

# **Executive Summary – Truth Recovery Process**

## **1. Introduction:**

This proposal was generated by discussions between former combatants, victim/survivors and academics. It outlines a Truth Recovery and Reconciliation process designed to address ongoing issues of harm and trauma, political intractability, social division and civil unrest in Northern Ireland, that could provide a road map out of the minefield of Legacy politics.

Well over 3,500 people died during the Troubles and over 47,000 were injured. It has been estimated that a third of people in Northern Ireland were affected directly or indirectly by political violence, and many others suffered in Britain, the Republic of Ireland and Europe.

Despite concerted efforts by politicians, officials, lawyers, NGO organisations, and community leaders, the complex justice issues that arose from the conflict remain unresolved. In this situation the Belfast Good Friday Agreement (1998) has evolved into a Political Truce rather than a Peace Agreement.

The Truth Recovery Process proposes an extra-judicial approach to achieving reconciliation on the facts for victim/survivors and former combatants alike. We regard this as a necessary first step towards healing past harms on the basis that without agreement on the facts, there can be no basis for agreement on anything else.

Unfortunately, the judicial approach adopted to date is cumbersome, time consuming, expensive, and often retraumatises victims and survivors. Far from leading to honest debate of the issues, or a full disclosure of the facts, let alone reconciling the parties, a trial often has the opposite effect because of its adversarial nature. Its main objective is to determine guilt and innocence of a criminal offence. Every acquittal and every conviction is therefore viewed as a victory or defeat for one side or the other.

This proposal charts out a system of conditional amnesties for former combatants that encourages them to come forward and agree to enter into a process of meaningful engagement with victims and survivors. It will provide more information than a court case and hopefully a measure of atonement and even reconciliation.

Learning from other conflict situations – and indeed from the history of Ireland – it is clear that if horrific and unjust events from the past are not addressed, they will continue to ferment under the surface and erupt again in the future. (Pages 1-3)

## **2. The Current Context for a Proposed Truth Process**

The British-Irish Intergovernmental Conference established under the terms of the Belfast Good Friday Agreement, and the Advice on A Charter of Rights for the Island of Ireland adopted in 2011 were aspirational rather than offering a practical way forward.

This section shows how the Truth Recovery Process can be incorporated within the parameters of the Belfast Good Friday Agreement and provide information from former combatants to victims and survivors in a more comprehensive and satisfactory way than the courts, or the ‘filters’ proposed in the latest Stormont House discussions.

It explains the intrinsic flaws involved in the HET and HIU approach, and why police officers are not best suited to carry out the investigative process.

It also looks at how the War of Independence, and Civil War were dealt with and at some guiding principles that should apply regarding to the more recent Troubles. (Pages 3-11)

### **3. Framework for the Process: A Justice- and Victim-Sensitive Approach**

This section addresses issues affecting victims and survivors, which must be a central part of the reconciliation strategy and welcomes the initiative of the former Northern Ireland Secretary, Julian Smith, who broke the logjam over pensions for those seriously injured in the Troubles.

It addresses the concerns that those in the nationalist and Unionist communities, and in the security forces, might have over an extra-legal way forward. It describes how a conditional amnesty process would work and the sequencing steps involved in ensuring it is justice sensitive. It is not an easy 'get out of jail' option. Rather, it poses challenges for all concerned. But, as mentioned in the introduction, it provides a means of obtaining fuller disclosure of information, and the possibility of some degree of reconciliation and atonement. Former soldiers, police officers and paramilitary combatants will be freer to come forward with information about legacy cases because we know that at least some of them want to do that before it is too late. That space will not open up without lifting the fear of prosecution, including protection from prosecution under the Official Secrets Acts.

The report supports the proposal that mid-summer day [21st June] be dedicated to the theme of "Healing Through Remembering", and that it be marked by public events not alone on the island of Ireland but in Britain as well.

(Pages 11-14)

### **4. Moving Forward: A Reconciliation Commission; Reconfiguring the HIU, ICIR and IRG units**

We propose that the British and Irish governments agree structures that facilitate an extra-legal truth recovery and justice process as envisaged in Section 3.a.1.

This would involve the establishment, in the first instance, of a Reconciliation Commission with two subsidiary bodies dedicated to implementing the Truth Recovery Process. It would be headed by a mutually agreed international Chair, or two senior members of the British and Irish judiciaries, to which the Commission would be answerable.

The two operational components of the Commission would be:

1. A Truth Recovery Unit (In a Northern Ireland context this would replace the HIU).
2. A Justice Facilitation Unit. (In a Northern Ireland context this would replace the proposal for the ICIR,ICRIR).

It explains how the existing proposals could be reconfigured, who could participate in them and how a Truth Recovery Process based on a mediation and conciliation model, rather than a judicial/investigative approach, would work. While separate arrangements might have to be made to extend the process to Britain and the Republic, it recommends that the experience and expertise of the Victims Commission could be made available to all the parties concerned.

While the process would be confidential, where successful, participants would be encouraged and facilitated in becoming advocates for this model as an alternative to the courts.

Finally, it looks at how best to address the causes of the conflict in ways that would help communities in the North avoid a recrudescence of political violence. (Pages 14-20)