Environmental Science and Sustainable Development

Addressing Housing Inequalities in Post-Conflict Belfast: A Transformative Justice Approach

Caitriona Mackel

PhD Researcher at the Transitional Justice Institute, University of Ulster, Belfast, Northern Ireland,

mackel-c1@ulster.ac.uk

Abstract

Belfast is a deeply divided and fragmented city not just politically, socially, and economically but physically. It is a city shaped by its history, its experiences of violent conflict and its post-conflict transition. A collage of so-called peace walls and interface areas segregate neighbourhoods across the city creating some of the most socially and economically deprived areas where inequalities are significantly exacerbated by the tension and sectarianism that segregation reinforces. Despite the peace process, historical and new inequalities in the provision and allocation of social housing affect many vulnerable individuals and communities resulting in unequal access to adequate housing; overcrowding; housing stress; homelessness; higher waiting lists and longer waiting times. The challenge of navigating housing in a politically and physically divided city has resulted in failed opportunities to shape policies and procedures to address existing, persistent, and new housing inequalities.

Addressing the legacy of violence and human rights violations is central to building sustainable peace in transitioning societies. If we acknowledge that socio-economic inequalities are not only a consequence of violent conflict but also a root cause, then we must also acknowledge that correcting these inequalities is an essential component of post-conflict policy. Transitional justice often overlooks violations of socio-economic rights and the impact of these on victims and wider society. A growing body of literature suggests transformative justice expands the traditional 'toolkit' to include measures, not typically employed in transitional justice, to confront violations of socio-economic rights, address the needs of victims and assist in societal transformation more effectively. Under a transformative justice approach, my research explores how affirmative action and the role of social movements, such as the Right to the City, could be used to address housing inequalities in post-conflict Belfast. In doing so we could look to the future as well as deal with the past.

1. Introduction

From governments and rulers to philosophers and academics, and even poets and artists, the concepts and challenges of conflict, peace, and rights have occupied human thinking and behaviour for millennia, shaping not only our history and our present but our future. Contemporary human rights discourse and models of conflict transformation and peacebuilding have been influenced by centuries old beliefs in universal rights and the pursuit of a set of moral standards to which all societies could be held accountable (Marks, 2011). Following the atrocities of the second World

War the field of conflict resolution moved away from the more traditional focus on conflict prevention towards a model of conflict transformation which pays more attention to: human rights; the underlying causes of conflict; the needs of victims; and a recognition of the complex challenges involved in making the transition from violence to sustainable peace (Parlevliet, 2010). Nowhere is the relationship between human rights and conflict transformation more intertwined, nor the need to consider root causes more crucial, than in the field of transitional justice.

One of the key questions that arises for post-conflict societies is whether and how the legacy of violence, oppression and human rights violations should be addressed during the course of a society's transition from violent conflict to sustainable peace and the rule of law and/or democracy. This question poses a number of dilemmas: should we confront the past? what wrongs do we need to address? who is to be held accountable? should those responsible be punished? and how do we ensure that wrongs are not repeated or violence refuelled? The concept of transitional justice was developed in order to address these dilemmas by recognising that enabling societies to transition and deal with the atrocities of the past requires more specialised mechanisms than can be provided by traditional judicial and non-judicial structures. Since it was coined in the early 1990's the term transitional justice has gained global significance as an umbrella term to describe an ever expanding range of mechanisms to 'redress past wrongs, vindicate the dignity of victims and provide justice in times of transition' (Buskley-Zistel, et al, 2014, p. 1). The United Nations defines transitional justice as 'the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses in order to ensure accountability, serve justice and achieve reconciliation' (United Nations, 2014, p. 5). Transitional justice is a set of practices, centred around truth, justice, reparation and guarantees of non-recurrence, that are not only desirable but necessary in order to make the transition from conflict or oppression to sustainable peace. A range of judicial and non-judicial mechanisms, often referred to as a 'toolkit', have evolved to fulfil the core obligations of the field of transitional justice.

Conflict and oppression undermine the full range of civil, political, economic, social and cultural rights nonetheless, civil and political rights violations are often more clearly identifiable and therefore perceived as the most urgent and fundamental rights to be respected on the path to peace. However, ignoring economic, social and cultural rights in the post-settlement phase risks failing to respond to the immediate needs and expectation of those most directly affected (Ramcharan, 2004). Human rights violations are both a symptom and a cause of violent conflict and the violation of economic, social and cultural rights often functions as an underlying cause creating the grievances and group identities that can motivate civil violence (Thoms & Ron, 2007). Addressing the root causes of conflict, alongside redressing human rights abuses, is therefore essential if transitional justice measures are to prove successful. By focusing on root causes the longstanding question of how civil and political rights affect and are affected by economic, social and cultural rights is renewed and attention is placed on the relationship between violence and poverty, discrimination, marginalisation and social exclusion (Marks, 2011). Traditionally transitional justice has ignored economic, social and cultural rights instead prioritising violations of civil and political rights as the primary human rights violations to be addressed when seeking justice for past atrocities (Cahill-Ripley, 2014). Socio-economic issues often lie at the heart of conflict and are specifically articulated by affected populations in the transitional period, ignoring violations of socio-economic rights is a risk to both peace and the effectiveness of transitional justice mechanisms (Cahill-Ripley, 2014).

If, as the universal human rights legal framework suggests, all rights are considered to be universal, indivisible, interdependent and interrelated why are socio-economic rights largely ignored within transitional justice processes? Cahill-Ripley (2014) and Robins (2017) suggest that the narrow legal scope of transitional justice has resulted in the field focusing on criminal justice and those grave violations which can be tried in a court of law. Socio-economic rights are often considered as secondary, non-justiciable and equated to policy development rather than as legal entitlements within the remit of transitional justice (Cahill-Ripley, 2014). By focusing on the use of a limited number of established legal mechanisms transitional justice is constrained by its own 'toolkit' preventing the emergence of practices that could deliver broader justice that includes tackling the socio-economic causes and consequences of conflict and ultimately addresses the needs of victims. (Robins, 2017). The big question for the field of transitional justice is how its mechanisms can take better account of socio-economic issues and whether these mechanisms are adequate or appropriate (Evans, 2018).

Addressing violations of civil and political rights without addressing violations of socio-economic rights actually undermines the indivisibility and interdependence of human rights (Cahill-Ripley, 2014). Transitional justice therefore must have the ambition to look beyond the civil and political rights violations which often trigger transition towards the structural socio-economic rights violations, such as discrimination and inequality, that are usually part of the root causes of conflict (Arbour, 2017). Structural socio-economic violations cause both frustration and unrest and if there is no attempt to address these inequalities then the risk is that conflict and violence will resurface despite the best efforts of transitional justice mechanisms. If we consider that structural socio-economic inequalities are an important source of conflict, then we must also consider that correcting these inequalities is an integral aspect of post-conflict policy. The transitional justice 'toolkit' must therefore be expanded in order to more effectively confront violations of socio-economic rights, address the needs of victims and assist in societal transformation (Arbour, 2007).

Cahill-Ripley (2014) suggests that what is required is a broader and more holistic definition of transitional justice that would include mechanisms that investigate and remedy violations of both socio-economic rights and civil and political rights. A broader approach to transitional justice could involve the use of mechanisms, which traditionally fall outside the remit of transitional justice and conflict transformation such as legal reforms, bills of rights or the establishment of new institutions and practices which monitor socio-economic rights. One recent proposition to broaden the scope of transitional justice in order to address structural socio-economic inequalities is Yuvraj Joshi's (2020) recommendation that affirmative action should be integrated into the transitional justice toolkit. Joshi (2020) suggests that by fixating on a finite and narrow set of mechanisms transitional justice scholars have overlooked the role that affirmative action measures could play in brining attention to structural inequalities, promoting the inclusion of excluded groups, and helping to delineate the boundaries of transitional justice. By focusing on a limited set of mechanisms transitional justice practitioners fail to capture the real-world complexities of transition and give the impression that these mechanisms constitute the complete range of responses available to transitional societies (Joshi, 2020).

My work, in progress, examines if and how affirmative action could be integrated into the transitional justice 'toolkit' to better address socio-economic inequalities in post-conflict societies. An in-depth investigation on the use of affirmative action to address one socio-economic inequality within one transitional setting is required. For the purposes of my study, the problem of new, existing and persistent housing inequalities in post-conflict Belfast has been selected as an illustrative case study to demonstrate the potential power of affirmative action in dealing with the past and re-shaping the future. The main objective of this study is to analyse the implementation and effectiveness of existing affirmative action programmes, to address socio-economic inequalities, in the United States (US), South Africa and Northern Ireland (NI) in order to produce a regulatory policy framework for addressing housing inequalities in post-conflict Belfast.

2. Problem Statement

Ireland, and in particular Northern Ireland (NI), has a protracted history of violent conflict, segregation, discrimination and deep-rooted political and societal divisions, arising from complex disputes over ethno-national identity and the legitimacy of territorial control, which can be traced as far back as the 12th century (Dickson, 2012). The 16th century plantation of Ireland radically altered the religious balance of the island creating a Protestant majority in the North who were loyal to British rule. The subsequent clashes between the Protestant settlers and the predominantly Catholic indigenous population coupled with their political, religious and social differences led to widespread segregation of the two communities. In order to exert British control, the Catholic population, along with Protestant dissenters, were suppressed and marginalised through a number of Penal laws which not only criminalised their religious practices but barred them from voting, owning land, exercising certain professions and from holding certain offices (Dickson, 2012). Although the majority of these Penal laws were removed during the Catholic emancipation process in the 18th and 19th centuries, Catholics in the Protestant dominated North still faced extensive, overt religious discrimination. The 1921 partition of Ireland created a Protestant/Unionist controlled state, NI, which fastened religion firmly to political disputes over national identity, territory and inequality. In the decades that followed historical and persistent religious, political and social divisions, and the overt discrimination of the Catholic minority, increasingly reinforced the segregation of communities along some of the most institutionalised and embedded of structures – housing,

education, social and religious life, sporting and cultural activities (Kelly, 2012). The continued use of legislation as a tool of oppression coupled with acts of discrimination, such as the deliberate refusal of homes and jobs, and electoral gerrymandering throughout the first half of the 20th century created a widespread sense of grievance among the Catholic/Nationalist community which could not be channelled through the existing political structures (Grech, 2017). Ultimately these historical and persistent human rights abuses, inequalities and discrimination, propelled the civil rights campaign of the 1960s and resulted in a slide into a violent conflict that spanned three decades and during which over three thousand people lost their lives.

Housing is a particularly complex issue in NI. The discriminatory provision and allocation of social housing in NI was both a key theme of the civil rights campaign and a consistent feature of the conflict. Claims of discrimination in the allocation of social housing began to surface during the 1950s and the community response to these claims were at the forefront of the civil rights movement (Grech, 2017). It was in fact an act of deliberate discrimination in the allocation of social housing, and the subsequent protests against this, which led directly to the outbreak of widespread civil unrest from 1968 onwards (Dickson, 2012). Against the backdrop of discriminatory practices and the exclusion of Catholics from social and political structures, occurrences of overt housing discrimination were a reminder of the institutional inequalities ingrained and dished out by the state (Mallon, 2018). Throughout the conflict a series of housing reforms were introduced to not only increase and improve the social housing stock but to also de-politicise housing and correct unfair allocation practices (Frey, 2014). In 1998 the Good Friday Agreement brought an end to the 30-year conflict and established a new devolved power sharing Assembly. With the arrival of peace there was remarkable agreement among those involved in the formulation of housing policy that the time had come for locally accountable politicians to find local solutions to local problems however, many of the issues around discriminatory social housing provision in NI have never been addressed and significant differentials between Catholic and Protestant communities persist.

Deprived communities and vulnerable people continue to face significant issues in relation to the limited provision of adequate and affordable social housing, homelessness, housing poverty and stress, segregation, social exclusion and the legacy of conflict. Despite an emphasis on the promotion of equality and human rights within the Good Friday Agreement inequality in housing remains, not only within predominantly Catholic communities, but across many of the nine identified equality categories here: religious belief; political opinion; gender; race; disability; age; marital status; dependents; and sexual orientation. This is due, in part, to the conplex challenge of power-sharing in a deeply divided society where politicians and policy-makers cannot easily agree on the progession of equality and human rights. In its 2017 'Statement on Inequalities in Housing and Communities' the Equality Commission for NI (ECNI) identified 7 key housing inequalities.[1] As the largest and most segregated city, Belfast is home to the highest number of individuals impacted by the most significant housing inequalities such as: unequal access to adequate housing; overcrowding; housing stress; homelessness; higher waiting lists and longer waiting times (ECNI, 2017).

One of the greatest contributing factors to housing inequalities, noted by ECNI (2017), is the persistence of residential segregation. Deep political and societal divisions have not been effectively addressed on the road to peace and as a result when given a choice the vast majority of people chose to live in a single identity area in keeping with their own perceived identity (ECNI, 2017). Although residential segregation has begun to decline the persistence of segregated residential patterns fragments and limits the operation of wider housing markets. ECNI (2017) argues that a wide variety of evidence demonstrates a huge demand and intense pressure for additional housing for Catholics, particularly in North Belfast, which cannot be filled by the properties left vacant by Protestants in the area as the peace line is not transgressed. This challenge is not unique to North Belfast but reflects the effect of residential segregation across the city where the 'lack of stock relative to demand for social housing in sometimes narrowly defined geographical areas may not easily be met by excess supply in other nearby areas' (ECNI, 2017, p. 22). Across Belfast, a collage of so-called peace walls and interface areas segregate Catholic and Protestant neighbourhoods creating economic, social and cultural equality barriers that result in: high levels of unemployment; high levels of educational

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[1] Longer waiting times for Catholic applicants; limited access to appropriate accommodation for Travellers; Susceptibility of migrant workers to tied accommodation with poor conditions; vulnerability of racial attacks on the homes of ethnic minorities/migrant groups; limitations on independent living for people with learning difficulties; people with disabilities living in homes inadequate for disability-related needs; and the harassment/safety of lesbian, gay and bisexual people.

underachievement; inadequacies and accessibility issues in the provision of housing; low levels of investment; and a lack of development and regeneration initiatives for communities (Byrne, 2012). These physical barriers create the divided spaces in which inequalities prevail and reconciliation seems a world away. Belfast's so-called peace walls and the complex challenges they maintain are a bleak reminder that the most vulnerable have been neglected on NI's road to peace. Inequalities are exacerbated by the isolation, fear and sectarian violence that dictates the narrative of everyday life in the shadows of Belfast's defensive architecture. Being afforded the right to housing through a country's constitution, legislation or commitment to internationally binding treaties does not always result in adequate housing for all. NI is no exception.

Housing policy, and in particular social housing policy, in NI has always been heavily influenced by political considerations. In 1990 the Standing Advisory Commission on Human Rights (SACHR) produced its second report on 'Religious and Political Discrimination and Equality of Opportunity in NI' focused solely on housing. Although the report highlighted that affirmative action measures, such as the official monitoring of religious backgrounds, deserved careful consideration political pressures and opposition from the NI Housing Executive, that such measures would cause a hostile public reaction, resulted in no express recommendation of regulatory measures to address discrimination and establish equality of opportunity in housing (Cunningham, 2015). This was in stark contrast to SACHR's first report on discrimination and equality of opportunity in employment, which embraced and expressly recommended a regulatory affirmative action framework to address inequality. These recommendations were taken forward and incorporated into the Fair Employment (NI) Act of 1989 and succeeded in reducing religious discrimination, creating greater employment of under-represented communities, and creating greater employment integration. Crucial to the success of this affirmative action measures framework was the implementation of SACHR's explicit recommendations for robust data monitoring which allowed for external scrutiny of Catholic and Protestant recruitment (Cunningham, 2015). The challenge of navigating housing in a politically and physically divided city has resulted in a failed opportunity to adopt a similar statutory framework which could have re-shaped policies and procedures to address historical housing inequalities and prevent new inequalities from arising over the course of the last three decades.

3. Significance of the Work

Joshi (2020) argues that affirmative action could reorientate transitioning societies towards a better understanding of socio-economic inequalities. By making affirmative action part of the transitional justice 'toolkit' transitioning societies benefit from the attention affirmative action brings to the socio-economic consequences of the past (Joshi, 2020). Joshi proposes he is the first to offer an integrated approach of affirmative action as transitional justice filling a gap in the current literature by bridging two fields 'that share several conceptual and normative concerns yet until now have remained largely isolated from one another' (Joshi, 2020, p. 1). In proposing that affirmative action can bridge the divide between the field of transitional justice and the phenomenon of societal transition that it seeks to understand and facilitate Joshi (2020) compares the use of affirmative action in two societies transitioning along racial lines: the United States (US) and South Africa. Although the US is largely excluded from transitional justice discourse Joshi argues that when placed in conversation with South Africa the US exhibits many characteristics of a transitional society recovering from the legacy of racial oppression and segregation (Joshi, 2020). He argues that affirmative action has been a central means to pursue transition in both the US and South Africa with transitional concerns underpinning the discourse on affirmative action in both societies (Joshi, 2020).

Affirmative action is primarily designed to achieve equality and increase diversity through the deliberate use of race, gender, or other protected characteristics to the benefit of disadvantaged groups. Affirmative action therefore requires us to intentionally look at the realities of the differentials between the life chances of different races or genders etc. and implement policies that redress these. In both the US and South Africa affirmative action has been highly criticised for being race-conscious, for some 'affirmative action based on race impedes transition to a non-racial world and is akin to practices that have been historically used to oppress racialized groups'(Joshi, 2020, p. 14). However, Joshi (2020) argues that shift away from affirmative action practices based on race, or other characteristics, actually impedes transition. 'Affirmative action should therefore occupy a central place among the transitional justice measures implemented to address massive human rights abuses' (Joshi, 2020, p. 19). By taking an integrated approach

to affirmative action and transitional justice structural inequalities could be better addressed and transition better facilitated.

A robust legal affirmative action framework currently exists in NI in the context of employment and empirical evidence demonstrates that the implementation of this framework through regulatory monitoring and enforcement has resulted in an increased employment share for previously under-represented groups and a significant shift towards workforce integration (Muttarak, et al, 2012). In NI, an innovative programme of affirmative action utilises legal enforcement alongside voluntary action plans, to ensure that both Catholic and Protestant communities enjoy fair participation in employment (McCrudden, et al, 2004). The inclusion of affirmative action within fair employment legislation and practices have proved successful in transforming what was once a highly discriminatory and segregated employment sphere. The implementation of statutory obligations on employers to: register with an enforcement body (ECNI); monitor and report on the religious composition of their workforce; and make changes to personnel policies and procedures, has led to both greater employment integration and greater employment of under-represented communities. McCrudden, et al, (2004) suggest that the success of the NI approach to addressing employment inequalities through affirmative action could have far reaching implications; providing a model not only for other jurisdictions seeking to tackle issues of fair employment but also for other structural inequalities within society including within NI itself (McCrudden, et al, 2004). A missed opportunity to develop similar affirmative action based legislation, despite its consideration, to tackle housing inequalities in Northern Ireland has resulted in the persistence of historical religious discrimination and the growth of new inequalities over the course of the last three decades.

My research seeks to advance further on these arguments by examining the use of affirmative action to address socio-economic inequalities, through an illustrative case study on housing inequalities in post-conflict Belfast, in order to investigate the potential integration of affirmative action into the transitional justice 'toolkit'. As recently as December 2021 the NI Human Rights Commission has noted that housing inequalities remains on their list of issues still requiring action. It is therefore timely to re-examine the capacity of affirmative action to address chronic housing inequalities as part of NI's continued transition to sustainable peace.

4. Theoretical Approach

My study utilises a theoretical framework that illustrates why transitioning societies need to prioritise socio-economic rights and how affirmative action could provide the necessary tools for tackling inequality, discrimination and disadvantage in post-conflict transition. By drawing upon the theories of transformative justice, substantive equality and new social movements my study illustrates how these concepts, and the relationships between them, reinforce the overall argument that affirmative action is a legitimate tool to address socio-economic inequalities, discrimination and disadvantage in post-conflict transition.

As noted, by focusing predominantly on civil and political rights violations through a narrow set of legal remedies, transitional justice often overlooks violations of socio-economic rights and the impact of harms on victims and wider society. Although it may be a complex undertaking, addressing these injustices within post-conflict societies is essential. For transitional justice to be effective different kinds of justice are needed depending on the nature of the injustice, and the level at which the injustice occurred, in the particular society at the moment of transition (Daly, 2002). To modify post-conflict structures in ways that are more inclusive, equal and fair we must consider a concept of justice that is more transformative rather than transitional (Gready, et al, 2010). Transformative justice allows us to look more closely at affected communities within a range of different political settings with the aim of creating communication and pursuing 'forms of justice that break with the structures that may have led to violence in the first place'(Gready, et al, 2010, p. 1). Transformative justice broadens 'the focus of measures aimed at promoting post-conflict or post-authoritarian justice for human rights abuses beyond that of transitional justice' (Evans, 2018, p. 37). Transformative justice therefore requires the development of a new, specifically focused 'toolkit' and as Evans (2018) suggests there is a case to be made for the use of existing tools designed to combat inequality, poverty and corruption.

In particular, transitional justice mechanisms have thus far proved inadequate in dealing with violations relating to land, such as violations of the right to housing (Cahill-Ripley, 2014). Where the established 'toolkit' of transitional

justice is considered inappropriate or inadequate for dealing with socio-economic inequalities then the processes through which we pursue transformative justice matters (Evans, 2018). Although transitional justice is primarily anchored in law, for many transitional societies, such as NI, greater attention must be paid to the issues which lie in the background of legal and human rights discourse such as religion, culture, politics, economics and local tradition (Joshi, 2020). Dealing with socio-economic inequalities within transitional settings therefore requires the integration of knowledge, theories and tools from a variety of disciplines. Taking a more transformative justice approach to transition allows us to step away from the more normative scope of transitional justice, draw upon the insights that can be gained from other fields and give serious consideration to mechanisms which traditionally fall outside of the realm of transitional justice.

Instead of aiming to treat all people alike substantive equality aims to correct disadvantage by focusing on the detrimental consequences attached to an individual's status or group identity (Fredman, 2011). Fredman (2011) suggests that affirmative action advances substantive equality by actively taking steps to redress inequality, discrimination and disadvantage as well as prejudice within one concept. Barnard & Hepple (2000) suggest that under a substantive approach to equality special measures such as affirmative action can be used to overcome under-representation of disadvantaged groups in the workplace or ensure their fair share in the distribution of resources (Barnard & Hepple, 2000, p. 565). There is no one single definition or model of affirmative action, even the term itself varies from jurisdiction to jurisdiction and may be referred to as 'positive action', 'employment equity' or 'special measures'. For the purposes of my research project the term affirmative action will be used as an umbrella term for the range of activities primarily designed to achieve equality and increase diversity through the deliberate use of race, gender, or other protected characteristics to the benefit of disadvantaged groups.

A substantive equality framework provides the space for my research project to justify the consideration of affirmative action policies to address housing inequalities in NI. The development of specific targeted affirmative action policies focused on equitable outcomes and opportunities could address discrimination and unequal access. As a root cause of conflict the issue of addressing housing inequalities has been largely ignored as part of NI's transitional processes. The application of affirmative action as a tool for dealing with these inequalities can only be considered within a transformative justice approach to dealing with the consequences of NI's violent past. Utilising the existing tools of substantive equality, as part of a transformative justice 'toolkit', therefore strengthens the overall argument within my research project that affirmative action has a potential role to play in addressing new, existing and persistent housing inequalities in post-conflict Belfast.

Because transitional justice remains normatively driven it has been fairly limited in addressing the particular social and political needs of those directly affected by violent conflict, oppression and human rights violations (Gready & Robins, 2014). Typically the externally driven, top-down, transitional justice agenda discourages the participation of affected populations, giving them little or no opportunity to engage in the process or goals of transitional mechanisms. A transformative justice approach on the other hand requires the inclusion of affected communities in shaping the agenda for law, policy and practice thus opening the door to actors typically exluded in transitional processes (Evans, 2018). Transformative justice encourages the voice of social movements and grassroots groups as opposed to the transitional justice approach of privileging elite actors. By giving agency and voice to affected populations and highlighting socio-economic rights, transformative justice could act as the catalyst for embedding these rights into transitioning societies. Participatory processes are therefore a vital component of transformative justice providing affected populations with the means to raise concerns and shape processes which increase the likelihood of legitimate outcomes. Social movements and community based organisations play a vital role in articulating the concerns of those most affected by issues such as housing inequalities. Evans (2018) in particular, notes that the social movement praxis is ultimately essential for understanding how a transformative justice agenda might be promoted.

Urban social movements are increasingly considered an important part of urban governance processes with local activists influencing decision-making through participation practices and legal tools (Domaradzka, 2018). Domaradzka (2018) argues that the global spread of successful Right to the City movements illustrates the power of collectives coming together under a common agenda to achieve social justice in the face of growing urban inequalities. The right to the city agenda can effect change by addressing: housing policies which ignore inequalities; property

development practices which create housing shortages; and planning policies that create residential disadvantage (United Nations, 2016). Furthermore, the right to the city implies co-responsibility on governments and populations to claim, defend and promote this right. The rationale for taking a more transformative approach to addressing housing inequalities in Belfast is thus further reinforced by the capacity of collective action to reshape policy and practice and effect lasting change across an urban agenda that is broader than just housing. Under a transformative justice framework participatory action could be encouraged in communities throughout Belfast to fully identify the housing inequalities and needs of those most at risk from the legacy of the past and effect lasting change that achieves housing equality for all.

The theories of transformative justice, substantive equality and new social movements explored within my research project provides a unique framework which supports the overall research argument that affirmative action could play a vital role in addressing new, existing and persistent housing inequalities in post-conflict Belfast. Under a transformative justice agenda, that is driven by a bottom-up, context specific and participatory led approach to post-conflict socio-economic justice and equality, affirmative action could be utilised to re-shape housing policy and address chronic housing inequalities in post-conflict Belfast. In doing so we could look to the future as well as deal with the past.

5. Methodological Approach

My research project takes the form of an illustrative case study conducted within an interdisciplinary, socio-legal framework using comparative analysis and semi-structured interviews to investigate how affirmative action could be used to address chronic housing inequalities in post-conflict Belfast. The purpose of this case study is to illustrate how, through an examination of existing examples, affirmative action could be integrated into the transitional justice 'toolkit' for addressing socio-economic inequalities. An illustrative case study approach enables the researcher to explore and understand complex issues through an empirical study of a contemporary phenomenon within its real-life context (Zainal, 2007). 'As human rights problems are common to all countries, it is often useful to compare experiences in different countries and situations' (Husa, 2015). Utilising comparative analysis methods within my illustrative case study gives access to an extensive range of alternative solutions or ideas that may reveal a way out of NI's particular dilemma (Esser & Vliegenthart, 2017). Comparative analysis will therefore be conducted on the use of affirmative action and the role of social movements in addressing socio-economic inequalities, including housing, in the US, South Africa and NI. The purpose of this comparative analysis is to identify and draw upon the similarities and differences between the selected comparative subjects in order to investigate: how the implementation of affirmative action measures could address housing inequalities in post-conflict Belfast; and what role social movements, such as the Right to the City, could play in re-shaping housing policy and effecting lasting change.

While there are significant legal, political, social and cultural differences between the three jurisdictions selected for comparison in my study, there are, several commonalities in relation to socio-economic inequalities and a deep history of societal division, residential segregation and violence. The issue of housing inequalities in particular is common across all three jurisdictions. Most importantly affirmative action policies and programmes have been utilised in each, with varying degrees of success, to address a range of socio-economic inequalities including housing. Social movements, particularly Right to the City movements, have also played an important role in influencing decision-making and shaping policy in relation to land and housing across all three jurisdictions. The comparative analysis will be conducted in three parts. The first part will explore: the impetus and legal framework for affirmative action; the implementation of affirmative action; and the impact of affirmative action in all three jurisdictions in relation to addressing socio-economic inequalities. The second part will follow a similar pattern of investigation to focus specifically on how affirmative action has been implemented to address the effects of housing discrimination and segregation in both the US and South Africa in order to identify similarities, differences and lessons learned that may provide insight into how affirmative action could be effectively applied to the context of housing in NI, where no current framework exists. The final part of this comparative analysis will examine the Right to the City campaigns which form an integral part of the continued fight against housing inequalities and segregation in all three jurisdictions to establish and evaluate the similarities and differences in the role of social movements in achieving social justice.

The comparative analysis will be conducted through desk-based research using a socio-legal examination of legislation, case law, policy documents, reports and academic literature to collect and analyse relevant data on the implementation, enforcement and effectiveness of affirmative action, and the role of social movements, to address socio-economic inequalities, including housing, in all three jurisdictions. By conducting a comparative analysis of legislation, policies, and administrative practices relating to affirmative action, alongside a comparison of the role of social actors in the housing sector, my research project aims to pinpoint potential limitations, implications and benefits for the development of a potential participatory led regulatory affirmative action framework that could be applied to the illustrative case study on new, existing and persistent housing inequalities in post-conflict Belfast.

As Belfast has been selected as an illustrative case study semi-structured interviews to explore local participants' thoughts on the use of affirmative action in housing will be conducted within NI using a range of appropriate participants selected from the public, private and community sectors. Interview participants will include carefully selected representatives recruited from: government departments and agencies; public agencies and bodies; human rights organisations; NGOs; political parties; and community organisations. Participants who are directly involved in the provision of social housing, the development of housing policy, the monitoring of inequalities and those who represent community interests have been identified as the primary interview targets. A small number of private landlords and property developers who are directly involved in the development and provision of social housing will also be interviewed. Participants will include representatives from: the Department for Communities; the NI Housing Executive; semi-public and private social housing providers; ECNI; the Participation and Practice of Rights; the Market Development Association; and political parties. Approximately 20-25 interviews will be conducted using a set of predetermined, open-ended questions designed to encourage participants to openly discuss their views on how the implementation and enforcement of affirmative action could effectively address chronic housing inequalities in Belfast. Participants will also be asked about their thoughts and experiences of social movements and actors in shaping decision-making, policy development and community focused human rights indicators.

6. Anticipated Findings, Conclusions & Implications

As a work in progress there are as yet no definitive findings, conclusions or implications from my research. The comparative analysis process is currently underway and initial examinations of the data obtained to date indicate that there are a range of similarities and differences between the three jurisdictions being compared. Similarities are present in the justifications for the use of affirmative action; the legal foundations of affirmative action obligations; the beneficiaries and domains in which affirmative action is implemented; and in some respects the effectiveness of using these measures to address socio-economic inequalities. However, substantial differences in relation to the boundaries of affirmative action, the role of the judiciary, and the ways in which affirmative action is implemented and enforced cannot be ignored. Early data on the use of affirmative action to address housing discrimination and segregation in the US and South Africa suggests that despite a firm legal framework in both jurisdictions progress on these issues has been slow as a result of political controversies and failures in the implementation and enforcement of affirmative action obligations. For example in the US, the Affirmatively Furthering Fair Housing (AFFH) rule established under the Obama administration in 2015 set out a comprehensive statutory framework for states, local governments and public housing agencies to take meaningful actions to combat discrimination, overcome segregations, foster inclusive communities and promote fair housing choice (US Department of Housing and Urban Development, 2015). The AFFH rule showed considerable potential to increase inclusion, eliminate discrimination and improve equal access to opportunity (Bostic and Acolin, 2017). However, this potential could not be reached as implementation of the rule was delayed and eventually scrapped by the Trump administration in 2020. Similarly in South Africa, the Socio-Economic Rights Institute (SERI) outlines that the persistence of discrimination does not stem from the legal and policy framework developed for housing but rather from political pressures and the manner in which this framework is implemented in practice (SERI, 2018). The preliminary findings indicate that an affirmative action framework for NI could have the potential to address housing inequalities but the success of such a framework is dependent on political cooperation and the effective implementation of robust monitoring and enforcement procedures.

Initial findings from the US and South Africa also demonstrate that the meaningful participation of affected populations is essential for the success of an affirmative action framework in housing. Affirmative action is designed to redress the specific needs of those most disadvantaged, marginalised, exluded or ignored in society (Fredman, 2016). Early data indicates that affirmative action measures must be designed not only for, but in conjunction with, the participation of affected populations in order to be responsive to these needs and affect lasting change. A lack of participation implies limited power and voice to affect change in the attitudes, institutions and policies which have fuelled discrimination and exclusion in the first place (United Nations, 2016). The challenge lies in the ability to incorporate participation in policy-making processes which are primarily conducted by political elites. Preliminary analysis of the work of social movements indicates that the solution could lie in their ability to overcome the barriers which exclude civil society from policy formulation (Galego, 2021).A comparative analysis of the Right to the City social movement in the US, South Africa and NI is due to commence and it is anticipated that the data will demonstrate ways in which this movement could be utilised in the policy-making process to create more legitimate, transparent, accountable, and equitable housing policies and practices in NI.

Semi-structured interviews, for which full ethical approval has been granted, are currently underway in NI. Research participants from the NGO and community sector, in particular, noted how public policy, underwhich housing falls, is often obstructed by power sharing tensions and political deadlocks at the heart of government. Initial data gathered from these research participants indicates a strong desire for the development of a statutory framework which would place obligations on housing providers to monitor, report on and take action to address inequalities and on government to ensure effective implementation and enforcement. Data obtained from interview participants to date, including the NIHE and a number of NI's main political parties, regarding the commitment to effective implementation of statutory monitoring, reporting and enforcement procedures in NI's employment sector indiates that similar commitments and success could be achieved in the context of housing under a statutory framework. Interviews are ongoing and it is anticipated that the data obtained from future participants will not only shape the development of an affirmative action framework but also further demonstrate that the timing is now right to apply affirmative action in the context of housing, as suggested by SACHR, to secure the equitable provision and allocation of social housing in NI.

It is anticipated that this work in progress while culminate in the development of an affirmative action framework which could be implemented into law and policy by the NI Assembly and could be monitored and enforced by the ECNI. This framework incorporate similar statutory monitoring, reporting and enforcement process to those which already exist in employment in NI with the addition of monitoring all equality categories in order to effectively address the range of housing inequalities experienced in NI. By considering the role of social movements in influencing public policy my research seeks to incorporate grassroots participation into NI policy processes to achieve reforms that address the needs of those most impacted by NI's chronic housing inequalities. Ultimately, while my research project is context specific it seeks to have wider significance and uncover the potential power of integrating affirmative action into the transitional justice 'toolkit' for addressing socio-economic inequalities far beyond the borders of NI's most politically, socially, economically and spatially divided city.

References

Arbour, L. (2007). Economic and Social Justice for Societies in Transition. 40(1) International Law and Politics.

Barnard, C. and Hepple, B. (2000). Substantive Equality. 59(3) Cambridge LJ.

Byrne, J. (2012). Belfast and Beyond: Local and International Narratives of Physical Segregation. Shared Space: A Research Journal on Peace, Conflict and Community Relations in Northern Ireland.

Bostic, R. and Acolin, A. (2017). The Potential for HUD's Affirmatively Furthering Fair Housing Rule to Meaningfully Increase Inclusion. Harvard Joint Center for Housing Studies.

Buckley-Zistel, S. Beck, T.K. Braun, C. and Mieth, F. (2014). *Transitional Justice Theories*. Routledge.

Cahill-Ripley, C. (2014). Foregrounding Socio-Economic Rights in Transitional Justice: Realising Justice for Violations of Economic and Social Rights. 32(2) Netherlands Quarterly of Human Rights.

Cunningham, T. (2015). Monitoring Equality – Reflexive Regulation, Planning Systems, and the Role of Discrimination Law: Lessons from Northern Ireland. 14 The Equal Rights Review.

Daly, E. (2002). Transformative Justice: Charting a Path to Reconciliation. 12 International Legal Perspectives.

Department for Communities. (2020). Northern Ireland Housing Statistics 2019-20. NISRA

Dickson, B. (2012). *The European Convention on Human Rights and the Conflict in Northern Ireland*. Oxford.

Domaradzka, A. (2018). Urban Social Movements and the Right to the City: An Introduction to the Special Issue on Urban. 29 Institute for Social Studies.

Equality Commission for Northern Ireland. (2017). Statement on Key Inequalities in Housing and Communities in Northern Ireland. Equality Commission for Northern Ireland.

Esser, F. and Vliegenthart, R. (2017). Comparative Research Methods in *The International Encyclopedia of Communication Research Methods*. Wiley & Sons.

Evans, M. (2018). *Transformative Justice: Remedying Human Rights Violations Beyond Transition*. Routledge.

Fredman, S. (2011). *Discrimination Law*. Oxford University Press.

Fredman, S. (2016) Substantive Equality Revisited. International Journal of Constitutional Law.

Frey, J. (2014). The Future of Social Housing in Northern Ireland: Structure, Funding and Supply. Housing Finance International.

Galego, D. (2021). Social Movements' Influence on Public Policy : Goals, Actions and Outcomes. International Conference on Public Policy (ICPP 5).

Gready, P. and Robins, S. (2014). From Transitional to Transformative Justice: A New Agenda for Practice. 8 The International Journal of Transitional Justice.

Gready, P. Boesten, J. Crawford, G. and Wilding, P. (2010) Transformative Justice: A Concept Note. Accessed at https://wun.ac.uk/files/transformative_justice_-_concept_note_web_version.pdf

Grech, O. (2017). Human Rights and the Northern Ireland Conflict: Law, Politics and Conflict, 1921-2014. Routledge.

Joshi, Y. (2020). Affirmative Action as Transitional Justice. 1 Wisconsin Law Review.

Kelly, G. (2012). Progressing Good Relations and Reconciliation in Post-Agreement Northern Ireland. Incore.

Mallon, N. (2018) Even Half a Century After Caledon Inequality in Housing is Glaring. Irishnews.com. https://www.irishnews.com/news/politicalnews/2018/06/18/news/platform-nichola-mallon-1358075/

Marks, S. (2011). Human Rights and Root Causes. 74(1) Modern Law Review.

McCrudden, C. Ford, R. and Heath, A. (2004). Legal Regulation of Affirmative Action in Northern Ireland: An Empirical Assessment. 24(3) Oxford Journal of Legal Studies.

Muttarak, R. Hamill, H. Heath, A. and McCrudden, C. (2012). Does Affirmative Action Work? Evidence from the Operation of Fair Employment Legislation in Northern Ireland. 47(3) Sociology.

Parlevliet, M. (2010). Rethinking Conflict Transformation from a Human Rights Perspective in *Human Rights and Conflict Transformation: The Challenges of Just Peace.* Berghof Conflict Research.

Ramcharan, B. (2004). Human Rights and Conflict Resolution. 4 Human Rights Law Review.

Robins, S. (2017). Failing Victims? The Limits of Transitional Justice in Addressing the Needs of Victims of Violations. Human Rights and International Legal Discourse.

Socio-Economic Rights Institute of South Africa. (2018). Informal Settlements and Human Rights in South Africa. Submission to the UN Special Rapporteur on Adequate Housing 5.

Thoms, O.N.T. and Ron, J. (2007). Do Human Rights Violations Cause Internal Conflict. 29 Human Rights Quarterly.

United Nations (2016). Policy Paper 1: The Right to the City and Cities for All. United Nations.

United Nations. (2014). Transitional Justice and Economic, Social and Cultural Rights. HR/PUB/13/5.

United Nation. (2016). Leaving No One Behind: The Imperative of Inclusive Development. Report on the World Social Situation 2016. United Nations.

US Department of Housing and Urban Development. (2015). AFFH Fact Sheet: The Duty to Affirmatively Further Fair Housing. US Department of Housing and Urban Development.

Zainal, Z. (2007). Case Study as a Research Method. 9 Jurnal Kemanusiaan.