



NEWS FROM TJI

September 2009

DIRECTORATE INTRODUCTION

INSIDE THIS ISSUE:

<i>Introduction & New Staff</i>	2
<i>Events</i>	2
<i>Public Inquiries Project</i>	3
<i>Election Observation in Lebanon</i>	3
<i>Publications</i>	4



The aims of the **Transitional Justice Institute** are:

- To build a theoretical and practical understanding of the role of 'transitional justice', and the underlying relationship between justice and peace;
- To examine the role of the international and domestic legal systems and institutions in facilitating transition from conflict;
- To make links between the experience of Northern Ireland and international experience, so as to benefit both Northern Ireland and other contexts;
- To inform policy makers involved in peacemaking in local and international institutions; and
- To make visible and critically examine gendered experiences of transition.

The Directors of the Transitional Justice Institute (TJI) are delighted to present this edition of the Newsletter. As always we have had a busy and productive few months since our last circulation and look forward to bringing you up to date with the research, teaching and policy work of the TJI.

Firstly, we are delighted to welcome new staff members to the Institute. We have appointed Ms Catherine O'Rourke and Dr Louise Mallinder to Lectureship positions and both will take up post this semester. Both are experts in their areas of gender and amnesty respectively. We also welcome two new PhD Candidates and Affiliates of TJI: Ms Deborah Magill and Mr Tim Cunningham. In addition to our new staff we look forward to welcoming our Artist in Residence, Rita Duffy. This continues a tradition of artistic collaboration between the TJI and other disciplines which has enriched and deepened our intellectual and physical environment.

This Newsletter edition outlines some of the events that the TJI has hosted in the past few months or is currently planning. In June 2009, the symposium on *Transitional Justice and Contested Space* was an outstanding interdisciplinary event. As well as our own research staff, it included Visiting Professor Myron Orfield, from the University of Minnesota and Dr. Louise Purbrick from the University of Brighton. We hope to continue the synergies of the meeting an ongoing research emphasis on this area of work. The TJI's second Summer School on "*Negotiating Peace, Negotiating Justice*" was a huge success and we look forward to building on this success for our 2010 Summer School.

The Summer School continues to bring a diverse range of practitioners, scholars and students to the TJI and provides a focus point for our outreach to the wider community on key issues.

Forthcoming events include our international conference (with co-hosts, University of Minnesota Law School) on "Exceptional Courts and Military Commissions in Comparative and Policy Perspective" which will take place in October 2009 at the University of Minnesota (USA). TJI have also convened a panel for the forthcoming conference on "*Defining the Crime of Aggression*" at the University of Ulster in September 2009. We will also host an in-house seminar on 25 September with Dr Deirdre Howard-Wagner from the University of Sydney, Australia. Dr Howard-Wagner will be carrying out research at the TJI as part of our ongoing visiting scholars programme. Our Autumn Seminar Series will continue throughout the semester and updates will be posted on our website. Our conferences and symposia remain a key element of our research outreach in the new REF cycle.

Our staff and Associates continue to publish their work and our more recent book publications are from Dr Kirk Simpson, Professor Fionnuala Ni Aoláin and Dr Brandon Hamber (see back page for details). These books continue the ongoing tradition at TJI of research of international excellence which aims to have practical effect and influence nationally and internationally.

As ever, we look forward to a busy and productive academic year.

WELCOME TO NEW STAFF

We are delighted to welcome new staff to the Transitional Justice Institute. Ms Catherine O'Rourke joins us a Lecturer in September 2009 at the Jordanstown campus.

Catherine graduated from Queen's University Belfast with an LLB (Law and Politics) and obtained an MSc in Gender and Development from the London School of Economics Gender Institute in 2004. She was formerly a Research Associate with TJI, working on comparative analysis of peace agreements, before

becoming a full time PhD candidate at the Institute where her doctoral work focused on *The Law and Politics of Gender in Transition*.

We are also delighted to welcome Mrs Deborah Magill, PhD Candidate and Affiliate of TJI who is joining us in September. Mrs Magill, who will be based at the Jordanstown campus, will be working on Employment Law and Human Rights. Dr Louise Mallinder, Lecturer, and Mr Tim Cunningham, PhD Candidate and Affiliate, will join us later in the semester.

“DEFINING THE CRIME OF AGGRESSION”

TJI staff hosted a symposium on **“Defining the Crime of Aggression”: the Relationship between State Crime and Individual Responsibility** at the 2009 CICA-STR Conference on Political Violence and Collective Aggression: Considering the Past: Imagining the Future.

The symposium ‘Defining the Crime of Aggression’ was convened by Dr Chris Lamont and Dr Gabriele Porretto, Postdoctoral Research Fellows at the Transitional Justice Institute.

The panel aimed to explore some of the relevant legal and political issues raised by the definition of the crime of aggression, both as a

state crime and as an individual crime defined by international law. This is a complex and timely topic at the intersection of different disciplines in the area of social sciences; thus, the panel brought together scholars working in relevant areas from different angles of analysis: international law, international relations and legal theory. Participants included Dr Jean Allain (Queens University Belfast), Mr William Henderson (Glasgow Caledonian University), Dr Chris Lamont (Transitional Justice Institute, University of Ulster), Ms Yassin A M’Boge (Queens University Belfast) and Dr Gabriele Porretto (Transitional Justice Institute, University of Ulster).

The Symposium addressed the following topics: the relationships between (a) individual acts leading to aggression and (b) state criminality, with particular respect to the nature of aggression and to particular aspects of the perpetration of the crime, including the ‘leadership’ element and collective responsibility. The Symposium also considered the prospective role of the International Criminal Court in the prevention and the prosecution of acts of aggression and the key obstacles in the negotiations towards the definition of the crime and of the Court’s jurisdiction. Further details are on the TJI website.

FORTHCOMING EVENTS

TJI SEMINAR SERIES, AUTUMN 2009

Dr Deirdre Howard-Wagner, University of Sydney, Australia

“Paradox, challenge or a bastion of territorial sovereignty?: citizenship, the nation-state and human rights”

Friday 25 September,
12.30pm,

Dalriada House,
Jordanstown campus

TRANSITIONAL JUSTICE & CONTESTED SPACE

In societies which are emerging from periods of political violence, the use of public space matters. Whether space is seen in terms of territorial division, or as a sacred site of traumatic memory, its use can form a most sensitive part of a transitional process. The Transitional Justice Institute is interested in exploring conversations which would enrich our current work in this field, and also allow for engagement and debate with scholars and policy makers around the issues of place and legacies of conflict in transitional polities, legacies which are themselves subject to dispute, contestation and debate over the application of human rights.

To further this, the Transitional Justice Institute organised a half-day collo-

quium relating to the topic of Transitional Justice and Contested Space on 12 June 2009. The colloquium involved researchers from a range of research backgrounds, and included legal scholars, sociologists, social anthropologists, geographers, political scientists, scholars in the field of urban planning, and art historians - hailing from the University of Ulster, Queen’s University Belfast, and the University of Brighton. The round table event allowed us to explore ideas related to contested space, and allowed for interesting and multidisciplinary conversation to take place. The semi structured colloquium examined the linkages between transitional justice issues and public space through four broad lenses: **Transitional Justice and Sites of Memory, Public**

Assembly and Transitional Societies, the Displacement and Appropriation of Land, and Transitional Societies and Borders.

TJI’s overall purpose in organising the colloquium was to engage in a wide-ranging conversation the better to explore interest and capacities in the subject of contested space in transitional societies. The colloquium helped us, and other interested parties, take part in an extremely useful and engaging interdisciplinary exchange and certainly enabled all concerned to identify possible research cooperation within and between universities and disciplines. It is envisaged that links will be maintained, and that further research discussion and collaboration will take place.

INTERNATIONAL CONFERENCE 22-23 OCTOBER 2009

The TJI and the University of Minnesota Law School will jointly host a conference on

“Exceptional Courts and Military Commissions in Comparative and Policy Perspective”

Further information on
TJI website.

PUBLIC INQUIRIES: OBSERVATION PROJECT

The purpose of the Inquiries Observation Project has primarily been to summarize proceedings and highlight issues of concern relating to three public inquiries which are investigating issues surrounding the murders of Billy Wright Rosemary Nelson and Robert Hamill.

Ms Elizabeth Super, a law student at the University of Minnesota and took part in the Inquiry Observation Project this Summer and primarily focused on an analysis of the decisions made by each Inquiry's panel in order to highlight any potential areas for concern with regards the Inquiries.

Potential Areas for Concern

The majority of the Inquiry Panel decisions deal with anonymity since some witnesses who testify at the inquiries are concerned that testifying openly would place them at risk (or at an increased risk) of attack from paramilitary groups. Public inquiries can be classed as a public body under the Human Rights Act 1998, and as such, the Inquiry has an obligation to ensure that its work does not adversely impact on an individual's right to

life under Article 2 of the European Convention on Human Rights. For this reason, the Inquiries granted some individuals (or groups as it often appears) anonymity. Anonymity can generally be separated into two broad categories: 1) partial in terms of screening a witness from public view; 2) full, in which case the Inquiry hears evidence in the presence of all legal representatives but does not permit the public to attend such hearings.

The analysis undertaken primarily looked at how each Inquiry dealt with the balance of the witness' right to life with an inquiry's purpose - to hold an independent and transparent public inquiry while investigating allegations that the state has failed to protect the victim or sufficiently investigate the circumstances of the victim's death in accordance with Article 2 - and whether the panel's decisions regarding each application were consistent. A summary matrix of the decisions made by the three Inquiry Panels was created in an attempt to identify patterns or inconsistencies in the way each Inquiry dealt with the issue of anonymity.

Preliminary analysis indicated that some of the possible areas for concern included whether the Inquiries were consistent in granting anonymity and whether the Inquiries were consistent with their application of the burden of proof in anonymity applications. For instance is the burden on the individual to show why anonymity should be granted? Or is it assumed that the individual should be granted anonymity and it is up to another party to challenge the application?

INQUIRIES UPDATE

Robert Hamill Inquiry

The Inquiry heard testimony as part of committal proceedings for Ms. Clarke, a key witness who has cited medical reasons for her failure to give evidence. The Inquiry indicated that it will make an application for leave to use part of the medical report and two supplemental letters for the purpose of the Inquiry. This application, as well as any further evidence that Ms Clarke's legal team wishes to put forward, will be heard on the 25th of August. In addition, oral evidence from witnesses will re-

commence on 1 September. The Inquiry will break in October in preparation for closing submissions and will reconvene in November for closing submissions from the participants. The Inquiry will take a short break before closing submissions from Inquiry Counsel are heard mid-December. At that time the Hamill Inquiry is expected to have completed oral hearings and will commence writing its final report.

Rosemary Nelson Inquiry

The Inquiry finished oral hearings in June of this year and is currently formulating its report.

Billy Wright Inquiry

The Inquiry concluded oral hearings in July and is currently formulating its final report. The Inquiry Chairman has indicated that he is hopeful the Inquiry's final report can be submitted to the government minister in Spring 2010.

Looking Forward

Observations of the Robert Hamill Inquiry will continue with new observers being selected from students enrolling in the LLM course in 2009.

ELECTION OBSERVATION IN LEBANON: BILL ROLSTON

Professor Bill Rolston, Associate Researcher with TJI: I was in Lebanon in June with the Carter Center, monitoring the parliamentary elections. Two things were immediately striking. First, it was much more green and picturesque than I had expected. Second, harbouring prejudices based on countless media reports of kidnappings in the 1980s, I was happily taken aback by the friendliness of the people I met. On these tours of duty, there is a tendency for people to want the 'sexiest' posting - places like the Israeli border or the Bekaa Valley. I drew what I first thought was a short straw, the constituency of Babda. In fact it was a wonderful constituency, stretching from

the crowded streets of Shia South Beirut, still bearing the marks of Israeli shelling, to the Druze villages in the mountains, the religious leaders still dressed in archaic costume. Babda had one other claim to fame; it was one of the few constituencies where the outcome of the election was not a foregone conclusion.

This is because of the rigid sectarianism in Lebanon. The President must be Sunni Muslim, the Prime Minister Maronite Christian, and the Speaker of the House Shia. Each constituency has an allocated number of seats for each religious group based on the putative make-up of the population (the last na-

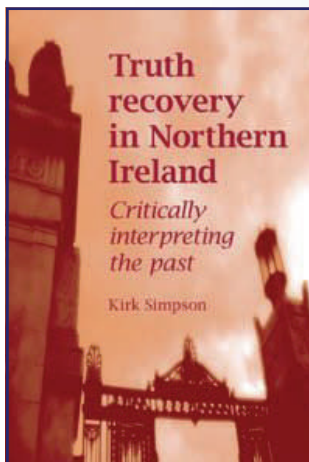
tional census was in 1936 and the more powerful groups resist another census in case it shows they have fewer people than they hoped). The result is that there is no space for 'cross-community' candidates. Had I been an Armenian wishing to stand on a 'community relations' ticket in Babda, divided between Sunni, Shia and Druze, I would not have been allowed.

There are no political parties as such; instead men from various powerful and rich families or those attached to Shia factions have waves of followers who vote for them. To say that the 'pro-Western' candidates won is a crude shorthand for a very complicated

situation. But two things are beyond doubt: somewhat surprisingly, the elections passed off peacefully. Less surprisingly, three of the 128 people elected were women.



TJI PUBLICATIONS



Dr Kirk Simpson, Post Doctoral Fellow, Transitional Justice Institute - 'Truth Recovery in Northern Ireland: Critically interpreting the past' (Manchester: Manchester University Press, 2009)

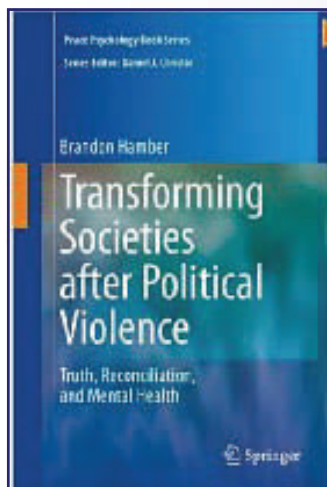
Northern Ireland has entered what is arguably the key phase in its troubled political history – truth recovery and dealing with the legacy of the past – yet the void in knowledge and the lack of academic literature with regard to victims' rights is particularly striking. This book analyses truth recovery as a fundamental aspect of the transition from political violence to peace, democracy and stability in post-conflict Northern Ireland. Kirk Simpson argues that it is essential for any process of truth recovery in Northern Ireland to provide the victims of political violence with the opportunity to express and articulate their narratives of suffering within the context of public dialogic processes. He outlines a unique and original model: that victims of political violence should be enabled to engage in meaningful truth recovery through a Habermasian process of public democratic deliberation and communication involving direct dialogue with the perpetrators of such violence.

This process of 'communicative justice' is framed within Habermas' theory of communicative action and can help to ensure that legitimate truth recovery publicly acknowledges the trauma of victims and subjects perpetrator narratives of political violence to critical scrutiny and rational deconstruction. Crucially, the book aims to contribute to the empowerment of victims in Northern Ireland by stimulating constructive discussion and awareness of hitherto silenced narratives of the conflict. This difficult and unsettling interrogation and interpretation of the conflict from a comparatively 'unknown perspective' is central to the prospects for critically examining and mastering the past in Northern Ireland.

Dr Brandon Hamber, TJI Associate Researcher & Director, INCORE

Transforming Societies after Political Violence: Truth, Reconciliation, and Mental Health

ISBN: 978-0-387-89426-3, Springer 2009



Transforming Societies after Political Violence offers a template for those tasked with providing truth, justice, reconciliation, and healing. This interdisciplinary study identifies complex relationships between recovery from political violence and the psychological processes that accompany widespread social change, showing how these can be integrated to strengthen both the individual and society. Drawing on over 15 years of experience in South Africa and comparative examples from elsewhere Brandon Hamber examines the centrality of mental health issues in transitional justice, and the social, cultural, and identity issues involved in meeting the needs of victims.

The book explores issues such as reparations, "doing justice", the power of ambivalence, and concepts such as closure and reconciliation setting out the role of transitional justice practitioners in helping survivors move beyond the toxic past without covering it up or becoming mired in it. Priscilla Hayner, author of *Unspeakable Truths and international transitional justice expert*, has noted that the book offers "poignant stories, and clear policy recommendations" and will

"help shape – and greatly improve – future endeavors to confront unimaginable memories and pain".

Contact Details

Transitional Justice Institute
Dalriada House
University of Ulster
Jordanstown campus
BT37 0QB

Tel: +44 (0)2890 366202

Fax: +44 (0)2890 368962

Email: transitionaljustice@ulster.ac.uk

Transitional Justice Institute
ME Building

University of Ulster

Magee campus

BT48 7JL

Tel: +44 (0)2871 375146

Fax: +44 (0)2871 375184

CONFERENCE PAPERS

Eilish Rooney delivered a paper on

Intersectionality: A Critical Resource for Transitional Society?

at Leibniz University of Hannover, Arts and Humanities Faculty, International Congress, July 2009 "Relations of Difference: Dynamics of Conflict in Global Perspective", July 09.

The paper is available at:

[http://
transitionaljustice.ulster.ac.uk/
publications/
TJI_conference_papers.html](http://transitionaljustice.ulster.ac.uk/publications/TJI_conference_papers.html)



Dr Chris Lamont

delivered a lecture on

International Criminal Justice and the Politics of Compliance

at the Croft Institute of International Studies at the University of Mississippi in

September 2009.

Professor Tom Hadden has been invited by the Office of the

UN High Commissioner for Human Rights to participate in a workshop on

Policing in South Africa on 12-13 October 2009.