Submission to the Second IHL and Peace Consultation on the Role of International Humanitarian Law in Post-Conflict Transitions

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1. Concrete Measures and Domestic Mechanisms for Missing Persons and Dignified Management of the Dead

States emerging from conflict face significant obligations under International Humanitarian Law (IHL) and International Human Rights Law (IHRL) to clarify the fate of missing persons and ensure dignified treatment of the dead. The Northern Ireland context demonstrates both the challenges and potential innovations in fulfilling these obligations, particularly through technological integration.

In the aftermath of the 1998 Good Friday Agreement, Northern Ireland established several mechanisms to address the legacy of the Troubles, though implementation has proven contentious. The Independent Commission for the Location of Victims' Remains (ICLVR), established in 1999 through bilateral agreement between the UK and Irish governments, represents a targeted approach to locating those who were forcibly disappeared during the conflict (Dempster, L., 2020). This mechanism operates under confidentiality provisions designed to encourage information sharing without criminal liability; a compromise which prioritises families' right to know over prosecutorial outcomes.

However, the legal frameworks required to address the impact of the conflict have not evolved sufficiently to align with human rights obligations. The Patten Report (1999) recommended comprehensive police reform to address community distrust stemming from allegations of state collusion with paramilitary groups. The subsequent establishment of the Police Service of Northern Ireland (PSNI) aimed to create legitimacy across divided communities, yet institutional trust remains fragmented (Mulcahy, 2006). More recently, the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, which established the Independent Commission for Reconciliation and Information Recovery (ICRIR), has faced severe criticism, particularly from victims, survivors, and the families of those impacted, for its immunity provisions and non-compliance with Article 2 ECHR obligations to conduct effective investigations into deaths (Council of Europe Commissioner for Human Rights, 2023).

The integration and/or deployment of Artificial Intelligence technologies presents both opportunities and challenges within this context. The EU AI Act (2024) includes specific exemptions for AI systems deployed to locate missing persons, particularly children, recognising the humanitarian imperative while acknowledging data protection concerns under GDPR (European Parliament, 2024). In post-conflict contexts like Northern Ireland, AI applications could theoretically: enhance victim identification through forensic analysis; improve investigative processes through pattern recognition in fragmentary evidence, and expand reparations mechanisms through more efficient case processing and expanding eligibility criteria to include potentially hidden victims (Molnar, 2022).

However, the deployment of AI in such sensitive contexts raises significant human rights concerns. The right to privacy under Article 8 ECHR must be carefully balanced against families' right to know under Article 10 and the state's investigative obligations under Article 2 (European Court of Human Rights, 2001). Data protection frameworks require explicit legal basis, purpose limitation, and data minimisation; principles which may be strained, or even violated when AI systems process extensive historical records, testimonies, and sensitive

personal data (Information Commissioner's Office, 2021). Furthermore, the use of AI in "dignified management of the dead" raises novel ethical questions about digital archiving, facial reconstruction technologies, and the potential for unauthorised use of victims' images in memorialisation or, more problematically, in deepfakes created without family consent (Sandoval et al, 2024).

From a technical-legal perspective, the introduction of AI-generated or AI-analysed evidence necessitates new standards for admissibility, integrity verification, and chains of custody. Courts must grapple with questions of algorithmic transparency, bias detection, and the explainability of AI decision-making processes, all of which are particularly crucial in politically sensitive cases where perceived partiality could undermine already fragile institutional legitimacy (Wachter et al., 2017).

2. The Role of Families in Shaping Mechanisms and Sustaining Trust

International standards increasingly recognise families of the missing as rights-holders rather than mere beneficiaries, with the right to know the fate of their relatives constituting a distinct and autonomous right under international law (International Committee of the Red Cross, 2021). The Guiding Principles for the Search for Disappeared Persons (2019) emphasise that family participation must be meaningful, systematic, and embedded throughout all phases of search and accountability mechanisms.

The Northern Ireland experience offers instructive examples of both effective family engagement and its limitations. Victim and survivor groups have played a central role in advocating for truth recovery mechanisms, with organisations representing diverse communities consistently calling for approaches that prioritise information provision over punitive justice, which is a preference reflected in the ICLVR's design (Lundy & McGovern, 2008). Groups such as Wave Trauma Centre and the South East Fermanagh Foundation have provided crucial expertise in shaping consultation processes which are conducive to transitional justice mechanisms and processes, ensuring that institutional responses sufficiently reflect lived experiences of loss and trauma.

However, family involvement has also revealed deep divisions. Different constituencies hold competing visions of justice: some prioritise criminal accountability, others emphasise truth recovery, whilst some seek acknowledgement and apology from specific actors (Lawther, 2014). This heterogeneity challenges the notion of a unified "victims' voice" and necessitates mechanisms capable of accommodating diverse priorities without privileging particular narratives.

The integration of AI technologies adds new dimensions to family participation. Families must be consulted not only on investigative priorities, but also on the ethical parameters governing technological deployment. Issues such as consent for facial reconstruction, digital memorialisation, and the handling of sensitive biometric data require ongoing dialogue (and the option to ‘opt out’ of processes without duress and/or seek remedy from algorithmic harms) rather than one-time or ad-hoc consultations (Barocas & Selbst, 2016). Best

practices from Northern Ireland suggest that sustained engagement through dedicated liaison officers, transparent communication about technological capabilities and limitations, and independent oversight mechanisms can help to maintain trust even when outcomes remain uncertain.

Organisations like Children in Crossfire, founded by Troubles survivor Richard Moore, exemplify victim-centered approaches which combine advocacy with practical reconciliation work, demonstrating how those directly impacted by conflict can shape not only transitional justice mechanisms, but also broader societal attitudes toward peace and justice (Moore, 2015). Their involvement in transitional justice consultation processes can provide templates for integrating survivor perspectives into policy development, a model which is also potentially applicable to AI ethics and rights frameworks in humanitarian contexts.

3. Challenges in Fulfilling Post-Conflict Obligations and Innovative Measures

States emerging from conflict confront multiple, often competing obligations: criminal accountability under domestic and international law, victims' right to truth, societal reconciliation, and sustainable peace. These obligations become particularly acute regarding missing persons, where the absence of physical remains precludes both closure for families and the definitive legal categorisation of disappearance as either enforced or arising from hostilities (which, in turn, can preclude or diminish access to support for families).

Northern Ireland illustrates several key challenges. First, the amnesty provisions in the Good Friday Agreement, while politically necessary for the peace process, have created a ‘justice gap’ where many families cannot identify perpetrators or secure accountability (Mallinder, 2008). This tension between peace and justice reflects broader debates in transitional justice scholarship about sequencing, conditionality, and the trade-offs inherent in negotiated settlements (Sriram, 2004).

Subsequently, institutional legitimacy remains contested. Communities that experienced state violence or collusion view investigative bodies with suspicion, while those representing former security force members perceive mechanisms as disproportionately focused on state actions (Brewer, 2010). The ICRIR's immunity provisions have exacerbated these concerns, with critics arguing that conditional immunity contradicts Article 2 ECHR's requirement for effective investigation and, where appropriate, prosecution of unlawful killings (Committee on the Administration of Justice, 2023).

Finally, resource constraints and political will fluctuate. Legacy mechanisms require sustained funding, specialised expertise, and cross-community support, all of which are difficult to maintain as political priorities shift and time distances communities from direct experience of conflict (Hamber, 2020).

Artificial intelligence and emerging technologies present potential innovations to address some challenges whilst simultaneously creating new ones. AI applications for non-repetition guarantees could include sentiment analysis of political discourse to identify escalatory

rhetoric, pattern recognition in security force deployment to detect discriminatory practices, and predictive modeling to assess risks to vulnerable populations (Mandokhail, 2024). In investigative contexts, AI could process vast quantities of archival material, testimonies, and fragmentary evidence to identify leads that human analysts might miss, potentially breaking through evidentiary obstacles that have stymied traditional methods (Molnar, 2022).

However, these technological interventions require careful calibration to ethical principles and existing human rights. Algorithmic bias poses particular risks in divided societies where training data may reflect historical discrimination or where protected characteristics correlate with victimisation patterns (Eubanks, 2018). The "black box" nature of some AI systems conflicts with due process requirements for transparency and challengeability in legal proceedings (Wachter et al., 2017). Furthermore, the deployment of surveillance technologies, even for humanitarian purposes, risks normalising intrusive practices that could be repurposed for repressive ends once immediate post-conflict imperatives recede (Amoore, 2020).

Innovative measures that have shown promise in post-conflict contexts include hybrid approaches combining traditional investigative methods with technological support, rather than wholesale automation. For example, AI-assisted archival analysis can flag potentially relevant documents for human review, preserving expert judgment while improving efficiency (Keyes, 2018). Deliberative democracy platforms incorporating AI-facilitated consensus-building tools have supported dialogue processes, helping polarised communities identify common ground on legacy issues (Fishkin, 2018).

Crucially, victim and survivor groups emphasise that technological innovations must remain subordinate to human-centered processes. Assistive technologies for witnesses with disabilities, trauma-informed interview protocols supported by AI transcription and analysis, and civic education tools that use immersive technologies to build empathy across divides represent applications that enhance rather than replace human agency (Lawther et al., 2017). The principle of "meaningful human control", advocated in autonomous weapons debates, applies equally here: AI and emerging technologies should augment the human capacity for truth-seeking and reconciliation, not determine outcomes independent of human judgment and ethical deliberation (Santoni de Sio & Van den Hoven, 2018).

In summary, the intersection of AI technologies with post-conflict obligations regarding missing persons and the dead presents both unprecedented opportunities and significant risks. The Northern Irish context demonstrates that legal frameworks, institutional mechanisms, and family participation are necessary, but insufficient without sustained political commitment, adequate resources, and genuine willingness to confront uncomfortable truths. As AI capabilities expand, the challenge lies in harnessing technological potential while safeguarding and upholding human rights, maintaining democratic accountability, and preserving the dignity of victims and their families. This requires robust regulatory frameworks that embed human rights principles in technological design and protect people from algorithmic harm, interdisciplinary expertise bridging technical and social domains, and ongoing dialogue with communities impacted by conflict to ensure that innovation serves justice rather than merely efficiency.

References

Amoore, L. (2020). Cloud Ethics: Algorithms and the Attributes of Ourselves and Others. *Duke University Press*.

Barocas, S., & Selbst, A. D. (2016). Big data's disparate impact. *California Law Review*, 104, 671-732.

Brewer, J. D. (2010). *Peace Processes: A Sociological Approach*. Polity Press.

Committee on the Administration of Justice. (2023). *Briefing on the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023*. CAJ.

Council of Europe Commissioner for Human Rights. (2023, June 20). *United Kingdom: Adopting Northern Ireland Legacy Bill will undermine justice for victims, truth-seeking and reconciliation*. Council of Europe. https://www.coe.int/en/web/commissioner/-/united-kingdom-adopting-northern-ireland-legacy-bill-will-undermine-justice-for-victims-truth-seeking-and-reconciliation

Dempster, L., Transitional Justice and the “Disappeared” of Northern Ireland: Silence, Memory, and the Construction of the Past Lauren Dempster* Book review by Charlotte Mohr, International Review of the Red Cross (2020), 102 (913), 457–461. Digital technologies and war doi:10.1017/S1816383120000430

Eubanks, V. (2018). *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*. St. Martin's Press.

European Court of Human Rights. (2001). *Cyprus v. Turkey*, Application No. 25781/94.

European Parliament. (2024). Regulation (EU) 2024/1689 on Artificial Intelligence. *Official Journal of the European Union*.

Fishkin, J. S. (2018). *Democracy When the People Are Thinking: Revitalizing Our Politics Through Public Deliberation*. Oxford University Press.

Hamber, B. (2015). Dealing with painful memories and violent pasts: Towards a framework for contextual understanding. *Berghof Foundation*.

Independent Commission on Policing for Northern Ireland. (1999). *A New Beginning: Policing in Northern Ireland* (Patten Report). HMSO.

Information Commissioner's Office. (2021). *AI and Data Protection Risk Toolkit*. ICO.

International Committee of the Red Cross. (2023). *The Missing and Their Families: ICRC Position Paper*. ICRC.

Keyes, O. (2018). The misgendering machines: Trans/HCI implications of automatic gender recognition. *Proceedings of the ACM on Human-Computer Interaction*, 2(CSCW), 1-22.

Lawther, C. (2014). *Truth, Denial and Transition: Northern Ireland and the Contested Past*. Routledge.

Lawther, C., et al. (2017). *Research Handbook on Transitional Justice*. Edward Elgar Publishing.

Lundy, P., & McGovern, M. (2008). Whose justice? Rethinking transitional justice from the bottom up. *Journal of Law and Society*, 35(2), 265-292.

Mallinder, L. (2008). *Amnesty, Human Rights and Political Transitions: Bridging the Peace and Justice Divide*. Hart Publishing.

Mandokhail, A. (2024). The Transformative Role of Artificial Intelligence in Conflict Resolution and Peacekeeping. *NUST Journal of International Peace & Stability*, *7*(1), 104–109. https://doi.org/10.37540/njips.v7i1.166

Molnar, P. (2024). *The Walls Have Eyes: Surviving Migration in the Age of Artificial Intelligence*. The New Press.

Moore, R. (2009). *Can I Give Him My Eyes?* O'Brien Press.

Mulcahy, A. (2006). *Policing Northern Ireland: Conflict, Legitimacy and Reform*. Willan Publishing.

Sandoval, MP., de Almeida Vau, M., Solaas, J. et al. Threat of deepfakes to the criminal justice system: a systematic review. Crime Sci 13, 41 (2024). https://doi.org/10.1186/s40163-024-00239-1

Santoni de Sio, F., & Van den Hoven, J. (2018). Meaningful human control over autonomous systems: A philosophical account. *Frontiers in Robotics and AI*, 5, 15.

Sriram, C. L. (2004). *Confronting Past Human Rights Violations: Justice vs. Peace in Times of Transition*. Frank Cass.

Wachter, S., Mittelstadt, B., & Floridi, L. (2016). Why a right to explanation of automated decision-making does not exist in the general data protection regulation. *International Data Privacy Law*, 7(2), 76-99.