

METHODIST CHURCH IN IRELAND

Council on Social Responsibility / Legacy – Reconciliation working group

Response to Command Paper 498 “Addressing the Legacy of Northern Ireland’s Past” – issued by Secretary of State Brandon Lewis (July 2021)

Looking back, we can see the missed opportunity of not settling the issues around the legacy of the past in the 1998 negotiation of the Belfast/Good Friday Agreement (GFA). Unfortunately, the needs of victims did not feature alongside the big political arrangements encompassing the three strands within these islands. It is easy to say now “if only” the early release of paramilitary prisoners was balanced by a plan for the decommissioning of weapons; “if only” the establishment of a Truth and Reconciliation commission had happened alongside the policing commission. However, amidst the huge achievement of the parties in obtaining an agreement on Good Friday that has transformed political relationships, we have to recognize that insufficient political thought had been done at that time on legacy issues and - more importantly - none of the parties in our deeply divided community were ready for a big leap forward of that kind. The silent grief held by families and their respective communities over the years had not yet found a voice to express what policies were needed.

The fact that over twenty years later, after many consultations, reports and political efforts such as the 2014 Stormont House Agreement, there is still no ‘sufficient consensus’ between the parties and the two governments shows not only the complexity of legacy issues but also the depth of the emotional and physical wounds to be healed. We have underestimated the difficulties of creating the conditions where all sides can reveal vital information for victims of what happened in specific situations. We have also not fully understood and acknowledged the impact of the violence on people’s lives, the grievances about the past that still lie under the surface and the continued sense of victimhood on each side that is holding back greater inter-communal reconciliation. There is a responsibility on all of us as leaders at different levels to keep working on these tasks.

As Methodists across the island of Ireland, we nurture the urgent hope that both personal and collective healing can happen and that even at this late stage the political conditions can be shaped for mutual acknowledgement of the hurt. It is very hard for the victims of political violence to draw “a line in the sand” without getting as much satisfaction as possible in discovering as much truth as possible on the circumstances surrounding the death of their loved ones. The longer it takes to recover these details, the deeper the pain becomes and the danger that the hurt gets passed into yet another generation.

The Methodist Church in Ireland instinctively responds to these complex issues with the presumption that our role is more pastoral than political. Through our Council on Social Responsibility, we of course reflect and comment on social and political matters. We know that some in every political party respect the role we play as 'critical friends'. Following John Wesley, the Methodist ethos is to "do all the good we can, by all the means we can, to as many as we can". In this concern for the common good we have a particular pastoral concern for the poor and the vulnerable and for those who seem to suffer the most. With this in mind, we remind ourselves and all who are part of this discussion, that our primary pastoral concern is for the injured and bereaved victims of our troubled past. Our hope is that in caring well for them we can help to build a better future for all of our society.

Proposals in the Command Paper

We were disappointed in the lack of substance in the March 2020 statement of the Secretary of State – which many saw as a deviation from the New Decade New Approach (NDNA 9 January 2020) commitment to implement the SHA – so we welcome the opportunity to engage with the more substantive proposals in this command paper.

1. At the outset, we note the present lack of trust by many groups and institutions in the Secretary of State's latest proposals. Unfortunately, this has eroded faith and confidence in the legacy process and become very uncomfortable for everyone. There are questions about the primary motives of the British Government. Is their main concern to protect army veterans (some of whom have also suffered as victims of the violence)? Or is it the well-being of all the victims of the Troubles, who have been asked to carry the heaviest burden?
2. We welcome the reiteration of the Stormont House Principles in Annex A, which we set out below:
 - promoting reconciliation;
 - upholding the rule of law;
 - acknowledging and addressing the suffering of victims and survivors;
 - facilitating the pursuit of justice and information recovery;
 - compliance with human rights; and
 - outcomes being balanced, proportionate, transparent, fair and equitable.However, we are concerned by the way in which these SHA principles are applied to the proposals regarding the Statute of Limitations and they are open to challenge.
3. Annex B in the command paper gives a helpful summary of the "Attempts to address the legacy of the past".

4. We also welcome the section on oral history and memorialisation. These are ideas that go back even before the SHA and could be powerful mechanisms for healing and reconciliation, for individuals and communities if done in the right ways. We are aware, for example, of a project being considered by a team based in St Annes' Cathedral which could play a very significant role in telling the story of the Troubles that is helpful to society as a whole and victims in particular.
5. We share the aspiration for a body that will effectively recover information for victims and support their need for healing and reconciliation within the community. It is noticeable that a recurrent feature of NI opinion polls has been the consistent public support for a truth and reconciliation Commission. Nevertheless, it is questionable whether the comprehensive South African model can be transferred to NI at this late stage given the unique contribution it made as part of a transitional justice scheme for that country immediately following the constitutional agreement. We note the command paper gave no detail on the conditions for the granting of amnesty within the SA TRC institution. Amnesty was only provided to those who revealed the 'truth' about gross human violations.
6. **Operation Kenova.** Some of our working group have gained informed insight into this approach and have the highest regard for the leadership style of Jon Boutcher, former Chief Constable of Bedfordshire. We see potential for the upscaling of the Operation Kenova model and for it to be extended for a further sustained period of five years. In particular, we like the attention given to the unlocking of new DNA evidence, the sensitive preparation of a family report, the time given to victim support and the professional skills of acknowledging the hurt of victims. This healing and acknowledgement approach is greatly needed to address the deep wounds of victims.
7. We want to challenge three assertions that the Secretary of State and the NIO have made during the last year regarding Operation Kenova.
 - It has been repeatedly said, "Operation Kenova, which is investigating or reviewing around 200 Troubles-related deaths and has so far operated for 5 years with an annual budget of £6M., has not yet led to any prosecutions." This is hardly a fair criticism of Operation Kenova that there have been no prosecutions to date: the fact is that there are 31 files with the Public Prosecution Service awaiting a decision. They have been there for a year and we understand decisions on them may not be made for another year. This delay in the system must be addressed. Or is there any other reason for this logjam?
 - Recruitment of suitable investigators for a scaled-up model: there may be challenges, but Jon Boutcher is convinced that it is far from impossible.

- Funding issues: compared to other 'legacy expenditure', Kenova has been good value for money. Given a scaled-up version would take over the workload of the Legacy Investigation Branch (LIB), the budget becomes more feasible.
8. **Statute of limitations.** We note the widespread negative response at this initial stage to the core proposal for a Statute of Limitations encompassing an amnesty for both state forces and paramilitaries. For different reasons, all of the political parties in NI and the Irish government have objected to the idea of a general amnesty. The LucidTalk poll [Belfast Telegraph: 26 July] shows a clear majority of public opinion 'disagrees with these UK government legacy proposals' and the number who say they "don't know/not sure/no opinion" is remarkably small. The figures reveal that 34% of Unionists and 29% of the 65+ age group support the proposals, thus indicating minority acceptance. We want to acknowledge that among this minority are some Methodists as well as members of other churches who are in favour of offering some kind of amnesty – drawing a line under the past and working for a better future for all of us. They are attracted by the main argument put forward of the need to face the reality of the low number of cases going on to successful prosecutions. Monies spent on taking cases through the courts is wasted and should instead be put into a restorative approach. In this paper, we accept these points as valid but they are not inconsistent with maintaining an open route to seek prosecution in the courts and inquests.
9. We have considerable difficulty with the core proposal for a general amnesty for Troubles related crimes.
- There are moral implications for an amnesty. We recognise moral compromises have already been made - for example, early prisoner releases, on-the-run letters and royal pardons - but we think that completely shutting off even the remotest possibility of a justice outcome for victims of the Troubles is a moral step too far. It closes the door for victims where the evidence is strong, thereby undermining the rule of law. Denial of access to the courts, inquests and civil investigations would be a clear breach of a citizen's rights. By including a bar on further inquests, where there has been no proper inquest provided over the years, runs the risk of preventing access to whatever facts can be established around what actually happened. New DNA evidence can unlock the past that was not available previously.
 - It is inappropriate to label efforts by victims to obtain legal justice as vexatious in situations where no proper previous legal investigation or inquest has been provided. A clear example is the Ballymurphy inquest where the new evidence presented confirmed the innocence of those who were killed by members of the security forces in 1971. Imagine the undeniable injustice if, as presently proposed, their loved ones had been denied the right to an inquest.
 - There are also extremely serious legal implications in what is proposed. In effect, 'amnesty' and 'statute of limitations' are the same. The British government is a signatory to the European Convention of Human Rights

(ECHR) and consequently can only introduce an amnesty if the “right to truth” is guaranteed. This would mean that under the Command Paper proposals, the right to truth in ECHR Article 2 would not be guaranteed. It would also be a contravention of GFA which guarantees ECHR rights to Northern Ireland.

- There is every likelihood that an imposed amnesty will be challenged in the local and European courts by legally aware groups in NI which will only prolong for more years the frustration, anger and hurt of victims.
- On what grounds is there any hope that those benefiting from a statute of limitations would be inclined to come forward and volunteer the information that victims have asked for to meet their need for significant closure? In the South African TRC model, amnesty was potentially offered after full and honest disclosure of the truth. We believe an investigation along the lines of the Kenova model would provide a similar incentive to the perpetrator to come forward to talk about the circumstances, explain what happened in reality and acknowledge the suffering on both sides.

10. We are not minded, on balance, to support the government’s proposal for a statute of limitations. We support the completion of all outstanding inquests and the extension of Operation Kenova to cover all outstanding investigations that are requested by victims. We call for a meaningful engagement with all who are concerned about Legacy and with victims in particular.

11. We propose that an independent facilitator with international recognition be appointed immediately by the British government in consultation with the Irish government for a short term intervention to assist all the legacy stakeholders to arrive by 'sufficient consensus' on a way forward out of the present impasse on the legacy process. While there is widespread opposition to the latest proposals by the Secretary of State, there is less clarity on what would attract the support of a significant majority. The task for the facilitator would be to find out from all the relevant parties and groups "What do you want in place of the Command Paper?" It would be time limited with a deadline of 31st January 2022. The outcomes would then be placed before the Secretary of State and the Irish government for implementation.

12. We believe that a failure to do all that is humanly possible to seek consensus would deepen the anger and frustration of the Northern Ireland community with long-term consequences for victims and survivors and for trust in government.”

13. We do, however, recognise the emotional and moral outrage expressed by so many in the face of the proposed amnesty. To so many victims, including those who hold out no hope of a successful prosecution, to collude in an amnesty is to betray their murdered loved one. Amnesty is perceived by victims’ families as saying that the State and Society think the loss of their loved one does not matter and is of little or no value. Those who argue for amnesty need to address this question because the state is being seen as pushing a simplistic solution with an

unreasonable, unrealistic and unacceptable appeal to victims to forfeit their right to truth and justice.

14. **Not raising expectations of prosecution.** Most victim families recognise that after 30, 40 or even 50 years the prospect of a conviction is remote especially when time is running out for all involved together with the obstacles of getting disclosure and obtaining new evidence. We need to be honest with victims and not raise unrealistic expectations. If victims cannot achieve the legal justice they desperately want, then the alternative restorative approach may become possible provided that a process can be put in place to be facilitated by an independent third party.
15. While it is unrealistic to expect all parties to the conflict to share an agreed narrative, it will be difficult to arrive at an agreed shared future and stable constitutional arrangements without a shared understanding of the past. As Maya Angelou has written: "History, despite its wrenching pain, cannot be un-lived; but if faced with courage, need not be lived again." We hope that it is still possible to invite all those responsible for the violence in the years 1969-1998 to reflect on the circumstances and factors that led to the communal suffering. Out of that collective examination and interactive reflection may come the political energy for accepting responsibility for the part they played leading to a public acknowledgement.
16. Reconciliation commissioner. We propose that the British government appoint an independent outsider to work with all the stakeholders to revitalise the reconciliation process within NI and support renewed efforts at inter-governmental, inter-party and inter-communal reconciliation. This would come into effect after the implementation of the legacy architecture on foot of the consensus building initiative set out in paragraph 11 above. The reconciliation initiative would involve back-channel efforts and a possible role for church and civil society leaders at different levels to kick start efforts of multiple and sequential acknowledgements of the hurt and suffering of their own and the other community. This could open the door to both personal and inter-communal healing and build the basis for a shared future and homeplace for us all. The process could also support parties to a deeper understanding and acknowledgement of the underlying causes of the Troubles and the grievances of each community that surfaced during those years.

Conclusions

17. It is certainly important for all of us to build a shared future but we can only do that by listening to the pain of victims, acknowledging their suffering and enabling the healing of emotional wounds.
18. Reconciliation is at the heart of all we do and proclaim in our desire for a just peace, a core part of our mission to convey Gospel values. As Methodists, we

humbly accept and acknowledge our failure to speak more loudly and to be more courageous in decisive action in opposing sectarianism over the years. We have participated in working parties on sectarianism and through our pastoral ministry we have supported families in their efforts to heal the hurt of the past. As Churches, we have not refrained from speaking the truth with courage to our own flocks and where possible speaking and acting together in the public sphere. We affirm our commitment to work further on healing inter-communal relationships. Where possible and practicable, we would wish to do so in partnership with our fellow member churches of the Irish Council of Churches and the Irish Inter-Church Meeting.

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