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Perspective

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“I Just Want Justice”:
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Inquiries from the
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WHAT DO SURVIVORS of institutional abuse need in order to feel that justice has been realized? How can a sense of redress—of justice achieved—be measured? This essay explores such questions by describing the results of an empirical research study investigating Northern Ireland’s Historical Institutional Abuse Inquiry (HIAI), which focused on physical, sexual, and emotional neglect in children’s residential institutions between 1922 and 1995. The research study, carried out primarily in Northern Ireland, provided detailed analysis of survivors’ interaction with the inquiry and sought to gauge victims’ needs and expectations revealed by their participation in the HIAI. Building on the limited research already done in the field, the study’s conclusions suggest that a survivor’s sense of justice and redress is affected not just by the original crime but also by her or his involvement in the criminal-justice systems set up to investigate such offenses. This study explored survivors’ justice needs constituting redress—including, for example, acknowledgment of abuse, attitudes toward apology, accountability, opportunities to tell their stories, and symbolic and financial reparation—as well as their assessment of the inquiry’s legal processes.

In November 2009 the Northern Ireland Assembly voted to establish an inquiry to investigate the scale of child abuse in institutions run by the Catholic church and the state.¹ The agreed terms of reference for the inquiry were announced on 31 May 2012. Unlike cur-

*The author gives acknowledgment and thanks to the Leverhulme Trust for a Major Research Fellowship Grant (MRF-2015-124) that enabled the research for this article.

1. BBC, “MLAs Vote for a Child Abuse Inquiry,” *BBC News*, 2 Nov. 2009, http://news.bbc.co.uk/1/hi/northern_ireland/8338850.stm.

rent UK investigations that focus on sexual abuse, the HIAI covered physical and emotional abuse, neglect, and unacceptable practices between 1922 and 1995 in children's residential institutions.² The HIAI had two components: a confidential acknowledgment forum offering survivors an opportunity to tell their stories, and a statutory inquiry in which evidence was given in public.³ In 223 days of hearings conducted between January 2014 and July 2016, almost all of which were held in public, the inquiry investigated twenty-two institutions. The inquiry published its report in January 2017 documenting evidence of systemic failings in residential institutions run by the state, local authorities, churches, and charities. Its conclusion noted "sexual, physical, and emotional abuse, neglect, and unacceptable practices across the institutions and homes examined."⁴

METHODS AND ANALYTICAL TOOLS OF THE RESEARCH STUDY

The research study of Northern Ireland's HIAI informing this article was carried out between October 2014 and July 2017.⁵ Five focus groups met in Belfast and Derry, with over seventy-five participants invited to explore their views on redressing historical abuse, express what survivors wanted to see happen, and explain why their goals were important.⁶ The focus-group discussions informed interview

2. The narrow focus on residential institutions meant that survivors of clerical child abuse perpetrated outside residential care in churches, church halls, schools, and other locations were excluded; those in foster care and former residents of mother-and-baby homes were also omitted.

3. In this article the term survivor rather than victim is used whenever possible to describe those who suffered abuse and harm as children in residential institutions. It is acknowledged that the term victim may be appropriate in addition to, or instead of, survivor in some situations.

4. Anthony Hart, David Lane, and Geraldine Doherty, *Report of the Historical Institutional Abuse Inquiry (Vol. 1): The Inquiry into Historical Institutional Abuse, 1922 to 1995* (Northern Ireland: The Executive Office, 2017), 8–42.

5. This research was approved by Ulster University's Ethics Committee.

6. Survivor groups facilitated access to participants through informal discussions enabled by individuals experienced in working with victims of historical human-rights abuse. The author attended the sessions. The format/research instrument was designed in collaboration with survivors, and the focus groups were recorded and transcribed with the permission of participants. See Patricia Lundy, *Historical Institutional Abuse: What Survivors Want from Redress* (research report, Ulster University, March 2016).

themes, and the author subsequently carried out forty-three face-to-face interviews with survivors who had attended the HIAI.⁷ These interviews reflect the views of a broad cross-section of survivors who were residents in the range of institutions within the inquiry's remit: 25 men and 18 women ranging in age from their late 30s to their 70s, with a mean age of 55 to 65. For the most part interviewees lived in Northern Ireland, but two resided in the Republic of Ireland and four in England. The study's primary aim was to give survivors an opportunity to express what was important to them—to say what they wanted to say in their own ways. Survivors were asked in interviews to assess their experiences of the HIAI and to indicate what was needed in order to feel that justice has been realized.⁸ The interviews were recorded, transcribed, and thematically analyzed. The justice needs expressed by survivors provided the benchmarks to assess the inquiry. Anonymized transcripts of survivors' evidence available on the HIAI website were also analysed. In the statutory inquiry in which evidence was given in public, survivors were asked to explore and comment on the question of redress, apology, and memorialization in anticipation of its own recommendations to the Northern Ireland Executive in those areas. Of the 246 survivors who gave evidence, 177 had responded to HIAI counsel's questions about redress recommendations.⁹ This article explores those responses and assesses the inquiry from the perspective of survivors; it therefore considers two different points in time and context of questioning—

7. 246 survivors gave evidence in person to the inquiry. A further 87 submitted evidence through written witness statements only. The inquiry also heard from 194 witnesses who were not former residents (staff, police, and public officials), making a total of 527 people who gave evidence.

8. For example, were survivors able to say what they wanted to say to the inquiry? Were there adequate support services, information, preparation, and representation? Was the process helpful or challenging, and why?

9. Reasons for the lower response rate of 177 out of 246 giving oral evidence include the significant number of survivors who gave oral-evidence statements but did not show up to the statutory-inquiry public hearings; several were no longer alive. In these circumstances counsel summarized and read aloud previously given evidence/statements. On a few occasions the inquiry chairman had to adjourn proceedings because the survivor was too upset, and typically, these individuals did not return. Some survivors were simply not asked to comment on recommendations. Although the HIAI figure (246 persons) includes all of the above circumstances, percentages used in this article are based on the 177 who responded to counsel's questions.

both testimony to the inquiry and private interviews with the author of this article.

CONCEPTUALIZING JUSTICE NEEDS

A key challenge in researching responses to historical institutional abuse involves clarifying what survivors require to achieve justice—that is, conceptualizing what justice means from their perspective. Because only limited studies examining what constitutes justice for survivors of historical abuse exist, this aspect of the study’s research was central.¹⁰ Although survivors clearly have rights, they often have diverse expectations as well as multiple goals. Additionally, their priorities may evolve over time at different stages in the process of seeking justice.¹¹

Justice, as Robyn Holder aptly puts it, is essentially a social, legal, and political value embedded in individual thinking as well as institutional design.¹² Anne-Marie McAlinden and Bronwyn Naylor view procedural justice as the “optimal mode of redress for victims of historical institutional abuse.”¹³ Procedural-justice theorists emphasize that process matters as much as outcome, and that survivors are satisfied with the justice system when they perceive its actions as respectful and fair.¹⁴ Participation, control, and the right to have

10. Kathleen Daly, *Redressing Institutional Abuse of Children* (London: Palgrave Macmillan, 2014), 163–67; Rhonda Claes and Deborah Clifton, *Needs and Expectations for Redress of Victims of Abuse at Residential Schools* (Ottawa: Law Commission of Canada, 1998); Law Commission of Canada (LCC), ed., *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Law Commission of Canada, 2000), 249–60.

11. David A. Backer, “The Human Face of Justice: Victims’ Responses to South Africa’s Truth and Reconciliation Commission Process” (Ph.D. diss., University of Michigan, 2004); Robyn Holder and Kathleen Daly, “Sequencing Justice: A Longitudinal Study of Justice Goals of Domestic Violence Victims,” *British Journal of Criminology* 58:4 (2017): 778–80.

12. Robyn Holder, “Untangling the Meanings of Justice: A Longitudinal Mixed Methods Study,” *Journal of Mixed Methods Research* 12:2 (2018): 1.

13. Anne-Marie McAlinden and Bronwyn Naylor, “Reframing Public Inquiries as ‘Procedural Justice’ for Victims of Institutional Child Abuse: Towards a Hybrid Model of Justice,” *Sydney Law Review* 38:3 (2016): 285.

14. Daly, *Redressing Institutional Abuse*, 117; Robert Folger et al., “Effects of ‘Voice’ and Peer Opinions on Responses to Inequity,” *Journal of Personality and Social Psychology* 37:12 (1979): 2253–61; Tom Tyler and E. Allan Lind, “A Relational Model of Authority in Groups,” *Advances in Experimental Social Psychology* 25 (1992): 115–91.

a voice are components singled out as important in the process.¹⁵ Significantly, procedural-justice theory makes clear that survivors are affected not just by the original crime, but also by their involvement in the subsequent criminal-justice process.

Procedural-justice scholarship about survivors of sexual violence who seek redress through the criminal-justice system reveals telling patterns.¹⁶ Because survivors often feel dissatisfied and even damaged by their interactions with the justice system, its processes can compound the trauma of the original crime, causing additional psychological harm.¹⁷ Such research also reveals that how survivors experience the justice system has profound implications for their recovery from the initial crime.¹⁸ Using many different terms—for example,

15. Jonathan Doak and Louise Taylor, "Hearing the Voices of Victims and Offenders: The Role of Emotions in Criminal Sentencing," *Northern Ireland Legal Quarterly* 64:1 (2013): 25–46; Zachari Duncalf, Moyra Hawthorn, Jennifer Davidson, Jim Goddard, and Will McMahon, *Time for "Justice": Research to Inform the Development of a Human Rights Framework for the Design and Implementation of an "Acknowledgment and Accountability Forum" on Historic Abuse of Children in Scotland* (Glasgow and Manchester: The Care Leavers' Association and the Scottish Institute for Residential Care, 2009), 48; Folger et al., "Effects."

16. Haley Clark, "A Fair Way to Go: Justice for Victim-Survivors of Sexual Violence," in *Rape Justice: Beyond the Criminal Law*, ed. Anastasia Powell, Nicola Henry, and Asher Flynn (Basingstoke, UK: Palgrave Macmillan, 2015), 18–35; Kathleen Daly, "Reconceptualising Sexual Victimization and Justice," in *Justice for Victims: Perspectives on Rights, Transition, and Reconciliation*, ed. Inge Vanfraechem, Antony Pemberton, and Felix Mukwiza Ndahinda (New York: Routledge, 2014), 378–95; Nicola Godden, "Seeking Justice for Victim-Survivors: Unconventional Legal Responses to Rape" (M.A. thesis, Durham University, 2013); Judith Lewis Herman, "Justice from the Victim's Perspective," *Violence Against Women* 11 (2005): 571–602; Shirley Jülich, "Views of Justice among Survivors of Historical Child Sexual Abuse: Implications for Restorative Justice in New Zealand," *Theoretical Criminology* 10 (2006): 125–38; Mary P. Koss, "Restoring Rape Survivors: Justice, Advocacy, and a Call to Action," *Annals of the New York Academy of Sciences* 1087:1 (2006): 206–34.

17. Edna Erez and Joanne Belknap, "In their Own Words: Battered Women's Assessment of the Criminal Proceeding System's Responses," *Violence and Victims* 13 (1998): 251–68; Judith Lewis Herman, "The Mental Health of Crime Victims: Impact of Legal Intervention," *Journal of Traumatic Stress* 16:2 (2003): 159–66; Ulrich Orth, "Secondary Victimization of Crime Victims by Criminal Proceedings," *Social Justice Research* 15:4 (2002): 313–25; Jim Parsons and Tiffany Bergin, "The Impact of Criminal Justice Involvement on Victims' Mental Health," *Journal of Traumatic Stress* 23:2 (2010): 182–88.

18. Rebecca Campbell et al., "Preventing the 'Second Rape': Rape Survivors' Experiences with Community Service Providers," *Journal of Interpersonal Violence* 16:2 (2001): 1239–59.

“justice needs,” “justice interests,” “victims’ rightful entitlement,” and a “sense of justice”—researchers concur that a range of needs must be met in order for survivors to achieve a sense of justice.¹⁹ Although prosecuting perpetrators remains integral to the process of coming to terms with sexual violence, on its own such prosecution is an inadequate response to the survivor’s desire for justice and repair.

Acknowledgment is often the first stage in the healing process, for it restores a sense of identity and self-worth to survivors. They want society to acknowledge the suffering that they and others experienced, the nature of the abuse, and its impact on their lives; in other words, they want to have what happened to them recognized as wrong and so documented by authorities.²⁰ Survivors are powerfully motivated by their desire to break a culture of denial, secrecy, and silence that minimized their victimization.²¹ Judith Lewis Herman reports that their most important objective is to receive validation—“requiring an admission of the basic facts of the crime and an acknowledgment of harm.”²² Haley Clark further defines validation as an expression that the victim is believed.²³ The admission of harm perpetrated against victims indicates widespread support of them without any implication that they somehow deserved what happened.²⁴ Daly recognizes two forms of achieving vindication, both elements of the survivor’s justice needs: through law and through vindication that the perpetrators’ acts were both morally and legally wrong.²⁵ Survivors, in other words, need to know not only that wrongs are recognized but also that wrongdoers are held accountable for their actions—and for the consequences of them. Daly phrases this as “calling alleged wrong-

19. For a useful summary of a range of justice needs, see Kathleen Daly, “Sexual Violence and Victims’ Justice Interests,” in *Restorative Responses to Sexual Violence: Legal, Social, and Therapeutic Dimensions*, ed. Estelle Zinsstag and Marie Keenan (Oxford: Routledge, 2017), table 6.a2.

20. Backer, “Human Face,” 201–2; Clark, “Fair Way to Go,” 30; LCC, *Restoring Dignity*; Godden, “Seeking Justice,” 53–54; Herman, “Mental Health,” 159–66.

21. Backer, “Human Face,” 202; Jülich, “Views of Justice.”

22. Herman, “Justice from the Victim’s Perspective,” 585.

23. Clark, “Fair Way to Go”; Haley Clark, “What Is the Justice System Willing to Offer? Understanding Sexual Assault Victim/Survivors’ Criminal Justice Needs,” *Family Matters* 85 (2010): 28–37.

24. Clark, “What is the Justice System Willing to Offer?”; Clark, “Fair Way to Go.”

25. Daly, “Sequencing Justice.”

doers to account and holding them to account.”²⁶ Connected with this element of justice is the need for truth exposure, whereby perpetrators are asked and expected to answer questions and “receive consequences.”²⁷

A further aspect of justice that survivors identified involves both symbolic and material reparation—a term used to describe a range of measures seeking to rectify the harm caused and, as far as possible, to restore victims to their positions before the acts in question occurred. Taking responsibility for the wrongful acts might be demonstrated through a sincere apology and expression of remorse, but in Herman’s study the participants were divided as to an apology’s desirability or value.²⁸ Although some “expressed a fervent wish for a sincere apology” as a form of justice, others were wary of the potential for manipulative motives behind this act; still others doubted the capability of wrongdoers to provide a “meaningful” apology, claiming that “offenders are empathetically disabled.”²⁹ However, if some survivors view an apology—when underpinned by some form of reparation—as showing respect, it may represent an important justice need for them. Reparations constitute a form of vindication and recognition of the harms suffered that may have therapeutic value and signify a form of punishment. As Nicola Godden says, survivors want the wrongdoer to pay—literally and symbolically—for their actions. But victims of abuse seek more than simply compensation for purely instrumental purposes; that the wrongdoer pays the compensation remains central to their needs.³⁰

Additionally, many survivors desire to tell their stories about what happened in their own words—and to be heard in a meaningful way and in a significant setting.³¹ The acquisition of voice in justice proceedings that will convey the survivor’s value as an individual is also frequently identified as an important need.³² But David Backer points to “the apparent division between participants’ attitudes about voice

26. *Ibid.*, 118.

27. Clark, “What Is the Justice System Willing to Offer?” 30.

28. Godden, “Seeking Justice,” 74; Herman, “Justice from the Victim’s Perspective,” 586–87.

29. *Ibid.*

30. Godden, “Seeking Justice,” 68–71.

31. Herman, “Mental Health,” 160.

32. Godden, “Seeking Justice,” 60–61.

in the abstract (usually desirable) and their reflections upon voice in practice (not always rewarding).”³³ Thus, giving survivors the opportunity to tell their stories does not necessarily bring catharsis, for it may even retraumatize and on occasion hinder recovery. Research indicates that the psychological benefits of testimony are generally realized only when societal issues are addressed: uncovering truth, delivering justice, and making reparations.³⁴ Participation involves agency and empowerment, including the survivor’s active participation from an early stage in the development, design, and implementation of justice responses and involvement in the negotiation of settlements.³⁵ Because a priority for many survivors is that they and others will be safe from further abuse by the wrongdoers, procedural-justice literature emphasizes prevention and public awareness as well.³⁶ But although the literature on sexual violence provides important insights, it fails to offer any clear consensus about what survivors want in their search for justice. Studies are usually small-scale and generally do not apply identified-justice needs to interrogate justice mechanisms and what they deliver from the standpoint of survivors.³⁷

THE EMPIRICAL RESEARCH FINDINGS

This study’s analysis of the public-inquiry model sought to understand survivors’ justice needs and what participants themselves had to say about how their needs were met by Northern Ireland’s HIAI.

33. Backer, “Human Face,” 206.

34. Edna Erez and Michael Kilchling, eds., *Therapeutic Jurisprudence and Victim Participation in Justice* (Durham, NC: Carolina Academic Press, 2011); Brandon Hamber, *Transforming Societies after Political Violence: Truth, Reconciliation, and Mental Health* (New York: Springer Press, 2009).

35. Patricia Lundy and Kathleen Mahoney, “Representing Survivors: A Critical Analysis of Recommendations to Resolve Northern Ireland’s Historical Child Abuse Claims,” *Annual Review of Interdisciplinary Justice Research* 7 (2018): 258–91.

36. Herman, “Justice from the Victim’s Perspective,” 594.

37. Daly, “Sexual Violence and Victims’ Justice Interests.” Daly has developed a model that may enable comparative analysis and assessment of a variety of justice mechanisms; she terms this the victimization and justice model (VJM). Its core justice elements are participation, voice, validation, vindication and offender accountability, and taking of responsibility. See also Godden, “Seeking Justice.” Godden identifies five elements of justice, and these are used to compare the three different legal responses to rape, namely, criminal justice, restorative justice, and tort law.

Survivors are not homogenous, and their needs are diverse, but it was nevertheless possible to identify recurring themes. Drawing on original empirical research via focus groups and interviews, as well as on the scholarly literature examined above, this article identifies eleven primary justice needs articulated by survivors: voice, acknowledgment, vindication (including validation), apology, redress (monetary and symbolic), rehabilitation measures, intergenerational needs, access to records, authoritative historical records, offender accountability and taking responsibility, and prosecution.³⁸ These form the basis of the study's analytical framework or measurement tool.

SURVIVORS' SELF-IDENTIFIED JUSTICE NEEDS

Most survivors before their participation in the HIAI had never spoken publicly about their traumatic experiences and the effects of abuse on their lives. Of the forty-three survivors interviewed, many stated that the motivation to participate in the inquiry was to “have a voice.” Some said that they wanted to “tell their story” or “set the record straight.” They expressed a desire to break the silence, reassign blame, and vanquish their shame. A common theme was the moral imperative to testify before the HIAI “on behalf of the dead” and “to speak for those unable to testify.” But their desire to testify arose not simply from a sense of obligation to other survivors. It was, rather, perceived as a duty challenging the culture of denial—to inform wider society, raise awareness, and insert what had been previously hidden into the public record: “Some people wanted the world to know. For me it was about actually being able to challenge history and challenge the authority that had been responsible for the condition of our guys.”³⁹ Survivors, then, wanted their voices to be heard and the abuse to be publicly acknowledged. They longed to be believed and to restore their self-worth.

Many, but far from all, perceived apologies as vindication and validation. Out of the 43 interviews, 63 percent said that they wanted

38. It was considered inappropriate and unethical to determine the nature of the harms and injuries of participants in the research. It is, however, acknowledged that the type of crime (sexual, physical, and emotional) may have an impact on the sense of justice.

39. Interview with M3, Sept. 2016.

an apology, whereas 29 percent believed an apology had no benefit.⁴⁰ Analysis of inquiry transcripts and 177 survivors who responded to HIAI counsel's question about whether there should be an apology shows that 22 percent favored an apology and 11 percent said that such acts had no benefit; others simply did not comment. In interview discussions a more nuanced view on apologies emerged. Survivors said that acceptance of an apology was conditional on prerequisites. Apologies had to have consequences and evidence commitment to other justice needs: "what good is an apology without action?"⁴¹ "They do owe us an apology. Now an apology in words is one thing. . . . [T]he apology on its own isn't enough, you have to put something on the table. You have to say this is our way of saying this apology."⁴² Respondents thus linked apologies to acts of contrition, public shaming, and acknowledgment and acceptance of responsibility. In the absence of these additional criteria the apology meant nothing or lost its value.

Other survivors, however, were cynical and considered apologies pointless, insincere, and strategic: "They're not sincere, they're not heartfelt; it's like this is what we are saying because we've been found out. We're not apologising because it's wrong, we're apologising because it's a media thing and that is what we need to do."⁴³ For some survivors, therefore, an apology as a stand-alone gesture is insufficient in meeting victims' justice needs. On the other hand, if perceived as satisfactory, apologies can be an important form of symbolic redress for past wrongs, a finding consistent with research in other settings.⁴⁴

Compensation was the most frequently cited justice need in interviews. Almost 80 percent of the responses, and participants in all five focus groups, prioritized compensation. But the analysis of inquiry transcripts revealed that only approximately 33 percent had stated that compensation should be recommended. We presume that this lower percentage is contextual, related to the official and public nature of the inquiry. Survivors were reluctant to talk publicly about financial

40. Percentages are used to compare results as the number of people in the different datasets are not the same (e.g., 43 interviews out of 177 inquiry-transcript responses).

41. Interview with F4, July 2016.

42. Interview with M5, Nov. 2015.

43. Interview with F15, Sept. 2016.

44. Patricia Lundy and Bill Rolston, "Redress for Past Harms? Official Apologies in Northern Ireland," *International Journal of Human Rights* 20:1 (2016): 104–22.

compensation; some were concerned about being seen as “in it for the money.” During interviews survivors continually stressed that “it wasn’t about the money,” and some found it difficult and offensive to “put a price” on their suffering: “I never started this process looking for compensation. I never, ’cause what price is a childhood, what price is my sister’s childhood, what price is my mummy’s parenting skills, you know. You can’t put a price on all of that.”⁴⁵

“Repair” or rehabilitation measures constantly arose as themes in interviews and were discussed at length in focus groups.⁴⁶ Survivors emphasized measures to help rebuild shattered lives—by means of healthcare services, long-term counseling, education and training, intergenerational needs, and reunion with family. They understood such rehabilitation measures as justice needs, and many felt entitled to ask for redress for their children. Loss of opportunity was also frequently cited as a prime injury. But despite the prominence of themes of rehabilitation in interviews and focus groups, only two percent had mentioned family compensation and/or intergenerational needs at the inquiry—underscoring not only the role of context but also of a reticence to raise compensation in any official public arena.

The importance for survivors of accessing personal records cannot be overstated; in most of the study’s interviews and all five focus groups access to such records emerged as a key justice need: “Our lives are in a file somewhere and we can’t find out who we are.”⁴⁷ Most survivors living with the repercussions of historical abuse every day view that abuse as existential. They view the lack of access to their own historical files and their struggles to attain meaningful information as key sources of distress and frustration. They shared accounts of their disappointment when retrieved records were inadequate and/or heavily redacted: “an A4 sheet with four to five lines” representing many years spent in residential care.⁴⁸ Family medical histories were largely inaccessible to many survivors, leading to a lack of knowledge about their own hereditary traits. Many felt an acute disconnection

45. Interview with F19, July 2016.

46. Lundy, *Historical Institutional Abuse*; Lundy and Mahoney, “Representing Survivors.”

47. Male participant, focus group 4.

48. Claire McGettrick’s essay in this issue addresses access to information in the context of closed adoption records in the Republic of Ireland.

from the sources of their own personal identities: from parents, birth-place, medical history, origins, home, and childhood experiences.

A key motivation for participating in the inquiry was to get “the truth,” with twenty-three percent of respondents specifically mentioning the word “truth” as a justice need. However, in interviews and focus groups many survivors alluded to truth in different ways. Some clearly sought to find out *why* the abuse happened, questioning why they had suffered and how perpetrators could justify what they had done: “the biggest thing is why. Why did they do that? Why? Was it in them to . . . physically and mentally abuse people? Who gave them the right? Who?”⁴⁹ For some, as noted above, justice involved gaining access to new information about personal questions and direct access to files: “I was trying to understand my childhood. . . . I thought I would get to understand me as a person.”⁵⁰ But others maintained that they already knew the truth; all they wanted was acceptance of responsibility and accountability.

Analysis of the inquiry transcripts, however, shows that only two percent of survivors cited access to files as a recommendation. A likely explanation for this discrepancy involves the inquiry’s counsel offering only limited options to survivors at the conclusion of their testimony. They were informed that the HIAI had to make recommendations to the Northern Ireland Executive in three areas—some form of apology, memorial, and other means of redress—and asked whether there was anything that they wanted to say about these areas. As disclosed in interviews with the author, the question was put to survivors at the end of their testimony when many were tired and overwhelmed by the experience. In addition, the specific questions put by counsel were perceived by some as setting the boundaries to what could and could not be recommended, limiting consideration of a wider range of options.

Redress can also be symbolic. The HIAI specifically asked survivors about their views on a form of memorial paying tribute to victims of historic institutional abuse, but differing views emerged on this issue. In interviews and focus groups some welcomed the suggestion as a form of acknowledgment and remembrance, whereas others strongly opposed such memorialization as a reminder that might

49. Interview with F6a, Sept. 2015. This interview contains more than one interviewee.

50. Interview with F2, Jan. 2016.

bring yet more pain. Only 13 percent were in favor, whereas 26 percent were not; others did not comment. Inquiry transcripts show that 11 percent were not and 12 percent were in favor. What is difficult to untangle is whether symbolic redress would have emerged as it did had the inquiry not posed the question of a material memorial—frequently describing it as a statue.

In the study's interviews a significant number of survivors (71 percent) expressed a strong desire for the criminal prosecution or punishment of their abusers through the courts:

Absolutely—very clearly—I want to prosecute my abuser. Because I think they should be held accountable. I do think they should be made to see the damage that they caused. Forget the compensation, there's no better feeling for myself than seeing that person who abused me being found guilty. Justice—money couldn't buy that.⁵¹

For these respondents criminal prosecution was a necessary part of the healing process—indeed, the motivating factor justifying the trauma of giving oral evidence to the inquiry. “That’s a big thing to me; if people are going and giving evidence at an inquiry and naming individuals who have done such horrific crimes on them, there should be prosecutions.”⁵² But in sharp contrast analysis of inquiry transcripts shows that only 6 percent (eleven survivors) stated then that they wanted prosecutions. We again assume that this significant discrepancy relates to the survivor’s understanding of permissible boundaries in regard to the inquiry counsel’s redress questions. During interviews the importance of accountability as a justice goal was underscored by many survivors (39 percent), although they did not necessarily mean that they sought criminal prosecution. They wanted individual perpetrators—as well as those who engaged in cover-ups, turned a blind eye, or failed to exercise oversight—to be held accountable. Accountability was thus linked to acceptance of responsibility, vindication, and validation: “When people stand up and say, what we did was wrong—we shouldn’t have done that, . . . then you get to think, you know what, maybe I’m not scum—maybe I didn’t deserve this.”⁵³

51. Interview with M7, Nov. 2015. This interview contains more than one interviewee.

52. Interview with F2, Jan. 2016.

53. Interview with M10, Nov. 2016.

DID THE INQUIRY MEET SURVIVORS' JUSTICE NEEDS?

The study's work led to an analysis of both the potential and the limits of Northern Ireland's HIAI in meeting justice needs from the perspective of survivors who engaged in the inquiry.⁵⁴

Giving Voice: The Trauma of Testifying

The effects of historical childhood abuse are unlikely to be repaired in any one-off process, but the minimum standard should be to do no harm. Ideally, participation in the inquiry would help to make amends for the silencing of childhood victims; yet many were most vulnerable when discussing abuse that they suffered as children. Over half (55 percent) of those interviewed stated that giving evidence to the inquiry was an “emotional experience.” Almost half (47 percent) described that experience as “traumatizing” or “abusive”—or said that they “felt vulnerable” (42 percent). A smaller number reported that participation was an “intimidating experience” (18 percent), and others felt “victimized” (18 percent). Existing research on the psychological effects of giving testimony to tribunals, commissions, and similar bodies questions the therapeutic effects of such experience; indeed, giving testimony just as often can prove retraumatizing as therapeutic.⁵⁵ The “glow quickly fades” once survivors return home, leaving many with a traumatic sense of abandonment:⁵⁶

This is our life; this is our feelings and emotions. Some people will be able to let it run off them; some people will go home and think I shouldn't have done that and they'll freak.⁵⁷

I think I took 28 tablets, a full week's medication in the one night. . . . I just kept thinking because of the way I was feeling, I have to take my

54. Most of the interviews were concluded before the HIAI report was published in January 2017.

55. Jonathan Doak, “Honing the Stone: Refining Restorative Justice as a Vehicle for Emotional Redress,” *Contemporary Justice Review* 14:4 (2011): 439–56; Hamber, *Transforming Societies*; Herman, “Mental Health,” 159–66; Eric Stover, “Witnesses and the Promise of Justice in The Hague,” in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), 104–20.

56. Stover, “Witnesses,” 107.

57. Interview with F15, Sept. 1016.

tablets. . . . I looked in the mirror, I scared myself. . . . So this went on for about two weeks and I tried to get some type of help.⁵⁸

Public inquiries largely require a binary response of yes or no answers—specific answers to precise questions that Herman views as restricting “any personal attempt to construct a coherent and meaningful narrative.”⁵⁹ Survivors’ disappointment was compounded because they felt that their voices were not listened to, and they struggled to be heard (37 percent). The inquiry processes thus constricted voice—a factor identified as a key justice need:

I felt this sense of being cheated. I didn’t know why. Until I realized . . . we only got to answer counsel questions. So I felt that I’d been silenced. Now I was shaking at the end of it, do not be fooled. . . . I’d come to give my evidence and then you’re not allowed to give your evidence—you’re only allowed to answer the questions. The only way you can add on a wee bit is if you run on with that question a wee bit, which she kept trying to close me down.⁶⁰

Providing adequate information and managing expectations are crucial to ensure that participants understand what the inquiry process involves and make informed choices about how they wish to deal with their needs for justice. Of the 43 survivors interviewed, 42 percent said that they had “insufficient information and understanding” of the public-hearing procedures. Just 5 percent said that they were well informed. Clearly, many found themselves in a process that they did not fully understand—and over which they felt little control:

I sat there and listened and people were unprepared for it coming. I certainly got a very decent briefing from the solicitors of the inquiry. But I think the difficulty was that maybe they were giving everybody the same briefing. But the understanding that everybody had of what was required of them, . . . most of our guys didn’t understand.⁶¹

This falls far short of a victim-centered approach. Even for those describing the process as positive, some felt that they could have been better prepared:

58. Interview with F2, Jan. 2016.

59. Herman, “Mental Health,” 160.

60. Interview with F2, Jan. 2016.

61. Interview with M5, Nov. 2015.

I found the court thing intimidating . . . , That court was packed—then you’ve got that panel and all of the electronics and the TV up on the wall—and all the people sitting in the background—and you’re not sure who they are—and what they’re doing—why they are there—and I’m thinking are these press or social workers. I just didn’t know. . . . Maybe a little bit more information about who everybody is and what their role is.⁶²

That an inquiry is usually public and open rather than private and confidential increases discomfort. Some said that the HIAI was not a conducive environment to talk about their trauma—despite their motivating search to have their voices heard and to be acknowledged by the public. The inquiry acknowledged how upsetting testifying could be and made witness-support officers and a representative from Contact Northern Ireland counseling services available to provide assistance. Throughout the inquiry participants who found their experience stressful or distressing were referred to appropriate agencies. Yet half of those interviewed said that “more victim support was needed”; some strong criticism was also expressed about the adequacy of the available support.

The HIAI Process: Inquisitorial or Adversarial?

Northern Ireland’s Statutory Inquiry sought to ascertain facts and evaluate evidence; formality and legality characterized its proceedings. The inquisitorial approach adopted by the inquiry counsel, however, was tempered by the expressed aspiration that questioning be conducted sympathetically. The HIAI reports that counsel “probed in an appropriate fashion” evidence of both victims and core participants (institutions and organizations) “without the witness being subjected to inappropriate or unnecessary cross examination.”⁶³ But many survivors did not share the above perception of how proceedings were conducted. Analyses of interviews show that for some survivors, participating in the public hearing was a taxing experience—a formal legalistic process with complex rules and procedures:

62. Interview with MTO, Nov. 2016.

63. Hart et al., *Report of the HIAI*, 1:12.

I'm going to call it a court 'cause it ain't an inquiry. . . . We were told we were going to give our experience. Now this is a court, and there's a man being ripped apart. . . . It's the first time I realized we are on our own. His solicitor would never have allowed this to have happened to him. And the poor fella is being ripped to shreds; and I thought, this is bad.⁶⁴

The inquiry stated that public hearings would “not be conducted like a trial,” there would be “no cross-examination of witnesses,” and all questions would be directed to “ascertaining facts.”⁶⁵ Despite such assertions, a significant number of survivors regarded the process as adversarial (39 percent):

They started bringing up stuff, “would it be correct that you,” as if you were on trial. And this was their non-adversarial way! It was very adversarial what they were bringing up. What had that got to do with anything? We were getting pulled apart so much it was doing damage.⁶⁶

Some survivors reported feeling as if they were the “ones on trial” or being “held to account” (39 percent): “It actually felt as if you were on trial. We were specifically told it would never have felt like that—but it did, it did—it was terrible. . . . It was an experience I wouldn't want to do again. . . . Honestly, I wouldn't want to put myself through that again.”⁶⁷

Many participants reported that they should have been better prepared in advance. Only 29 percent said that counsel explained the public hearing's procedures “clearly.” What might be considered as “sympathetic” and “polite” questioning by counsel was perceived by some survivors as deeply intrusive and unnecessarily hostile to their integrity:

64. Interview with F2, Jan. 2016.

65. Anthony Hart, “Remarks at the Third Public Session of the HIAI Inquiry” (speech, Ramada Encore Hotel, St. Anne's Square, Belfast, 4 Sept. 2013), p. 12, https://www.hiainquiry.org/sites/hiainquiry/files/media-files/chairman_s_address_130904_low_res.pdf, archived at <https://perma.cc/466G-TB3K>.

66. Interview with F4, July 2016.

67. Interview with F1b, June 2017; F1a & F1b interviews were conducted at the same time.

He just started bringing up my past, about my brothers and about my dad going to jail, . . . how many times the police was at our door when we were kids. Nothing about the institution; it was all about my home life. . . . All this stuff was really just wearing me right down. It's as if he was blaming me for this. He's meant to be on my side. But I felt as if, you know, I'm the one here doing the wrong thing.⁶⁸

Some survivors strongly objected to what they viewed as irrelevant details about their past lives being raised during sessions or at the public hearing (37 percent). Such discussions made some feel as if they “were offenders” and created defensive attitudes:

I think it's set too much as a court system, like you're a criminal and that's what's wrong. It should be in a room with a cup of coffee, private. It shouldn't be in front of all those people.⁶⁹

You see the problem is now that we're starting to feel like we're the guilty party, did we do something wrong, why are we getting this stuff thrown at us when it was us that was babies and it was happening to us.⁷⁰

The study demonstrates that giving oral testimony was emotional and stressful for participants. Some believed that they had not been treated compassionately, which had an impact on their sense of self-worth and their perception of the inquiry's tone toward them:

We were not there to be intimidated. He was treating us the way the nuns treated us, he was intimidating. It should have been a different person with a bit more compassion. Because he acted like how we [have come to] believe how we should be treated, how we've grown up to believe that we're worth nothing. And so we just have to take that because that's what we deserve.⁷¹

Timely Disclosure of Sensitive and Personal Material

Complaints about the personal nature, extent, and timing of disclosure of sensitive information during the inquiry emerged as a significant factor. As one survivor put it, “Why are we finding out about

68. Interview with F1a, June 2017.

69. Interview with F15, Sept. 2016.

70. Interview with M13, Jan. 2016.

71. Interview with F15, Sept. 2016.

ourselves in front of everyone in the dock?”⁷² Some complained that they were given personal and sensitive information only in the briefing session immediately prior to testifying. The inquiry’s counsel usually prepared survivors on the day they gave evidence, one to two hours in advance. The actual documents providing background information about them gathered by the inquiry were not made available—either in advance of the consultation or for the oral hearings. Such ill-timed disclosure that “surprised” and “shocked” survivors had a destabilizing effect:

It was a really hard day because I had to find things out about my mother, and stuff that I had never known in my life. I didn’t know that my younger sister was born with [named disease]. I didn’t know my mother was in such a hospital. . . . And then I discovered there was a letter. . . . [Counsel] said, “I know you won’t have seen this before but we’re going in now; and by the way did you know your mother had syphilis. . . .” And you are supposed to just deal with that and then answer questions.⁷³

Despite the HIAI’s rationale for failing to offer advance warning of material (i.e., that it could be “difficult or hurtful”),⁷⁴ the survivor on the stand without prior knowledge or control over the content and timing of such disclosures felt disempowered—sometimes traumatized at hearing casual introductions of often-unknown personal episodes from the past. For example, after finding his birth mother but being rejected as an “Irish bastard” by her partner, one witness returned to the abusive institution he had fled. But he learned about his mother’s loving efforts to reach him only when her letter was presented as evidence at the inquiry. Of the 43 survivors interviewed in the study, almost 40 percent said that “disclosure was distressing” and should have been “communicated in advance” of public hearings. After having requested and been refused copies of the disclosed documents, survivors were advised by the inquiry’s counsel during briefing sessions that they could obtain these documents from various government bodies. Since many survivors had spent decades

72. Interview with M13, Jan. 2016.

73. Interview with F15, Sept. 2016.

74. *In the Matter of a Decision of the Inquiry into Historical Institutional Abuse, 1922 to 1995* [2015] NIQB 3, p. 6, par. 15.

looking for snippets of information about their childhood, such a procedure seemed particularly harsh. Not unexpectedly, then, nearly half of those interviewed described their participation in oral hearings as “traumatizing” (47 percent). Advance disclosure, as discussed below, appears to have been provided only to those participants with legal representation, usually institutions and organizations.

The task of the inquiry was difficult on many levels: the time constraints in which to undertake its work, the volume of material, and the often harrowing accounts of abuse being investigated. However, in expediting its work, the HIAI’s stated principle of “do no further harm” appears to have been undermined, exposing many survivors to retraumatization.⁷⁵

Presentation of Evidence

Inquiries are bound by legal rules of procedural fairness in which both accused institutions and individuals must be afforded an opportunity to respond to allegations of misconduct against them. But as this article has previously indicated, important personal evidence relevant to witnesses routinely failed, except in discussions held a few hours before testimony, to be furnished in advance of the public hearing date. In contrast, at least twenty working days before that date, institutions and organizations against which allegations were being made were provided with evidence that the inquiry considered relevant.⁷⁶ If participating institutions and organizations wished any questions to be put to a witness, they could submit a request in writing to the inquiry not less than three working days before the witness was scheduled to give evidence.⁷⁷ Thus the inquiry provided evidence to alleged perpetrators but not to survivors, who were not furnished with the statements of these alleged perpetrators or information from the relevant institution or authority:

75. Ibid.

76. In addition to the witness statements from the victims, the evidence bundles included material that the inquiry had gathered from core participants, social services, the police, or from its own work in the Public Record Office in Northern Ireland.

77. HIAI, *Procedural Protocols to Be Followed by the Inquiry into Historical Institutional Abuse, 1922 to 1995* (HIAI, 2013), par. 15, 23, 24, 31, https://www.hiainquiry.org/sites/hiainquiry/files/media-files/hia_inquiry_procedural_protocol_final-2.pdf, archived at <https://perma.cc/2V9G-QY7V>.

I said to him [counsel], where did you get that [“letter” disputing victim’s evidence]. And he says, it came in this morning. I said “how come we didn’t get this?” I agree that there are two sides of the story, . . . they [institutions] should have their say too. But if they got from us, then we should have got what they said.⁷⁸

Documentation provided to survivors in advance of the hearing was restricted to their draft statements, which were returned to the inquiry after signing. Evidence or questions from the institutions were communicated to survivors in briefing sessions immediately before they testified. Such procedures, in addition to creating a two-tier system, with some better informed and treated than others, added distress to already nervous survivors, many of whom felt underprepared.

Legal Representation and Equality of Arms

Regarding the inquiry’s role as balancing the rights of the survivors (the complainants) and the accused, the chairman of the HIAI asserted that its legal team would “gather the relevant evidence and interview each applicant to ascertain what that person can say about the matters that have to be investigated by the inquiry.” Survivors were therefore discouraged from having their own legal representation: “It is unnecessary for an individual applicant to have his/her own lawyer present and paid for at the public expense during the public hearings.”⁷⁹ Some expressed disappointment with this denial (thirty-four percent), believing that only those against whom allegations were made (alleged perpetrators and institutions) had “a right to legal representation”—and if needed “to have their legal representation paid out of public funds.”⁸⁰

Inequalities between the treatment of complainants and alleged perpetrators existed in other procedures as well. Some members of religious orders accused of abuse were dead, and others were not called to give evidence because they were “very elderly and too physically frail to give evidence in person, or their mental health or memory had failed to such a degree that they were not able to give reliable

78. Interview with MI2, Jan. 2016.

79. Hart, “Remarks at the Third Public Session,” 16.d.

80. *In the Matter of a Decision of the Inquiry into Historical Institutional Abuse, 1922 to 1995* [2015] NIQB 3, p. 10–11, par. 30.

evidence.”⁸¹ In those circumstances, their statement was admitted without giving evidence in person, they were excused from giving evidence to the inquiry, or spokespersons for the responding religious orders, without personal experience of the events under consideration, gave generic evidence derived from written records. Survivors were not afforded the same opportunity to present their “collective account” of an institution. In addition to the oral and written evidence, the inquiry panel considered detailed closing submissions by the institutions (but not by survivors). Alleged perpetrators, having had all the evidence in advance, appeared better prepared for oral hearings and far less dependent on memory than survivors, who had no advance access to documents. They were nevertheless expected to testify at short notice—under pressure to recall specific details of events that had taken place thirty or forty years earlier. This reliance on memory alone created difficulties for some survivors, leading to further questioning by counsel. Compared to powerful institutions, with access to resources and evidence and independent legal advice, survivors often appeared less assured.⁸² As the Law Commission of Canada (LCC) has noted, processes focused on the past must be scrutinized to determine whether current practices are unduly prejudicial to survivors—with little gain in protecting the rights of alleged abusers.⁸³ Within the specific context of historical child abuse this balance may indeed need to be rethought.

Accountability and Prosecutions

Criminal prosecutions were clearly a justice goal for many of the survivors interviewed in the study. But of the 177 who gave evidence to the inquiry in person, only 6 percent (11) stated that they wanted prosecutions. This statistical discrepancy between the evidence of inquiry transcripts and the study’s interviews, as already suggested above, might be explained by the perceived parameters set by counsel’s questions on redress recommendations. During interviews with the author many survivors maintained that they had been over-

81. Hart et al., *Report of the HIAI*, 1:15.

82. The HIAI chairman’s decision not to allow victims personal representation was judicially reviewed. It was upheld at first but overturned on appeal.

83. LCC, *Restoring Dignity*.

whelmed by the whole inquiry experience and lacked confidence in speaking publicly about complex concepts. Significantly, nearly 20 percent opted to “leave recommendations to the inquiry” or “had no recommendations.”

Writing in the *Journal of Human Rights*, Brandon Hamber and Richard A. Wilson note that revenge and retribution may be regarded as low and unworthy emotions.⁸⁴ But during interviews survivors did indeed express rage, concern, and frustration about the absence of prosecutions and the ongoing impunity of alleged perpetrators:

We were told by the police that it’s unlikely *they* would ever go to jail, . . . and the same day you open the paper and there’s an 85-year-old man going to jail in handcuffs for not paying his car tax. Yet they told me that Sister—at the age of 75—will not be going to jail because she’s old. . . . I don’t feel like I’ve got justice in any way. I’ve been left to worry about my future and my children; and *they* are sheltered and fed by the Catholic church, who’s still looking after them.⁸⁵

The HIAI’s terms of reference state that the panel “must not rule on, and has no power to determine, any person’s civil or criminal liability.”⁸⁶ Inquiries can, however, offer a form of immunity to incentivize alleged perpetrators to cooperate with the search for truth. A form of immunity—termed “use immunity”—was thus offered by the HIAI. A letter from the director of public prosecutions specifically stated that “no evidence a person may give before the inquiry will be used in evidence against that person in any criminal proceedings or relied upon for the purpose of deciding whether to bring such proceedings against that person.”⁸⁷ Although such an undertaking does not prevent prosecution if other evidence exists or becomes available from other sources, there is nonetheless a fine line between

84. Brandon Hamber and Richard A. Wilson, “Symbolic Closure through Memory, Reparation, and Revenge in Post-conflict Societies,” *Journal of Human Rights* 1:1 (2002): 35–53.

85. Interview F15, Sept. 2016.

86. Inquiry into Historical Institutional Abuse Act (Northern Ireland) (2013), par. 1(5).

87. Director of Public Prosecutions, “Undertaking to Witnesses to the HIAI,” 22 April 2013, <https://www.hiainquiry.org/sites/hiainquiry/files/media-files/Public%20Prosecution%20Service%20-%20Undertaking.pdf>, archived at <https://perma.cc/KF59-QDW8>.

immunity and impunity. The HIAI did refer 190 complainants to the Police Service of Northern Ireland (PSNI) to address any potential for criminal prosecution, from which seventy-seven matters relating to the complaints were reported to the Public Prosecution Service (PPS) for consideration.⁸⁸ But to date, in Northern Ireland no prosecutions have emanated from the cases referred to the PSNI by the inquiry.⁸⁹ Most of the survivors interviewed in the study were unaware of the “use immunity” provision—despite the publication on HIAI’s website of letters from the director of public prosecutions and the attorney general confirming the immunity provision. The victim information documents and transcripts of the public-information meetings held by the inquiry, however, show that the subject of immunity was never broached—raising significant questions of informed consent.

Apology, Memorials, and Compensation

Sixty-three percent of interviewees in the study identified apologies as important, and HIAI’s report had recommended that the Northern Irish Executive and those responsible for each institution where systemic failings were found should make a public apology—a whole-hearted and unconditional recognition of a failure to protect children from abuse, undertaken at a suitable venue and on a single occasion. Although survivors failed to identify a memorial as a justice need, the report also recommended that a memorial be erected to remind legislators and others of what many children have experienced in residential homes. The commission chairman endorsed a physical memorial in parliament buildings or on the Stormont Estate, paid for by the Northern Irish Executive. Nearly eighty percent of interviewees identified compensation as a key justice need; however, academic research shows that the HIAI recommendations fell far short of meeting survivors’ justice needs in terms of, among other issues, a low standard payment and overall cap on compensation, restricted

88. Freedom of Information, Historical Institutional Abuse Inquiry, FOI 2017, F-2017-02046. However, a follow-up FOI in 2020 (FIO F-2020-00172) stated that 184 cases had been referred to the PSNI by the HIAI.

89. The UN Commission Against Torture pointed to a similarly low number of prosecutions stemming from the Ryan report when the Republic of Ireland was examined in 2011 and again referenced the matter in 2017.

eligibility, loss of lifetime opportunity, and limited awards to families of deceased survivors.⁹⁰

Most recently, survivors managed to achieve “significant changes” to the historical-abuse redress legislation reflecting better their needs.⁹¹ In collaboration with academics survivors set up a panel of experts on redress made up of individual survivors, survivor groups, members of human-rights organizations, local and international academics, and members of the legal profession.⁹² As a survivor-driven process,⁹³ the panel published a 2017 position paper that set out a detailed critique of the inquiry’s redress recommendations and offered proposals to improve redress to meet survivors’ needs.⁹⁴ Launched at a well-attended public event in Stormont, the document subsequently was used as a lobbying and campaign tool that empowered and gave voice to survivors, leading to better redress.

FUTURE DIRECTIONS FOR REDRESS

This article analyzes the potential and limitations of the public-inquiry model to align with justice needs as expressed by survivors—and to deal with the ongoing consequences of historical child abuse. The inquiry model has commendable features, including providing acknowledgment, vindication, and validation for survivors. It can satisfy their perceived sense of duty to testify and bear witness in order to provide an authoritative record. Although inquiries do not make final determinations of liability for wrongdoing, their findings can adversely affect reputation. They can be effective at publicizing the facts and raising awareness of the extent of wrongdoing—therefore

90. Lundy and Mahoney, “Representing Survivors.”

91. UK Government, *Report Pursuant to Section 3(14) of the Northern Ireland (Executive Formation, etc.) Act 2019—Historical Institutional Abuse* (London: Her Majesty’s Stationery Office, 2019), 5, archived at <https://perma.cc/YUL4-R5LQ>.

92. The panel was formed after a series of meetings and discussions with survivor groups in early October 2014, initiated by Patricia Lundy and Kathleen Mahoney (University of Calgary, Canada).

93. See Lundy, *Historical Institutional Abuse*.

94. Panel of Experts on Redress, *Response to the Historical Institutional Abuse Inquiry Redress Recommendations: The Panel of Experts on Redress Position Paper and Recommendations* (Ulster University, April 2017). See also Panel of Experts, *Briefing Paper: Proposed Improvements to HIA Inquiry Compensation* (Ulster University, Sept. 2018).

providing a form of public accountability. Such inquiries can lead to apologies, individual and collective.

On the other hand, the inquiry, and particularly its redress recommendations, fell short in meeting key justice needs identified by survivors. Initial high hopes and expectations were often replaced by frustration, disappointment, confusion, and even anger. Many wanted individualized answers to questions and personal accountability of perpetrators. The goal of the HIAI was to identify systemic failings and institutional accountability and responsibility, a concept not fully understood and not in accordance with what many survivors giving evidence wanted. Most were unaware of the provision of immunity for alleged perpetrators, a provision that they regarded as clearly favoring their abusers. Compensation was also considered an important aspect of satisfactory redress, but again survivors' needs and wishes were largely unmet in the inquiry's recommendations. Only persistent campaigning by survivors and collaborative participatory action led to the overturning of many of the HIAI's compensation recommendations. Access to records was another critical key justice need, but the HIAI made no specific recommendations in this regard save to refer to access "to enable survivors to apply for compensation."⁹⁵ And although voice was a clearly articulated justice need, survivors' voices appeared weak compared to those of well-prepared, resourced, and legally represented institutions. This discrepancy resulted in more favorable treatment for alleged perpetrators in a process that purported to be survivor-centered. In contrast to that goal the survivors' experienced feelings of disempowerment. The ill-timed disclosure of personal, often highly sensitive information and new evidence caused great distress, undermining the inquiry's potential to restore dignity and self-worth.

In the context of a survivor-centric process the limitations of public inquiries appear to outweigh their perceived benefits, for that form's processes are too limited to address the full range of justice needs identified by survivors. Participating in the HIAI was a bruising experience for many; indeed, the potential risk to mental health through retraumatization and revictimization raises important questions about the appropriateness of such a model to deal

95. Hart et al., *Report of the HIAI*, 1:232, par. 16f.

with child abuse. Policy-makers should explore less intrusive—and more humane, inclusive, and empowering—forms through which to acknowledge and establish macro-level truth about historical institutional child abuse.

Although this article does not flesh out a model that could embrace survivors' justice needs, it offers some initial suggestions.⁹⁶ The starting point should be a determination of what survivors' want—their justice needs. Thereafter, addressing those needs must drive approaches to deal with historical child abuse. The fundamental principle in developing a model is the full participation of survivors from an early stage in the development, design, and implementation of justice responses and their involvement in the negotiation of settlements. But a single mechanism is unlikely to address all needs. Most crucial is that harmful aspects of existing processes are not repeated. The Northern Ireland collaborative participatory-panel model discussed above could provide the process for survivor dialogue and potential input into policy. However, for survivor groups to undertake these roles they need to be resourced and have adequate capacities to enable meaningful engagement. The development of a strategy that could embrace survivors' justice needs and empower genuine participation (beyond giving testimony) would require political will, resources, and a paradigm shift toward a victim-led approach to historical institutional abuse.

96. See Brandon Hamber and Patricia Lundy, "Lessons from Transitional Justice? Toward a New Framing of a Victim-Centred Approach in the Case of Historical Institutional Abuse," *Victims and Offenders* (April 2020), <https://doi.org/10.1080/15564886.2020.1743803>. This article discusses in detail the positives and negatives of transitional justice and makes recommendations for an alternative approach.