by the current impasse over coming to terms with the past in Northern Ireland, which has effectively blocked ongoing efforts by government and civil society to more deeply interrogate the violence of the Troubles. At the same time, it would seem that transitional justice strategies can themselves have a reciprocal influence on transforming the nature of communal identities and their interrelationships in post-conflict societies and, by extension, on advancing processes of intergroup reconciliation. For instance, the example of South Africa shows how the TRC’s use of a public truth recovery process has itself helped to create a more inclusive collective memory of the past. This, in turn, seems to have led to a decrease in intergroup prejudices, stereotypes, and hostilities between black and white South Africans.

In both cases under study the evidence provided would seem to strongly suggest that the causal chain linking transitional justice to increased reconciliation may ultimately be forged in the crucible of identity. Recognition of this level of interrelationship between identity and transitional justice is perhaps not surprising, given the inherently collectivized nature of the violence to which these strategies are called to respond. Nonetheless, when considering the impact of justice interventions on post-conflict reconciliation in these societies, to date the role played by identity has been largely overlooked within the existing transitional justice literature. However, given the importance of identity in these processes, this study illustrates the importance of opening new channels of scholarly dialogue between transitional justice and related disciplines of peace and conflict studies, political science, and social psychology – all fields which have substantial pedigrees in the study of the dynamics of identity, conflict transformation, and intergroup reconciliation. While this study represents only an early ‘first
cut’ at bridging insights between these disciplines, it nevertheless highlights the importance of engaging in future study examining the nexus between identity, transitional justice, and reconciliation in divided societies.

Furthermore, drawing on a wealth of existing survey data as well as new information collected through a wide range of expert interviews in South Africa and Northern Ireland, this study has found highly suggestive evidence in support of the proposed hypothesis that the causal relationship between transitional justice and increased intergroup reconciliation is mediated by the ability of transitional interventions to promote positive social learning among divided groups in the ‘transformative moment’ of their transitions away from past conflict. The study also points toward a strong correlation between the ability of both of these transitional justice interventions to serve as platforms for instrumental, socioemotional, and distributive forms of social learning in their societies and the relative contributions that they have made to ongoing processes of intergroup reconciliation. More specifically, in both Northern Ireland and South Africa, these findings have strongly suggested that the transitional justice mechanisms employed have been successful in contributing to reconciliation to the extent to which they have been able to catalyze each of the five key social learning mechanisms identified in the theoretical framework proposed in Chapter II: namely, positive intergroup contact, dialogue, justice, truth, and the amelioration of structural and material inequalities. Put simply, in both countries, where the transitional justice processes were successful in promoting each of these social learning mechanisms, it appears that reconciliation also improved. Conversely, where they were inadequate or otherwise failed in fostering social learning, reconciliation appears to have been impeded.
In Northern Ireland, there has been great success in advancing distributive aspects of learning through targeted efforts by the Northern Ireland government to address the structural and material inequalities that have long divided Catholic/Nationalist and Protestant/Unionist communities and have served as an underlying basis for violence. These efforts have included extensive reforms to the political system, justice, and policing services, as well as programs that have greatly reduced inequities in contentious areas of housing, employment, and income. As a result, such inequalities have now been largely removed as a source of intercommunal tension. Similar success has been evidenced in instrumental learning thanks to a combination of ‘top-down’ and ‘bottom-up’ efforts by government and civil society to improve ‘community relations’ in Northern Ireland by advancing opportunities for contact and dialogue. ‘Community Relations’ policy has included a wide range of initiatives supported by a wealth of government and external funding, ranging from education reforms to dialogue workshops to cross-community development work. The success of these initiatives appears to be linked to their ability to promote and sustain long-term positive interactions between the two communities – interactions which have led to an increase in levels of tolerance, trust, understanding, friendship and a more inclusive sense of identification. Efforts to promote socioemotional learning through truth and justice, on the other hand, appear to have been much less successful to date. Despite a ‘piecemeal’ array of governmental and non-governmental efforts to provide acknowledgement, accountability, and a shared memory of the Troubles, attempts to address the past remain highly divisive in Northern Ireland. In particular, a deep sense of unjust victimization, unresolved arguments about the morality of past violence, and a fear that the Other community might try to appropriate the history of the conflict for its own political agenda continue to impede attempts to
deal more comprehensively with the past. These divides continue to serve as barriers to the advancement of social learning and intergroup reconciliation in Northern Ireland.

Conversely, in South Africa, the main success of the Truth and Reconciliation Commission in regards to social learning appears to have come from its ability to create a shared record of past events that recognizes the mutual complicity of all those involved in apartheid-era abuses. In regards to justice, an important source of acknowledgement was provided to victims by the TRC’s public hearings and a surprising number of South Africans at least initially appeared willing to embrace the ‘restorative’ ethos of the TRC and its conditional amnesty provision. However, it is also equally clear that a lack of follow-through by the government on promised reparations and prosecutions for those who did not receive amnesties ultimately led to a deep sense of injustice on the part of many victims that has greatly undermined the potential for positive learning. Opportunities to promote instrumental learning through contact also remained largely absent from the formal processes of the TRC, though where these did occur the effects appear to have been positive. While some promising efforts have been undertaken in this regard by a small number of nongovernmental organizations post-TRC, again, the lack of government support and funding has helped to ensure that their impact has remained relatively minimal. That said, through its public hearings and intense media coverage, the TRC does appear to have helped to promote learning by facilitating a broader ‘societal dialogue’ about the past among black and white South Africans that was conducive to interracial reconciliation. The extent to which this has had a lasting impact, however, remains questionable. Finally, despite the deeply flawed execution of the reparations program suggested by the Commission and a series of broader socioeconomic reforms initiated by the South African government post-TRC, it would appear the greatest impediment to social learning comes from the persistent distributive
disparities that continue to divide black and white South Africans. Not only do these inequalities provide a source of anger and frustration for many black South Africans, but they also continue to block ongoing efforts to advance other aspects of instrumental and socioemotional learning.

In direct relation, another key contribution of this study is new evidence which seems to confirm the degree of interrelatedness and interdependence that exists between aspects of instrumental, socioemotional, and distributive stands of social learning in the causal relationship between transitional justice and reconciliation in divided societies. Indeed, in both Northern Ireland and South Africa, a lack of forward movement in one type of social learning frequently appears to have impeded opportunities to advance social learning through another. Conversely, where the transitional justice approaches employed were successful in promoting one of these three strands, often this seems to have had a direct positive impact on their ability to facilitate the others. Perhaps the clearest example of this comes by way of looking at the impact of each country’s ability to address structural and material inequalities through distributive interventions on instrumental and socioemotional social learning. In Northern Ireland, the government’s success in limiting key areas of inequality between the two communities effectively paved the way for a willingness among both Nationalists and Unionists to engage in greater levels of cross-community interaction. At the same time, however, a failure to adequately come to terms with the past through socioemotional learning has meant that this movement towards greater equality, while certainly positive, is still often viewed through the zero-sum lens that marked the past conflict, with many Unionists, in particular, viewing recent gains for Nationalists at having come at their own expense. In South Africa, this interrelationship seems even more stark. As has been shown, the vast material inequalities which continue to divide black from white South Africans seem to have effectively prevented opportunities for instrumental social learning brought about
through sustained interaction. At the same time, anger over the perceived failure of follow-through on the TRC’s reparations program has actually served to inflame, rather than reduce, the sense of injustice felt among many black victims – a potentially significant barrier to socioemotional social learning.

Overall, these insights suggest that transitional justice mechanisms capable of promoting reconciliation in divided societies may ultimately need to foster a combination of distributive, instrumental, and socioemotional reconciliation. This holds the promise of being a key contribution to the broader field of transitional justice where the majority of scholarship to date has focused almost exclusively on how these mechanisms might contribute to post-conflict peacebuilding and reconciliation through their capacity to promote what has here been referred to as socioemotional learning; in other words, by fostering aspects of ‘truth’ and ‘justice.’ However, the findings of this study, which point towards an inherent interrelationship between instrumental, distributive, and socioemotional reconciliation, suggest that transitional justice strategies will be most successful in advancing intergroup reconciliation if they not only work towards the familiar goals of ‘truth’ and ‘justice,’ but also help to facilitate – or at least work in tandem with – other societal efforts to promote contact, dialogue, and the amelioration of material inequalities.

**INSIGHTS FOR ‘BEST PRACTICES’ IN TRANSITIONAL JUSTICE**

Perhaps most importantly, this study’s findings pointing towards the importance of these three strands of social learning to intergroup reconciliation in deeply divided societies could provide several insights into crucial questions regarding the design of future transitional justice interventions. For instance, recognition of this interrelationship raises an interesting point regarding the potential importance of ‘sequencing’ for transitional justice interventions in deeply
divided post-conflict societies. As the experience of Northern Ireland would seem to suggest, to be most effective in the promotion of intergroup reconciliation, attempts to provide acknowledgement and accountability for the past may need to be delayed until at least a minimal level of progress towards distributive and instrumental social learning has been reached, particularly in those societies where there may as yet exist no agreed-upon consensus on the status of victims and perpetrators. Similarly, in South Africa, the initial positive impact of truth and acknowledgement appears to have been largely undermined in the long term, as these contributions emerged in a broader context in which very little distributive or instrumental learning had occurred. These findings could warn against the imposition of transitional justice strategies that would seek to assign accountability for past violence too soon in post-conflict societies, as in some cases this might prove counterproductive or even dangerous for nascent reconciliation efforts. This runs in direct opposition to the predominant human rights-based approach to transitional justice rooted in international law that currently requires an immediate response by national or international actors to provide criminal accountability for gross human rights violations in the wake of intrastate violence – clearly a source of unresolved tension between the demands of international justice and national reconciliation that may remain to be addressed.

Second, to date, scholarship within the field of transitional justice has largely been driven by a series of comparative debates over which institutional model or approach to transitional justice is best able to achieve the twin goals of ending impunity and promoting reconciliation in post-conflict societies emerging from a past of gross human rights abuses. These arguments have included debates over whether it is better to employ ‘restorative’ or ‘retributive’ approaches to justice, the relative utility of truth commissions versus trials, whether these mechanisms
should be located at local, national, or international levels, and whether formal Western legal approaches to justice are more or less productive than culturally-specific ‘traditional’ or ‘indigenous’ local responses. Paradoxically, at the same time perhaps the one universally agreed-upon consensus in the field is that there will never be any kind of a ‘one-size-fits-all’ mechanism that can be applied with equal success in all cases, tied to the recognition that the needs of each society in terms of transitional justice will always be dependent on the specific context to which they are applied. It is this widespread recognition of the need for context-dependent strategies that brings directly into question the utility of the existing institutional approach to analyzing transitional justice interventions. Essentially, if we know that each society will require its own unique approach to transitional justice, it appears unwise to focus efforts on debating the supremacy of any one ‘type’ of transitional justice approach.

In this way, the social learning model outlined in this study may offer transitional justice scholars the unique opportunity to move beyond the traditional comparative debates about institutional design. Indeed, the insights gained from this analysis suggest that debating whether one kind of institution is intrinsically ‘better’ than another seems less important than asking whether the processes employed by each strategy serve to impede or impel the kinds of social learning and the subsequent transformation of mindsets and relationships between divided groups that are ultimately necessary for intergroup reconciliation. Accordingly, by refocusing our attentions from structure to process and concentrating on what these institutions do rather than what they are, the social learning model introduced here offers a potential new avenue for assessing transitional justice interventions based on their relative ability to foster instrumental, socioemotional, and distributive forms of social learning. While this study has been limited to

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306 For a concise summary of these formative debates within the field of transitional justice, see Roht-Arriaza, "The New Landscape of Transitional Justice."
studying the impacts on social learning of a particular truth commission and a more decentralized approach to transitional justice, this same model could just as easily be applied to assess the utility of any existing transitional justice intervention in contributing to reconciliation in divided societies – be it restorative or retributive, trial or truth commission, or undertaken by local, national, or international actors.

Therefore, the social learning model outlined here could offer a new and innovative way in which to think about ‘best practices’ in the design of future transitional justice interventions – one that could readily be employed across a variety of different contexts. In essence, the analysis presented here suggests that, at least in the case of deeply divided societies, primary attention must be paid to ensuring that the design of any transitional justice intervention is conducive to catalyzing the three critical categories of social learning that have been discussed. However, as the emphasis here is on ensuring that these processes occur, this leaves open the possibility that the structures required to achieve these forms of social learning – and through them, reconciliation – could take entirely different forms in each country in which they are applied. Put another way, while activating these social learning processes is identified as a ‘common denominator’ that should direct best transitional justice practices across all divided societies, how each society goes about fostering each of these processes remains entirely context-specific and can be achieved in a variety of ways. Therefore, while this social learning model sets out shared goals that all transitional justice interventions interested in fostering reconciliation in divided societies might work towards, it nonetheless does away with the notion that there ever might be a ‘one-size-fits-all’ mechanism that will be equally effective at achieving these goals across every society.
There are several reasons why this much more flexible reconsideration of best practices based on process as opposed to structure would be a key step forward in the field of transitional justice. First, it recognizes that the needs of each society in regards to achieving instrumental, socioemotional, and distributive social learning through transitional justice will differ depending on the nature of the past abuses that occurred, the scale and scope of the violence that transpired, the presence or absence of distributive inequalities, and the current state of intergroup relations when a justice mechanism is employed. For instance, what is required in terms of each of these aspects of social learning for intergroup reconciliation is likely to vary widely in a case in which abuses have taken the form of clandestine acts of violence carried out as part of a broader pattern of authoritarian state repression as compared to a case in which civil conflict has been ongoing between two sides for decades or acts of genocide have occurred and left thousands or even hundreds of thousands dead. Indeed, while this study suggests that these three types of social learning must eventually be targeted for reconciliation to occur, the degree to which each of these needs will be present – and therefore the degree to which they will have to be fostered by a transitional justice mechanism – will always be determined by the specific societal context. As an example, in a case such as Rwanda where the killings associated with the genocide occurred very openly and over a short period of time, there may be less of an imperative to establish the ‘truth’ about these events as it is already widely known and accepted (though reconciliation may ultimately require breaking down the biased collective memories underlying the long history of conflict between Hutu and Tutsi that preceded mass violence). For these reasons, simply arguing that one type of institution, be it trial or truth commission, should be a common response to all instances of abuse may actually prove to be counterproductive to achieving the goal of reconciliation. What this social learning model offers instead is a set of common guidelines
against which the needs of any particular society can be assessed on a case-by-case basis, providing the information necessary to tailor an appropriate transitional justice intervention to the contours and contexts of each country’s process of reconciliation.

Second, at a more micro level, there has also been a growing recognition among transitional justice scholars that many of the aspects identified here as being crucial to social learning, such as ‘justice,’ might be fulfilled through very different means depending on the cultural contexts of the societies in which they are employed. This has been most clearly illustrated in ongoing debates surrounding questions of whether Western conceptions of criminal justice based on prosecution and punishment should be utilized in non-Western societies, or whether more locally accepted ‘indigenous’ or ‘traditional’ approaches might ultimately be more effective in satisfying the needs of justice and reconciliation in these regions. However, what the social learning model presented would suggest is that either of these approaches might be equally valid ways to fulfill the elements of acknowledgement and accountability tied to the aspect of justice needed for socioemotional social learning. Instead, what seems more important is that the approach to justice that is used is viewed by the majority of those in the society where it is employed as an appropriate and legitimate response to countering the injustices created by past abuse. This sense of legitimacy will ultimately make any mechanism more conducive to fostering the kind of transformative social learning ultimately required for reconciliation. Indeed, as this study illustrates, despite the controversial amnesty provision included in South Africa’s TRC, evidence suggests that many blacks in that society appeared willing (at least initially) to accept a more ‘restorative’ approach to justice in line with Christian theology and

African conceptions of *unbuntu* that emphasized reparation, reintegration, and repair over prosecution and punishment. That said, there may be other societies, such as Northern Ireland, who have long been governed by Western legal traditions where ‘true’ justice is viewed by the majority in society as requiring the structures of criminal law. Again, however, the emphasis on process adopted by the social learning model highlights the importance of using whichever approach to justice is most suitable to a particular cultural context, and warns against the tendency to suggest the primacy of any one structural approach – be it restorative or retributive – in every post-conflict situation.

Third, this reconceptualization of best practices based on the processes of social learning could also be an important corrective to the traditionally narrow focus in much of the existing transitional justice literature on more centralized institutional mechanisms such as trials, tribunals, or truth commissions used to provide accountability for past violence. As the case of Northern Ireland seems to demonstrate, many of the most crucial processes of social learning might be carried out through more ‘decentralized’ initiatives undertaken by government, civil society, and local community actors outside of these more formalized structures. Furthermore, Northern Ireland’s experience also suggests that there may in fact be certain components of social learning, particularly instrumental and distributive, that can benefit from the kinds of widespread and sustained intervention that might simply not be possible to incorporate within the limited timelines, mandates, and structures often made available to ‘centralized’ transitional justice mechanisms. At the very least, it points to the fact that these formal transitional justice structures may often have to work in tandem with other ongoing efforts if they are going to make a positive and lasting contribution to social learning and reconciliation in divided societies. This seems particularly evident in the case of South Africa, in which efforts undertaken by the TRC to
promote truth and justice during its brief period of operation appear to have been undermined by the lack of attention paid to initiating instrumental and distributive efforts at a broader societal level outside the confines of the Commission’s mandate. Taken together, the findings of this study suggest the need for a much broader definition of transitional justice that moves beyond comparative debates over existing institutional structures and point to the importance of considering a much broader range of processes and mechanisms to help divided societies move towards post-conflict reconciliation.

Fourth, and directly related to this last point, in both Northern Ireland and South Africa it was appears evident that some of the most positive effects on social learning and reconciliation produced by their transitional justice approaches have come from long-term and sustained interventions. For instance, the strength of Northern Ireland’s Community Relations policy is its ability to mobilize grassroots and civil society organizations in the service of instrumental social learning to create frequent and ongoing opportunities for cross-community interaction. Conversely, when similar efforts were attempted that relied on cursory or ‘one-off’ encounters between Nationalist and Unionist communities, their impact on social learning – and by extension, on intergroup reconciliation – appeared negligible. A similar pattern was seems to have been evidenced in South Africa. While the highly public, and highly publicized, forums of the TRC hearings provided a crucial space to begin a process of social learning through ‘societal dialogue’ in that country, their reconciliatory impact seemed largely blunted by a distinct lack of effort by the government to promote further avenues for ongoing contact and dialogue following the Commission’s close. A similar pattern appear to play itself out in the lack of sustained follow-through by the South African government on its implicit vow to prosecute those who did not qualify for conditional amnesties and its promise to provide reparations in an adequate and
timely fashion to the victims registered with the TRC. The same could be said of the truth that was revealed by the Commission’s work: while many in society were exposed to its findings over the course of the TRC’s operation, no structures were in place to continue these truth recovery efforts or to disseminate these findings after its completion. Furthermore, in both countries distributive social learning only appears to have been successful when lasting and widespread structural and material reforms were put in place to ameliorate inequalities – measures now largely in place in Northern Ireland but still sadly lacking in South Africa.

In terms of best practices, these findings would seem to strongly caution against approaches to transitional justice that hope to achieve substantial advances in reconciliation through strategies limited to the span of the several years mandated to most formal justice mechanisms directly following a society’s transition away from conflict. Notably, however, this continues to be the predominant assumption underlying many of the most popular institutional mechanisms of transitional justice, including trials, international tribunals, truth commissions, and indeed even many ‘hybrid’ or ‘indigenous’ justice interventions. Regardless, as this study has suggested, social learning and reconciliation are dynamic processes that do not move in a linear path and may ebb or even reverse themselves over time if continued efforts are not undertaken to foster their growth. Furthermore, the process of reconciliation in deeply divided societies is itself widely considered to be a long-term endeavour that could take decades or even generations to achieve following the end of widespread violence. Accordingly, it may be dangerous, and perhaps naive, to assume that any transitional justice mechanism, no matter how thoughtfully designed or well funded, can make a significant contribution to this process if its interventions are limited to the span of a few years. In many respects, this seems to be the ‘trap’ that the South African government fell into under the leadership of Thabo Mbeki, who, following
the conclusion of the TRC’s work, appeared to consider the work of reconciliation for apartheid abuses to be finished and a thing of the past. However, as the continued presence of widespread segregation, fear, prejudice, mistrust, and misunderstanding between racial groups evidences, South Africa may rather have just begun its long journey on the road to reconciliation. Future efforts, particularly in regards to instrumental and distributive social learning, will ultimately be required to ensure it reaches the destination of sustainable peace.

FUTURE RESEARCH
While this study is an important first step towards opening up the black box surrounding the relationship between transitional justice and reconciliation and in shedding light on the crucial role that identity can play in these processes, further research remains to be done. Significant evidence has been provided in support of the proposed social learning model being the key link in the causal chain between transitional justice and reconciliation; however, at this stage these findings remain suggestive as opposed to definitive. It is clear that more work – both qualitative and quantitative – will be needed to clearly separate out the distinct causal effect of transitional justice interventions from the wide range of other factors at work in post-conflict societies which might impact their potential for reconciliation.

In particular, it is highly likely that further refinement of the theoretical model will be necessary to draw out the nuances of the causal linkages underlying the relationship between transitional justice and reconciliation, as well as to identify other crucial causal mechanisms that may have been overlooked in this study’s emphasis on social learning. At least in part, this kind of refinement could be initiated by looking to alternative theories that could plausibly explain these causal linkages and then testing these theories against one another to assess their validity.
against the observations drawn in a kind of ‘three-cornered fight.’ This would help both to increase confidence in the inferences drawn from the social learning model, and to help eliminate the oversight of other key variables through any potential confirmation bias. In addition, it is clear that further testing the social learning model against a much larger universe of cases will ultimately be required before it will be possible to speak conclusively about the broader applicability of this model beyond the case studies of Northern Ireland and South Africa examined here. While this testing remained beyond the scope of the time and resources of the current study, as mentioned, it is hoped that this analysis will only be the first of many examining the importance of identity and social learning to the relationship between transitional justice and intergroup reconciliation in divided societies, and that other scholars will be able to take up aspects of the much larger project begun here. Nonetheless, by offering new insight into the causal processes linking transitional justice to reconciliation, the social learning model developed here offers an important ‘first cut’ at these issues that can be used to guide future explorations.

In addition, the presence of conducive elites, entrepreneurs, and other powerful actors within society are bracketed in the current model as a crucial ‘precipitating condition’ for transitional justice strategies that will be capable of promoting the kinds of social learning required for intergroup reconciliation. However, in all likelihood, the interrelationship between these actors and the ability of transitional justice strategies to catalyze social learning is much more complex, involving a series of dynamic interaction effects that are not fully captured in the current framework which focuses less on individual agency and more on the ‘institutional’ impact of the processes and mechanisms employed by transitional justice on intergroup reconciliation.

308 This is a strategy very much endorsed by Peter Hall as a key test for any theory utilizing systematic process analysis. See Hall, "Systematic Process Analysis," 7.
reconciliation. For example, in the case of South Africa, it is evident that much of the legitimacy afforded the TRC came from the support of charismatic individuals such as Nelson Mandela and Desmond Tutu who lent their moral authority both to the transitional process and to creating a broader climate within post-apartheid South African society conducive to the ideals of interracial reconciliation. Had Mandela, and perhaps Tutu to a lesser degree, not been present or not embraced and embodied the message of reconciliation that captured the imagination of South Africans, would the more restorative aims of the TRC have been as widely accepted or as capable of achieving limited successes in promoting social learning and reconciliation? While this is an unknowable counterfactual, it seems unlikely. Conversely, it would appear that the lack of support for the TRC process by the Mbeki government, evidenced by the administration’s failure to follow up with the reconciliatory projects it began, had a deleterious effect on prospects for social learning even years after the Commission completed its work. Similarly, it is unlikely that attempts to address the past through Northern Ireland’s decentralized transitional justice strategy would have had the impact it did – or even have been possible – without the change of heart amongst key figures such as Gerry Adams and Ian Paisley that ultimately allowed the peace process and a new power-sharing government to move forward. Accordingly, it would seem that more work remains to be done regarding the nexus of powerful individual agents, transitional justice, social learning, and intergroup reconciliation.

Finally, due to the pragmatic restraints of time and resources, this ‘first cut’ at these issues was limited to a ‘small n’ sample of two key case studies, both of which were chosen, at least in part, because they seemed to have evidenced some level of success in moving towards reconciliation and offered ready access to a wealth of primary and secondary sources. However, ascertaining the broader validity of the social learning model developed in this study will by
necessity require analysis of a much larger universe of cases. In particular, the cases of both Northern Ireland and South Africa largely downplayed criminal prosecutions in the transitional justice interventions that they employed. However, it should be noted that retributive justice interventions focused on prosecution and punishment continue to remain the normative response in transitional justice, with domestic trials and international courts such as the ICC often being the first option considered by individual states and the international community alike to provide accountability for gross human rights violations. For this reason, it will be crucially important in future research to extend the scope of the analysis begun here to investigate the contributions to social learning and reconciliation that these judicially-oriented interventions might provide in deeply divided societies.

In this regard, an investigation of transitional justice in post-genocide Rwanda would seem to be a logical next step for this research as it would offer an opportunity to examine, in a single case, the impact of three distinct retributive justice mechanisms on ongoing processes of intergroup reconciliation between divided Hutu and Tutsi populations and to test the robustness of the social learning framework developed in this study. Indeed, a similar examination of Rwanda would allow first for an assessment of the reconciliatory potential of ‘traditional’ modes of criminal justice in the form of community-based gacaca courts, an indigenous method of dispute resolution customarily mediated by tribal elders that has been adapted and increasingly codified to assist in providing legal accountability for crimes of genocide. Second, it would enable an exploration of the influence of large-scale prosecution and incarceration on intergroup reconciliation by studying the Rwandan government’s attempt to use its system of national criminal courts to try the tens of thousands of those indicted for genocidal violence. Third, it would offer a chance to examine the ongoing work of the International Criminal Tribunal for
Rwanda (ICTR), and to gauge the impact of international criminal justice on reconciliatory processes of social learning.\textsuperscript{309}

However, the preliminary findings obtained in the current study would seem to suggest that it may be highly unlikely that transitional justice interventions limited to securing criminal prosecution will ultimately prove conducive to fostering the kinds of social learning required for intergroup reconciliation and sustainable peace. In large part, this is due to the fact that as transitional justice interventions, criminal justice interventions tend to be very narrow in scope as they are focused almost exclusively on securing guilty verdicts for the perpetrators of past abuses. To be sure, the prosecution and punishment of perpetrators can powerfully fulfill the need for justice through acknowledgement and accountability in post-conflict societies and may also help to establish a measure of the truth surrounding past events through the evidence collected during criminal proceedings. However, this tends to be the extent of these interventions’ goals, meaning that there is very little – if any – attention paid to advancing components of instrumental or distributive social learning. Indeed, the singular focus of criminal justice on proving the individual guilt of perpetrators frequently comes at the expense of addressing the broader structural and material frameworks present in post-conflict societies, and it provides little space for interventions such as reparations programs which could serve as short-term attempts to repair and redress distributive issues. Furthermore, as opposed to providing a forum in which to bring former enemies together in positive contact and dialogue, the interactions that take place between victims and perpetrators in criminal prosecutions are instead often antagonistic and heavily mediated by the presence of legal counsel. Accordingly, as Rama

\textsuperscript{309} In addition, the case study of Bosnia-Herzegovina in the Former Yugoslavia which has involved the International Criminal Tribunal for the Former Yugoslavia (ICTY), domestic war crimes trials, and a possible future truth commission process would make for an excellent second possible comparative study.
Mani has noted, retributive interventions might not often be the most appropriate mechanisms in the post-conflict environment of divided societies if the ultimate goal is reconciliation, as “the adversarial and confrontational nature of trials is considered inimical to reconciliation or reintegration after conflict…[because they] tend to harden divisive and hostile feelings between offender and victim” and “reify the homogeneity of each group and the insurmountable difference between the two groups.”

In addition, it may be the case that the justice and truth that retributive mechanisms such as trials provide might not in and of themselves be most conducive to social learning. For example, while criminal prosecution may acknowledge the harm done to victims, assign clear responsibility to perpetrators, and thereby ease the sense of injustice caused by past abuses, the end result is the removal of offenders from society through incarceration or, in some cases, death. As a result, not only do trials risk bringing already divided groups into yet another antagonistic interaction, but even if they are successful in their mandates they can also foreclose future opportunities for former enemies to challenge their existing mindsets or to change the nature of their relationships with one another. This may be particularly dangerous in cases such as Rwanda in which complicity for abuses involved large segments of society, and in which the strictures of criminal justice could demand the potential removal of hundreds of thousands from future reintegration and reconciliation processes. In terms of truth, the legalistic imperative of trials for due process and the protection of the rights of the accused may overlook the potential for societal repair stemming from full victim disclosure in favour of skeptical cross-examination by defence counsels – in effect, further marginalizing the narratives of those already most

\[310\text{ Mani, Beyond Retribution, 100, 99. A similar argument that retribution may only reinforce antagonistic conceptions of identity and thereby impede societal reconciliation is also found in Amstutz, The Healing of Nations, 15-16; Long and Brecke, War and Reconciliation, 71-72; Minow, Between Vengeance and Forgiveness, 146.}\]
affected by past violence. Also, the inherently adversarial system of Western criminal justice might further reduce the potential for meaningful challenges to biased myths and memories to emerge, as perpetrators are also encouraged to withhold their testimony in order to escape the harsher punishments that might result.\textsuperscript{311} Finally, it should also be noted that the temporal mandate of criminal justice institutions effectively comes to an end following the sentencing of perpetrators, with few provisions, if any, for long-term engagement or follow-up – an element suggested by this study as being crucial to intergroup reconciliation and sustainable peace in divided societies.\textsuperscript{312}

This is not to suggest that criminal justice mechanisms such as domestic trials and international tribunals should be avoided as transitional justice interventions or that they have no role to play in fostering post-conflict reconciliation. Indeed, as previously discussed, for many societies Western traditions of criminal justice are often perceived by victims to be the only legitimate avenue for ‘true’ justice for past abuses, and in such societies they can make a strong contribution to reestablishing the rule of law and to signaling a shift away from a culture of violence to a culture of mutual respect for human rights. Instead, what the findings in this study do point toward is that these retributive mechanisms, if utilized as the sole societal response to past human rights violations, will likely be unable to foster the kinds of social learning needed to achieve intergroup reconciliation in deeply divided societies. While more research remains to be done, this might be a crucially important finding for the fact that criminal justice mechanisms

\textsuperscript{311} Minow, Between Vengeance and Forgiveness, 47.

\textsuperscript{312} Earlier findings from survey research conducted by Eric Stover and Harvey Weinstein investigating the relative contribution of criminal justice to reconciliation in Bosnia seem to support this general hypothesis. As they note, their study suggests that “there is no direct link between criminal trials…and reconciliation…in fact, we found criminal trials – and especially those of local perpetrators – often divided small multi-ethnic communities by causing further suspicion and fear… [while] survivors rarely, if ever, connected retributive justice with reconciliation.” See Stover and Weinstein, "A Common Objective," 323.
still tend to be the ‘baseline’ transitional response of both domestic and international actors to
gross human rights abuses, often with the assumption that such interventions will be sufficient in
and of themselves to enable societies to move on from past violence towards sustainable peace.
However, the evidence presented in this study would seem to suggest that to achieve the goal of
reconciliation, such approaches would likely need to work in tandem with more ‘restorative’ or
‘reparative’ interventions which seek in the first instance to heal damaged relationships and to
address the broader structural and material inequalities that often underlie past abuses in divided
societies. In many ways, this would seem to be reflective of the emerging movement within both
scholarly and policy transitional justice circles that recognizes the need for a greater level of
‘hybridity’ or a ‘mixing’ of approaches in order to reach the aim of reconciliation, as well as the
need to include distributive and reintegrative efforts alongside formal justice structures.313 By
providing initial insight into the causal processes linking transitional justice to post-conflict
reconciliation, the social learning model developed here could offer a powerful tool that might be
used in future such explorations of ‘best practices.’ Ultimately, this study models the ways in
which the pursuit of truth and justice might in the future be usefully combined with instrumental
and distributive efforts to help achieve the goals of intergroup reconciliation and sustainable
peace in deeply divided societies.

313 On the movement towards ‘holism’ in transitional justice, see Roht-Arriaza, "The New Landscape of Transitional
Justice," 9-12. On the need to incorporate relational and distributive issues alongside the pursuit of truth and justice
to achieve reconciliation and sustainable peace, see Lambourne, "Transitional Justice and Peacebuilding."
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Appendix I

UBC Research Ethics Board Approval

The University of British Columbia
Office of Research Services
Behavioural Research Ethics Board
Suite 102, 6190 Agronomy Road, Vancouver, B.C. V6T 1Z3

CERTIFICATE OF APPROVAL - MINIMAL RISK

PRINCIPAL INVESTIGATOR:
Richard Price

INSTITUTION / DEPARTMENT:
UBC/Arts/Political Science

UBC BREB NUMBER:
H08-00039

INSTITUTION(S) WHERE RESEARCH WILL BE CARRIED OUT:

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<th>Site</th>
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<td>UBC</td>
<td>Vancouver (excludes UBC Hospital)</td>
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Other locations where the research will be conducted:
Locations in the field: 1) Northern Ireland (Archival Research and Expert Interviews with Academics, Government Officials, Civil Society Representatives, and NGO Leaders) - School of History and International Affairs, Magee Campus, University of Ulster - International Conflict Research Centre (INCORE), Magee Campus, University of Ulster - The Transitional Justice Institute (TJI), Magee Campus, University of Ulster - Centre for the Study of Ethnic Conflict, Queen's University Belfast - Healing Through Remembering Project Office, Belfast (NGO) - Ceryneela Community Centre Offices, Belfast (NGO) - Community Dialogue Offices, Belfast (NGO) - Northern Ireland Community Relations Council Offices, Belfast (NGO) - Community Relations Unit, Office of the First Minister and Deputy First Minister, Stormont Parliament, Belfast (Government) 2) Republic of Ireland - School of Politics and International Relations, University College Dublin - Glencree Centre for Peace and Reconciliation, County Wicklow (NGO) 3) South Africa (Archival Research and Expert Interviews with Academics, Government Officials, Civil Society Representatives, and NGO Leaders) - Department of Political Studies, University of Cape Town, Cape Town - Department of Political Studies, University of the Witwatersrand, Johannesburg - Institute for Justice and Reconciliation Offices, Cape Town (NGO) - Centre for the Study of Violence and Reconciliation Offices, Cape Town & Johannesburg (NGO) - International Center for Transitional Justice Offices, Cape Town (NGO)

CO-INVESTIGATOR(S):
Nevin Thomas Allen

SPONSORING AGENCIES:
Social Sciences and Humanities Research Council of Canada (SSHRC) - "Breaking the cycle of violence: the South African truth and reconciliation commission and the resolution of intractable ethnic conflict [Award No. 767-2005-2308]"

PROJECT TITLE:
Overcoming Intractability: Identity and Intergroup Reconciliation in Transitional Justice

CERTIFICATE EXPIRY DATE: February 4, 2009

DOCUMENTS INCLUDED IN THIS APPROVAL: | DATE APPROVED:
--- | ---
Research Proposal | January 10, 2008
Consent Forms: | January 9, 2008
Expert Interview Consent Form | V.2
Questionnaire, Questionnaire Cover Letter, Tests: | January 10, 2008
Expert interview script | January 9, 2008
Letter of Initial Contact: | 1.1
Expert Letter of Initial Contact | 1.1

The application for ethical review and the document(s) listed above have been reviewed and the procedures were found to be acceptable on ethical grounds for research involving human subjects.

Approval is issued on behalf of the Behavioural Research Ethics Board and signed electronically by one of the following:

Dr. M. Judith Lynam, Chair
Dr. Ken Craig, Chair
Dr. Jim Rupert, Associate Chair
Dr. Laurie Ford, Associate Chair
Dr. Daniel Sathani, Associate Chair
Dr. Anita He, Associate Chair

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# Appendix II

## Northern Ireland Expert Interviewees

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## Appendix III

### South Africa Expert Interviewees

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**Total: 42**
Appendix IV
Sample Expert Interview Questions

Background Questions

1) In your estimation, how strong would you say that perceptions of belonging to a ‘group’ or racial identity remain in South Africa today? Would you say this perception has grown, decreased, or stayed the same since the completion of the Truth and Reconciliation Commission? What impact would you say the TRC has had on these perceptions of identity?

2) How would you describe the nature of current relations between racial communities in South Africa? Would you say that the nature of these relations remains broadly shared across South Africa or vary among certain regions or segments of the population?

3) South Africa remains marked by high of economic disparity with large numbers of black South Africans, in particular, experiencing particular levels of economic deprivation. What role, if any, do you think this plays in the potential for reconciliation between racial groups?

4) In your assessment, what degree of mutual trust do you believe currently exists between black and white South Africans? Do you believe this has been affected by the work of the TRC? If so, in what way?

5) Do you believe that there exists a respect for the equal human rights of other racial communities among both black and white South Africans? In your opinion do you believe that black and white South Africans assign an equal moral worth to members of the ‘Other’ racial community?

The South African Truth and Reconciliation Commission

1) An increase in positive cross-community ‘contact’ is often cited as a central element in reducing prejudice, discrimination, and building trust and understanding after a period of conflict. How important do you think this kind of contact was for reconciliation or building more positive relations between racial communities in South Africa? More specifically, do you believe that any of the work of the TRC helped to impede or impel this kind of contact across racial lines?

2) A growth of meaningful dialogue and communication across group boundaries is also often argued as being essential to processes of reconciliation. How important do you think dialogue and communication is for the process of reconciliation in South Africa? Do you believe the TRC process in South Africa contributed to a renewal of intergroup dialogue at either a interpersonal or societal level?

3) How important do you think the public nature of the TRC process and/or the media attention it received was in terms of the impact it had on South African society?
4) In your opinion, what impact do you think the conditional amnesty provisions of the TRC impacted the potential for reconciliation in South Africa? More broadly, do you believe that the predominantly ‘restorative’ approach to justice adopted by the TRC contributed or detracted from the potential for reconciliation? (Eg. By satisfying demands from survivors for justice or to rectify injustices related to past human rights abuses.)

5) In your opinion, how effective was the Truth and Reconciliation Commission in addressing aspects issues of distributive or socio-economic justice in South Africa? More specifically, what impact (positive or negative) do you believe the reparations provisions recommended by the TRC had for reconciliation?

6) Acknowledging the survivors of past violence is often referred to as a central component for successful reconciliation and was cited as one of the main goals of the TRC. In your opinion, how important do you believe that this kind of victim acknowledgment was for reconciliation in South Africa? How successful do you think the TRC was in promoting this kind of acknowledgement for survivors? Was there a particular mechanism or component of the TRC that you believe helped to advance this kind of acknowledgement?

7) What role, if any, do you believe that communal myths, histories, stories, or collective memories have played in sustaining mistrust and animosity between groups in South Africa? Do you believe that the TRC had an impact on addressing these either positively or negatively?

8) Establishing a ‘truthful record’ about apartheid-era violence was one of the primary mandates of the TRC and has been frequently been linked to the Commission’s potential to promote reconciliation in South Africa. How important do you think establishing the truth is for reconciliation in South Africa? Is there a specific ‘kind’ of truth that you believe is particularly important in this regard (Eg. A common or shared understanding of what happened during pivotal past events?). How effective do you believe that the work of the TRC has been in building a shared or common view of past human rights abuses?

9) In your estimation, following the conclusion of the Truth and Reconciliation Commission has there been any development of any kind of shared sense of identity as members of a larger community between racial groups in South Africa (ie – Tutu’s notion of a ‘Rainbow Nation’ or sharing a broader sense of common identity as ‘South Africans’). Are there any specific mechanisms of the TRC that you believe may have aided or hindered this process?

10) Is there an aspect of the TRC process that you can point to that you feel may have had a particularly positive effect on the potential for reconciliation in South Africa? Conversely, is there an aspect of the TRC that you believe may have had an adverse effect on the potential for reconciliation?

11) Are there any key outstanding issues in South Africa that you believe are currently preventing the development of more positive relations between racial communities?

12) Do you foresee any possibility of a recurrence of political or racial violence in South Africa over the next five years? If yes, what factor do you see as most likely to instigate this? If not, is there any single factor you believe may be most responsible for preventing this?