

# Submission by the Council on Social Responsibility of the Methodist Church in Ireland to the NIO consultation on the proposed legacy structure

## 1. Introduction

We want to remember all the 3,532 people who have died in the years of the Troubles 1968-2001 in Northern Ireland that has affected almost all families. The Eames & Bradley CGP Report (2009) broke down that number in the following way:

- 2,055 deaths [58%] from republican paramilitary groups
- 1,020 deaths [29%] from loyalist groups
- 368 deaths [10%] from security forces
- 80 persons unknown [2%]

In the 2007 edition of book of 'Lost Lives' by David McKittrick (et al), a different figure of 3,720 deaths is given but this is for a slightly longer period from 1968-2006. In addition, there were 16,209 bombings, 36,923 shootings and 47,541 people injured.

Before embarking on our considerations, we want to acknowledge the human suffering that lies behind those statistics. We have probably not been fully aware of how traumatic this has been for so many families living in Northern Ireland because it remains hidden or silent in each community. It is estimated that one in three people of all ages have been directly or indirectly affected and one third of survivors have spoken of serious suicidal thoughts. The political failure to agree a post-conflict reconciliation process means that much trauma continues unprocessed to this day and not talked about, both at an individual level for victims/survivors and at a collective societal level for each community. We don't believe collective amnesia of what happened enables all of us to move on and lift the burden of the violent past. We simply must do it with urgency.

In making this submission, we must remember and acknowledge the efforts of political leaders, officials, lawyers, NGO leaders and third parties over the years to arrive at some overall political agreement to address the issues of the past. The fact that no substantive agreement has been possible apart from the Stormont House proposals (2014: paragraphs 21-55) highlights the complexity and sensitivities involved in these issues. However, it is imperative and urgent twenty years after the signing of the Good Friday Belfast Agreement (1998) that both political and civil society leaders – including the churches - come together to set up a legacy architecture to heal and transform the hurts caused by the political violence of the Troubles.

For the next five years, this task must be earmarked as a priority if we are to prevent the pain and trauma from being transmitted unto the next generation. What we know from other conflict situations – and indeed from our own civil war history in Ireland - is that if certain horrific or unjust events are not clarified and not dealt with by wider society, especially the people impacted directly by them, then they continue to ferment under the surface and erupt in some future time. That is what happened in the past and we must not

allow that to happen again. Rather than allowing the burden of the emotional past being passed on to a future generation and some families being trapped in a cycle of bitterness, we need to do all we can to heal the open wounds and transform the past now.

### **Summary of Methodist submission**

- This submission starts with a number of principles regarding the pyramid relationship between Truth, Justice and Reconciliation which should underpin the legacy process.
- Section 3 discusses the many practical difficulties of going ahead with the Historical Investigations Unit (HIU) and recommends that this should not be the way forward, a view held by most victim groups. In place of that, we propose that serious consideration should now be given to putting a stay on prosecutions. However, before the legislation is introduced, there needs to be a series of public acknowledgement statements. Three elements need to be included in the wording of those statements from perpetrators: acknowledge the past suffering of victims with regret and remorse, respect the differing identity aspirations and a pledge to never again return to using political violence.
- Section 4 sets out four practical things that can be done for victim/survivors.
- Section 5 proposes a reconfiguration of the three units to achieve the goals of truth recovery and reconciliation.

## **2. Truth, Justice, and Reconciliation**

We write this submission in a spirit of reconciliation knowing the challenge we all face to heal the personal and communal hurt of those who lived through the political violence of thirty years and more. We believe it is not possible to move forward into the future without fully mourning what has happened to us all. In fact, many of us would like to draw a line under the past and step more quickly into the future. Regretfully, we realise this is not possible because we must not leave the wounded behind. We know from our own Methodist community that there are some who are not yet ready for any truth recovery or reconciliation initiative because the pain and open wounds are still raw. That pain has been kept private for far too long and our church communities at local level have to work harder to provide different kinds of support for those who have not yet been able to start the journey out of victimhood. We are thankful that many former members of the security forces, who served during those difficult years, are now willing with emotional support to tell their story to others about what happened. These are essential first steps in a journey to let their truth be known and not hold it privately inside.

We are encouraged to hear that many victims/survivors in the nationalist and republican communities have been on a parallel journey for some time and are ready – if the opportunity arises - to engage with their neighbours locally to talk about the terrible things that happened in the streets and rural laneways by those years of the Troubles. There are too many frozen emotional walls that have not yet melted. However, to engage with the other and rebuild local relationships torn by suspicion and intimidation cannot come overnight. It will require province-wide social and political leadership to create the reconciliation environment for socio-emotional and relational bridges to be built locally. Much has already been done and we pay tribute to the many volunteers and professional staff in victims' groups who have given of their emotional time to support healing.

Indeed, there are some of us in the Methodist community who have engaged with former Loyalist and Republican activists whom we know are ready to participate in truth recovery or reconciliation initiatives. For that to happen, the big prerequisite is for a legacy architecture to be put in place that makes it safe for them to talk about what happened in the past. Our soundings show there would be a big reluctance to take part in the proposed ICIR limited immunity procedure because it would not give sufficient protection for the truth information they can provide for fear of further prosecution. Our conversations have also shown there is a willingness by former paramilitaries to visit the impact of violence on the community and how their movement got sucked into cycles of reactive violence that went on and on. Bravely, they may be willing to talk about the futility of violence and join with victims and civil society to say that violence can never be used again for political or sectarian purposes.

Here it is worth remembering what Gusty Spence read out on behalf of the Combined Loyalist Military Command on 13<sup>th</sup> October 1994. Not only did they “offer to the loved ones of all innocent victims...abject and true remorse”, they went on to resolve firmly that “never again [should we] permit our political circumstances to degenerate into bloody warfare.” We understand that the current leadership of progressive loyalism continue to support that acknowledgement statement of the past suffering and a pledge to respect differing aspirations. If a similar statement could be made by the leadership of former republicans along similar lines, it would transform the environment for a new legacy initiative to address the terrible things that happened in the past.

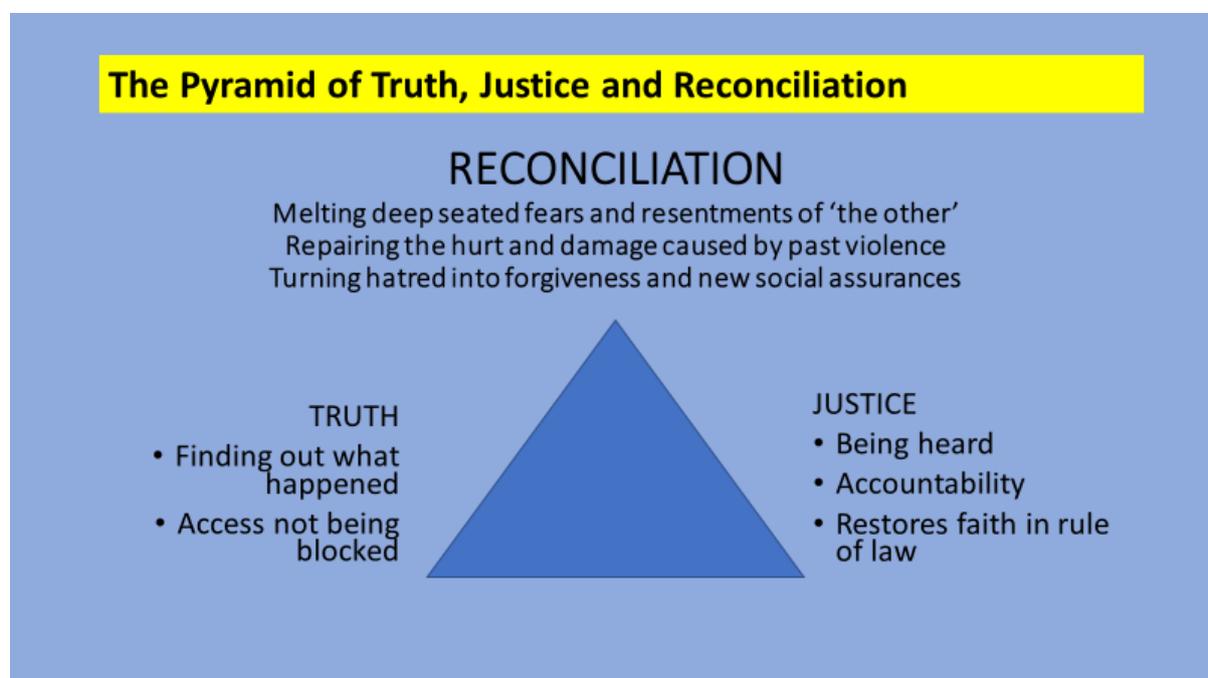
We make three key points regarding the future legacy arrangements:

- 2.1 Given this possible pent up ‘ripening moment’ being released within both our Unionist and Republican communities, we are optimistic that twenty years distant from the 1998 Agreement there could be new mature openings for victim/survivors to tell their story if safe opportunities are provided to be heard and acknowledged – something that people were not ready to do in the late 1990’s and the noughties.
- 2.2 In section 3 below, we set out our view that there is a need to switch out of a prosecution-based justice system for legacy cases. We believe it is time to stop the case-by-case criminal justice system of prosecutions, which rehearses the hurt and pain of victims with each case hitting the headlines. This would allow something different to happen. Twenty years on, it is now a time to introduce a justice-sensitive approach for healing the hurt before it is too late for those who have lived through the Troubles.
- 2.3 A significant part of this different approach will be to switch over to ‘bottom up’ micro healing spaces to support victim/survivors to find and discover the truth at their own pace through a reconfigured set of SHA units more fit for a reconciliation purpose - a societal goal that could be facilitated by our churches, community relations professionals and civil society groups. We want to see a sustained effort over the next five years, using the £150 million fund to be provided by the British and Irish governments, to bring about inter-communal healing and reconciliation. This means diverting funds earmarked for court prosecutions and legal costs into a facilitated relational justice initiative.

We believe that our own Methodist community, alongside others, could work with this refashioned legacy process at local and province-wide levels. The new understandings that will come of this approach will sustain us to make renewed efforts to reach out to hear the pain of other communities. Through being released from the past, we will be better able to move forward together to build a reconciled and just society.

### Some guiding principles for a new approach

- Each victim/survivor has their own unique point of departure for their inner journey of working through what has taken place, the process of trauma recovery, the telling of their own truth and the discovery of as much objective truth as possible about what happened.
- Recovering the truth can lead to justice and lay the foundations for reconciliation. Truth is likely to be a precondition for embracing inter-communal reconciliation. The past can be held in healthy balance with the future.



- For healing to take place, the needs of victims can be met through their sharing with perpetrators the impact of the violence on their own life and on their family. Within a safe facilitated process, this can lead to acknowledgement of the harm done by or on behalf of the perpetrator, genuine expressions of sorrow and remorse, and the seeking of forgiveness.
- Justice is critical for ensuring accountability and a renewed respect for human rights and the rule of law. However, justice must not be confused with 'revenge' or 'retribution' which are capable of reigniting individual and sectarian violations.
- A reconciliation process offers the opportunity to share in the presence of the other in a safe place the horrible things that one has experienced without fear of prosecution by the state, reprisal or retaliatory violence by those standing behind them.
- Victims struggle with forgiveness particularly when others ask them to forgive; yet it benefits the person who does the forgiving more than the person being forgiven. It frees

them up to live their life without carrying the perpetrator on their back any longer and allows them to regain their human dignity.

*[Sources: Jeremy Sarkin (2004); John Paul Lederach (1997); Christian Hohmann (2000); Alex Boraine (1999); Geoffrey Corry (2013)]*

### **3. Bringing resolution and closure for victim/survivors through a Justice-sensitive approach**

The starting point is to create a means by which the pain and loss of victim/survivors can be more suitably addressed because no legal remedy exists at present to do this. Their need is to obtain as much truth as possible about what happened and as soon as possible. This is paramount because we believe it is through truth recovery that healing occurs. Secondly, victims need to achieve a sense of justice even at this late stage many years after the event, particularly in situations where there have been no prosecutions and unlikely to be in the near future. Thirdly, we know there are deeper issues here for the Protestant community who bore the brunt of IRA violence particularly in the remote borderlands during the 70's and 80's. Those attacks that led to family loss are deeply remembered and have affected the very dignity and confidence of people living on farmlands as well as urban interface areas. Legal remedies will not repair that loss and we have to look to inter-communal reconciliation initiatives such as the stories of victim experience being heard, understood and acknowledged by the other community. It is through such truth recovery that a sense of justice as well as an acknowledgement of each other's identity can be regained. For those who say this is not real justice, we must emphasize that this should not be seen as a soft option. It is a more positive painful, tough, cathartic and emotionally healing experience than a court experience. Northern Ireland has many skilled facilitators who can assist victim/survivor groups through a province wide initiative.

In making this submission, we are coming to the conclusion that the delivery of justice for legacy cases is becoming nearly impossible. We wonder whether NI victims are fully aware of the many practical difficulties and obstacles that legacy cases are up against. Below is a list of 15 factors that operate at present and will affect the HIU if created:

- a) Lost files, records that have disappeared and degraded evidence
- b) Witnesses have died
- c) Deteriorating memories as each year goes by
- d) Denial of access to evidence and documents on grounds of state security
- e) Non-cooperation from retired police officers in the investigations on the basis that investigatory power does not stretch into the retirement years
- f) Fears from perpetrators of being prosecuted if they voluntarily give information through the ICIR about the events they know about
- g) No forensic examination is possible on IRA guns decommissioned because the evidence was destroyed in 2005.
- h) The sheer number of cases amounting to some 1,700 killings (out of 3,532) that are unsolved and need to be re-investigated will put a huge strain on the HIU and unlikely to be achieved in the five years. This does not include any victim/survivors who were injured. The majority of these re-investigations and enquiries currently underway are focused on victims of alleged State involvement which leads to a

feeling in the Protestant community that the killings of their loved one's do not receive equal time as cases on the list to be investigated.

- i) It is being said that each investigation will cost in the region of £1 million.
- j) Budgetary constraints of the UK government will limit the number of cases.
- k) The police resources and capacity are not there to carry out all those investigations which will impede the number that can go all the way into court for prosecution
- l) If police officers are brought in from England for the investigations, they may not be familiar with the unique circumstances of the Troubles
- m) Anyone convicted of a conflict related offence that occurred before 1998 will only serve two years in prison under the terms of the Good Friday Agreement.
- n) Very few historical prosecutions have succeeded in the courts and it was former Justice Minister David Ford's assessment in October 2015 that the HIU "might at best produce one or two prosecutions".
- o) Best use of time: the clock keeps on ticking away.

There is a particular issue for the Protestant unionist community in the event of prosecutions going ahead against the security forces arising out of the investigations. We believe that the principle of a two years sentence established in the Good Friday Belfast Agreement [see (m) above] should be applied across the board for everyone.

When all of these many factors are taken into account, it becomes less clear and certain how the need for truth and justice by victims can be met. As one survivor has argued: "We cannot forget the past. While I don't really see Justice as possible, it is a real injustice not being able to access the truth. I want to hear the truth around what happened and get to the bottom of things. That means documents being released or doors opened by the paramilitary gatekeepers so that victims like me can meet the perpetrator face to face to answer my questions and reveal the truth."

We believe we have a responsibility, given all the above constraints, to arrive at a pragmatic conclusion that truth recovery must become a higher priority for victims than seeking a prosecution. There is a duty of pastoral care and responsibility on us as church people to help many of the victims and survivors to accept that there is little likelihood that prosecutions will succeed and not get emotionally attached to prosecution as the only route available. It is costly both in terms of emotion and time and perhaps "mercy has to be grasped back from justice" as one of our members has said. The resources being made available by the two governments could be better used to get outcomes for healing and reconciliation through a different truth and justice process.

### **Recommendation**

After much soul searching, we believe putting a stay on prosecutions is now the best route to go at this stage so as make access to truth more immediately available in an economically efficient and timely manner. This is a crucial issue for all of us to take on board as some leading legal people in the province have already suggested. It has taken some time for us to arrive at this point. However, many new possibilities open up once we cross that particular Rubicon and look at things from this new platform:

- With victims no longer having to consider all the implications of legal proceedings, they can more freely access the truth through an official fact finding commission who can get answers to their questions (which probably have burdened them for many years).
- When victim families request family reports from police investigations into legacy cases, it should happen more speedily and in a spirit of full disclosure to achieve healing. The process by which the family report comes into the hands of victims can be provided through a family support team and not just be a clinical legal document. It can be done in a way that respects the humanity of people through a verbal interactive process.
- Former soldiers, police officers and paramilitary perpetrators will be more free to come forward with information about legacy cases because we know many of them want to do that before it is too late. That space will not open up without lifting the fear of prosecution.
- By coming face to face with the perpetrators, victims who have become stronger through the journey made inside themselves will be able to engage with the seemingly inexplicable nature of the violence. Without that engagement, the loss and trauma are less likely to be transcended and transformed. We know it is not an easy journey to make but for those who get there, it can be truly healing with dignity.

We appreciate that some victim families will find our recommendation hard to take because of the violence brought upon their family. We hear their voice: “I cannot move on. I cannot forget what happened to me and my family. I want those who perpetrated the deed to be brought to Justice and be prosecuted. I know they may only get two years in prison but they must serve time in prison.”

We acknowledge that there are some victim/survivors particularly in our Protestant community who believe that what we are proposing does the opposite, namely, not allowing justice to be done. Deep in their being, their body knows they cannot allow perpetrators with blood on their hands to walk away. It goes all against the values they have been taught through their faith. Getting justice in court has been the only route available. Emotionally, it is reassuring when shame is brought on the perpetrator as they are named in court.

However, with great respect, we have to remind victims twenty years on of the reality of the court process: while you go there to get justice, you may simply get the law - a legal process of justice that comes at the expense of healing and reconciliation. What we need at this stage of the post-Agreement peace process is relational inter-communal justice; in other words, that our rural and urban communities can restore positive social relationships and live with their neighbours through renewed relational security without fear. This could be achieved by a justice facilitated process where truth recovery and acknowledgement can unfold or break through at some point in the multiple steps of the process and when it becomes possible for the victim/survivor to sit together in a facilitated safe place. Through recovering the truth of what happened with each other, through expressing sorrow and regret, it creates the possibility and strengthens the resolve that political violence will never again be used to achieve identity aspirations. When this kind of justice is experienced, this also restores respect for the rule of law and deters similar acts in the future.

### **Sequencing steps for introducing a Justice-sensitive approach**

We propose that the first step is to appoint a Reconciliation Commission along the lines set out in Section 5(C) below to create the public environment for introducing both a victim-sensitive and a justice-sensitive approach. It would be difficult to introduce the legislation for putting a stay on prosecutions without initiating a process in the back channels to facilitate a series of acknowledgement statements coming from former republican and loyalist activists as well as from the security forces and the two governments. The formula is already there in the October 1994 CLMC ceasefire statement as recounted in Section 2 above. It needs a series of sequenced acknowledgement statements updated and expanded to speak to the current situation. Elements in the wording need to connect the past suffering with renewed remorse together with a living respect for differing aspirations and a pledge to never again return to using political violence.

We know it takes time for such re-thinking to occur but we believe much of this is already happening in the hidden background. Unfortunately, the political pre-occupation at present with the politics of Brexit does not help to release political capital and oxygen to focus on legacy issues. We are asking here in this submission a massive shift from victim/survivors to turn away from the prosecution route. This needs to be reciprocated from all the perpetrators to do the same as part of an evolving step-by-step process. Violent deeds were done through bombing and shooting the innocent in bars and hotels and on the roadside by both sides and it cannot be justified by the phrase “but this was a war”. The unionist victim community needs to hear not just a sense of atonement but to experience it as well through a justice-sensitive process. At grassroots level, we can hear voices that continue to justify the armed struggle or see marches with militarist overtones or commemorations that are experienced as an intimidation. While republicans have said quietly they have inflicted awful pain on the unionist community, if this process is going to have any value for unionist victims - and for us is underpinned by the gospel - we need to call on people to acknowledge in public their wrongdoing as part of a renewed legacy initiative.

We are conscious that some inquests have yet to be heard or completed and this could lead to prosecutions being brought against those soldiers who are accused of unlawful killings of innocent victims some thirty or forty years ago. In a similar way, if a justice-sensitive process is going to have any value for Catholic nationalist victims, there needs to be some way whereby members of the British and Northern Ireland security forces can acknowledge in public the truth of their wrongdoing as part of a parallel legacy initiative. That may involve the willingness of the accused British soldiers – or the regiment on their behalf in a collective initiative - coming forward to make acknowledgement statements. It could be simply the fact that the British Army are not aware of what actually happened as viewed by local people on the ground who experienced dreadful events and still have difficulty talking about what they saw.

In the original SHA proposals 2014, it was proposed (53) that the UK and Irish governments would consider making statements of acknowledgement at the end of the five year process through the IRG. We believe this sequence should be reversed. Acknowledgments would frontload and kick off a process of sequenced meaningful steps so as to create the environment for legislation.

Along with the British state, we think the Irish state also has an important role to play in acknowledging what happened in the past and the ordeal many Protestant unionist victims experienced with IRA active service units coming across the border during the years of the conflict. These and other experiences remain large today in the mind of many unionist victims, particularly on the border, as if it only happened yesterday.

#### 4. A victim sensitive approach

There are four practical things that can be done for victim/survivors.

##### 4.1 A pension for seriously injured victims.

We are hugely aware of the sensitivities around the issue of providing a “pension” to **all** those who have been severely injured and permanently disabled as a consequence of our years of conflict. Partly this is because of the difficulty of arriving at an agreed definition of “victim” which is a cause for serious concern.

We regret this controversy has resulted in the disallowance of a pension to a significant number of victims and survivors about whose situation there can be no disagreement. This requires urgent resolution. Their suffering is worsening as they are getting older, requiring carers and mobility assistance. Because many have been unable to work and thus unable to build up a pension, they are dependent on state benefits or the support of friends and families. The passage of time has compounded their problems because many suffer increasing physical distress as a result of deteriorating health and chronic pain. In effect, the help is to support the carers and those who have responsibility for caring.

We believe as a caring society the focus must be on the needs of those individuals who have been permanently disabled through lost limbs, physical scars, and sensory impairment. In no way must a compassionate response to actual need be construed as a reward to those clearly responsible for the pain and grief of another. We cannot hold a victim responsible for what their family member may have or not have done.

4.2 Arising from his years of field experience of working with the victims of the Enniskillen and Omagh bombs, David Bolton (2017:172) reminds us that we need to continue to hear the expression of loss and grief from victims, particularly from those whose voices have not yet been heard. This includes providing the possibility in a safe space “to think and talk about outrage, grievance, guilt, shame, injustice, forgiveness and mercy”. He calls for continued substantial public investment in Mental Health and Trauma Services that can be delivered at community level to address the traumatic stressors for individuals and families.

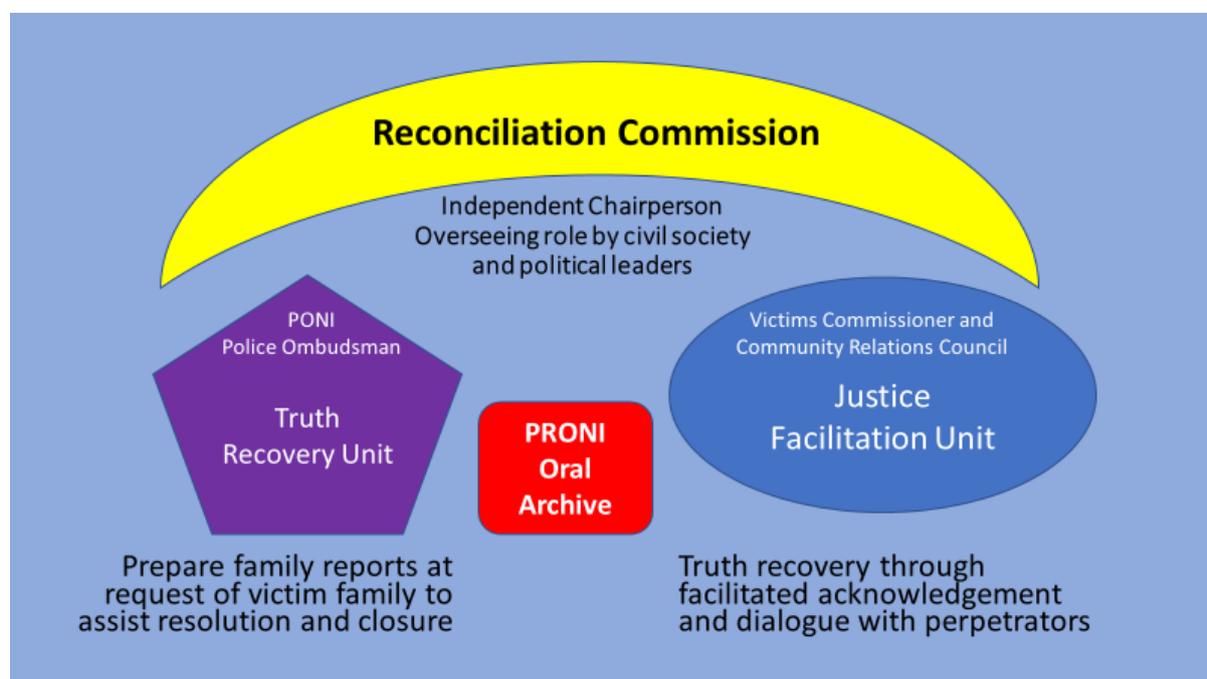
4.3 A central part of a victim-sensitive approach should be the establishment of the proposed independent PRONI Oral History Archive for families from all backgrounds to share voluntarily their experiences, their personal stories and communal narratives related to the Troubles. We will support families to share their lived experience in different formats – written statements, verbal spoken stories to an audio archive as well as to a video archive. Already, some victim organisations have done valuable work in making video recordings because people felt safe and had communal support to make such statements to camera. Consideration needs to be given on how this archive material can be made available for

peace education on an inter-communal basis for adults and young people. It is important for each community to hear the other's story.

4.4 The journalists who compiled the "Lost Lives" book (2001) have done an amazing job to bring so much detail together in an accessible format. This remains an important factual record honouring all those who have died during the Troubles and the authors are worthy of any further support that is needed to include factual corrections that arise from time to time.

4.5 Mid-summer day [21<sup>st</sup> June] has been promoted by "Healing Through Remembering" and others as a day of personal reflection and acknowledgement, as well as a day to remember all those who have died in the conflict. This event deserves more widespread recognition and needs to have state support as a national day of reflection and remembrance in both parts of Ireland and Britain.

## 5 Reconfigure the HIU, ICIR and IRG units



We propose that the NIO set up alternative units of truth recovery and justice as well as continuing with the oral archive. It may be possible to establish each unit within existing agencies so as to reduce costs and the amount of time it will take to operationalise the new legacy arrangements.

**Our Proposals sees the establishment in the first instance of the Reconciliation Commission who would then oversee the creation of two dedicated units within the new legal context where there will be a stay on prosecutions:**

- A. Truth Recovery Unit – to replace the proposal for the HIU**
- B. Justice Facilitation Unit – to replace the proposal for the ICIR**
- C. Reconciliation Commission – to replace the proposal for the IRG**

## A. Truth Recovery Unit

Rather than set up a whole new and separate organizational unit, one option is to house the Truth Recovery Unit (TRU) within PONI and under the supervision of the Police Ombudsman so as to draw on their expertise and existing set of working relationships with the PSNI. However, we recognise that a Truth Recovery Unit needs to be seen as independent to all communities and the NIO proposal that it exist separately, reporting to the NI Policing Board, would receive greater support.

A.1 Getting access to the truth. Some victims and survivors remain angry about the continued cover up on the death of a member of their family. They want to get at the truth about what happened to their parents or family members. Each fact finding investigation of a case must attempt to achieve that in a speedy manner and be clear about what evidence and reports are available so as to bring about whatever healing is possible now. This is a simple request but we appreciate the many complexities involved. Every effort must be made to overcome such difficulties.

A.2. Reports will be at the request of families. In the first instance, an investigation should only proceed when the victim's family requests it. After that, in a situation of lack of resources, the criteria set out by the NIO seems reasonable: that the selection of reviews be "balanced, proportionate, transparent, fair and equitable". Two other objective criteria for prioritising a case would be:

- In chronological order, as presently being used to review every conflict related murder
- where there is new evidence.

A.3. Will the process be able to deliver full truth recovery to victims? To date, we have seen an unwillingness of the British security agencies [Ministry of Defence, MI5, PSNI Legacy Support Unit] to provide "full disclosure" because of the need for British state security to protect the lives of undercover agents and informants. Already problems over disclosure have manifested themselves in long delays in inquests and other investigations.

In this regard, we support the new NIO proposal on an appeals process set on page 36 of the Consultation paper. That is, in the event of the Secretary of State withholding permission for the HIU/PONI not to include certain information in a family report, both the HIU Director and/or close family members of the deceased would be able to appeal that decision to the Northern Ireland High Court.

## B. Justice Facilitation Unit (JFU)

The movie "The Truth Commissioner" creates an image of one commissioner in a public hearing attempting to interview the victim and the perpetrator in the presence of each other in a semi-legal setting. This is not what is proposed.

Secondly, the original process offered by ICIR was too clinical a process for both victims and perpetrators offering little dignity or humanity. On the face of it, there is very little respect for victims when they simply receive a family report. It potentially creates a de-humanising and re-traumatising situation. It is not sufficiently interactive and humanising as a truth

recovery process. It may not provide factual and emotional closure as intended because only the victim knows the questions to which they need answers.

Specialised and highly sensitive victim emotional support will need to be provided for both the truth recovery stage under the proposed TRU as well as for those continuing on into the second phase under the JFU. Truth recovery is more than simply retrieving information and details about your family member who was shot or killed. The healing power of the truth recovery process is for the victim/survivor to make meaning out of the suffering caused by a violent event that still remains fresh in the memory. Close cooperation will be needed between the Unit's family support workers and non-political/non-partisan support groups such as Wave.

Who do we see participating in informal safe and confidential private circle events?

- Protestant/unionist and Catholic/nationalist victims of the IRA
- Mainly Catholic nationalist victims of the Loyalist paramilitaries (UVF, RHC, UDA)
- Mainly Catholic nationalist victims of the British Army and Northern Ireland security forces particularly in the early years of the conflict 1969-1976

Will the victims and families participate? We know that sessions of this kind have already been convened in cooperation with victim organisations and they have been found to be very healing for the victims involved.

Will the ex-combatants have the confidence to come forward to give information and participate now that they are not left open to prosecution? We get a sense from former soldiers, police officers as well as former IRA and loyalist activists to whom we have talked that they are now willing to take part in micro sessions of this kind provided they are bi-lateral and involved in co-designing them. Much depends on the protocols that will be drawn up between the ex-combatant groups and the JFU to operationalise these circles and encounters. One of the groups have indicated they will appoint a liaison person or interlocutor to a Unit of this kind for the period of the five years. Clearly, confidentiality and respect are important for the process to work.

B.1. The justice facilitation process will be a discrete micro process co-designed with victim families and/or with perpetrators and the organizational support group in attendance on each side if needed. It will be held in a safe confidential space under similar rules as Chatham House and convened by the JFU facilitation team after careful preparation over several weeks of meetings.

- For the victim/survivor, there is a need for them to tell their story about what happened and to have their pain and hurt understood and acknowledged by the perpetrator. After that, two key questions are important for them: Who did it? Why did they kill my husband/wife/child? They may also want to work on the deeper question: "What was it all for?"
- For the perpetrator, there is a need to clarify what happened and those things that remain unsolved or those questions unanswered to the satisfaction of the victim. Following on from that there is a need to accept responsibility for what they have done and demonstrate credible remorse. Attributing responsibility for one's actions to events beyond their control or order from a superior is hurtful for victims and unlikely to lift the burden either for the victim or the perpetrator.

B.2. We propose that this JFU body, similar to the Truth Recovery Unit (TRU), not be set up as a whole new separate organizational unit, but rather be housed within the Victims Commission under the supervision of the Victims Commissioner and draw on the existing professional networks of the Community Relations Council that go all the way down to the district Good Relations units across the province. This will reduce set up costs and allow for a speedier operationalisation of the support services. It will also give a focus to the work of each of their respective organisations to support the dedicated five years of reconciliation work.

**B.3. Getting face-to-face access to the truth**

The unit could support a face-to-face meeting between the victim and the perpetrator when there is voluntary participation on each side. This could be organised on foot of the family report or other documents being released by the TRU. Such documentation would also be available to the perpetrator in advance under whatever protocol has been agreed. Or in place of meeting the actual perpetrator, a proxy of the perpetrator may come forward from that grouping. In organising such encounters, the facilitation team will ensure the co-design of the encounter through lots of preparation because there must be no surprises.

**B.4. Inter-communal Circle event for acknowledgement**

The unit might also support the convening of a circle dialogue between victim families from one community telling their story to the other community so that their experience can be heard, understood and acknowledged. This could be between local neighbour communities or between a rural and urban community in an inter-communal exchange/encounter.

B.5. This process offers an opportunity for the churches to organize at local or diocesan/district/presbytery level for victim members of their congregations to meet victim members in the other church for deeper understanding of what happened leading towards the healing of hurts. The facilitation unit could train a team of church facilitators to lead this work and be resourced by the unit.

B.6. Enormous reconciliation challenges are posed for churches and trauma counsellors in the face of victims who find themselves in a situation where they are unable to forgive. This creates moments when difficult conversations will emerge that will go deep to a person's faith that will challenge theological fundamentals in which they have been brought up and cherish. We need to remind ourselves that the Troubles are about the interconnections between religion, cultural identity, political allegiance and land that go deep to our very being.

### **C. Reconciliation Commission (RComm)**

We see the Commission providing an overarching view of the truth recovery and justice facilitation process. The Co-Chairs have an important role to play in providing moral leadership to civil society and eliciting a political response from party leaders. We expect the two governments to also give leadership and set political time aside to support the process over the five years as it develops.

The first three years should be given to getting the three units up and running to achieve their project goals. The final two years will involve a more active time for Commission members to pull together the themes and learnings emerging from the truth recovery and facilitation units. This will prepare the way for the report from the academic historians and lay the ground for the statements of acknowledgement from the churches, civil society organisations and the two governments.

### C.1. Composition of the new Commission

- Two Independent Co-Chairs to be appointed by the UK and Irish governments.
- An agreed number of members representative of civil society groups: to include churches, trauma specialist, legal academic and political science academic.
- The Police Ombudsman and the Victims' Commissioner – either as members or “in attendance”

We see the two Co-Chairs setting up an executive team within the Commission to work with the Police Ombudsman and the Victims Commissioner to deliver the five year programme of reconciliation work.

### C.2. Independent academic report on themes

The challenge for the academic team appointed to assess the causes of the conflict is to create a historic context after fifty years that helps all communities in Northern Ireland, Britain and the Republic to understand better what happened and draw out lessons for us all. The academics are unlikely to come up with one agreed bridging narrative without some process of consensus building being put in place by the RC. Let us encourage the Commission to provide hospitality for multiple communal narratives particularly when both north and south over the next five years will be commemorating the War of Independence, the establishment of the Irish Free State, the setting up of Stormont in Northern Ireland and the subsequent Irish Civil War.

More recently, it has been suggested by emeritus Professor Henry Patterson that the work of the historians should start early on after the Commission has been established and not wait to the end of the five year period. We support his view that themes and contextual issues should be addressed by academics in the background. The report by the two foreign policy experts, Richard Haass and Meghan O'Sullivan in 2013, made a list of themes worthy of exploration.

### C.3. Statements of acknowledgement

Our hope is that the churches in Ireland through their coordinating bodies will be able to take up some similar theological challenge as given to the academic panel of reflecting on the religious dimension of the conflict that erupted on the streets fifty years ago. This could lead to an interaction between church people on the reconciliation task facing the province and encourage acts of acknowledgement of the other, our heart-felt remorse for all the violence that came from our respective communities and forgiveness for the deeds of the past. In the Methodist Church, we plan to work with our people at congregational and district level to heal the hurts of the past through prayer and living acts of reconciliation.

Dealing with the past is a sensitive issue and is viewed very differently by the political leadership of the two main communities because they want to talk about different things arising from their different perspectives of what happened in the Troubles. Our churches

experience similar difficulties and it could be an important challenge for all of our Church leaders to find a way over the next five years to agree a statement of acknowledgement and reconciliation on the past and the legacy of violence. Such an acknowledgement will need to include a recognition of what we have failed to say, do and be, as well as for our 'sins of commission'. We are aware of the significant impact of acknowledgement in South Africa, not least on the part of the pro-apartheid Dutch Reformed Church who faced up to the issue of whether apartheid was a heresy. They apologised for their compliance in that tragic period of injustice. As churches we must not ask of others what we are not prepared to do ourselves.

The greater political challenge is how civil society might be able to encourage their political leaders to go beyond their own political narrative by acknowledging the concerns, collective hurts and fears of the other side. We all know there are two communal narratives that go back into history but each side finds it difficult to accept the legitimacy of the other narrative, given all that has happened over the years – and that is not just the period of the Troubles but goes back to the events of a hundred years ago. In our view – and in our experience – people can be reconciled in spite of their irreconcilable narratives.

Nevertheless, these tasks of reconciliation remain urgent and we should be encouraging the Reconciliation Commission to enable and resource voluntary agencies and the churches to step up their reconciliation work. We believe local churches have a vital role to play here. This involves creating the interactive dialogue spaces where each community can talk to the other about their perspective on what happened and to be heard and acknowledged by the other. This dialogue could gradually build from local level up to province level over the five year period.

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## Specific response by the Methodist Church in Ireland to the 17 Questions posed in the Consultation Paper.

<p><b>1: Current system for addressing the past</b> Do you consider that maintaining the current system for dealing with the issues of the past through legacy inquests, PSNI and OPONI investigations is the right approach? Or do you think there is a need for reform?</p> <p><i>A new approach is needed that goes beyond the current system – see our proposals above. As an all-island church, we accept the challenge to offer a deeper reconciliation approach to heal the wounds and hurts that goes further than provided under the proposed four units.</i></p>	<p>No</p> <p>Yes</p>
<p><b>2: Stormont House Agreement proposals - engagement with legacy institutions</b> Does the proposed approach help to ensure all groups of people can effectively engage with the legacy institutions?</p> <p><i>We have proposed an additional number of principles in section 2 of our submission to lay out the basis for the truth recovery and justice facilitation process.</i></p>	<p>Yes</p>
<p><b>3: HIU remit</b> Should the HIU's remit also include deaths which took place between the signing of the Belfast Agreement on 10 April 1998 and 31 March 2004?</p> <p><i>Priority should be given to deaths that took place in the period 1968 to 1998 and if investigation capacity is available this would then be extended to six years after 1998.</i></p>	<p>Yes</p>
<p><b>4: HIU - Director assessing previous investigations and deciding whether further investigation is needed</b> Do you think that the process set out above is the right way to assess whether an investigation into a Troubles-related death has taken place or whether investigation is needed?</p> <p><i>Given that we are proposing that there will be a stay on prosecutions, there will not be a need for a HIU to operate at that high level and the legal work will be at a lower level of information. We are therefore proposing no appointment of a HUI Director but the work will now be subsumed into the PONI office.</i></p>	<p>No</p>
<p><b>5: HIU - disclosure appeals mechanism</b> Do you think that the proposed mechanism to appeal disclosure decisions to a judge provides adequate opportunity to challenge decisions by the UK Government to protect information?</p>	<p>Yes</p>
<p><b>6: HIU - overall view</b> Does the HIU provide a method to take forward investigations into outstanding Troubles-related deaths in a proportionate, victim-centred manner with an appropriate structure and safeguards?</p>	<p>Yes</p>
<p><b>7: Independent Commission on Information Retrieval</b></p>	

<p>What actions could the ICIR take to support families who seek information about the death of their loved one?</p> <p><i>We do not accept the ICIR process as it is too clinical a process for the victim and does not encourage the perpetrator to come forward to share information from their perspective. We are making a new proposal for a Justice Facilitation unit to support a micro truth recovery process co-designed with victim and ex-combatant/perpetrator groups.</i></p>	
<p><b>8: Independent Commission on Information Retrieval</b> Do you think the ICIR is structured correctly, with the right powers and protections, in a way that would provide victims and survivors with the chance to seek and receive information about the deaths of their loved one?</p> <p><i>See our proposals to put a stay on prosecutions and to design an alternative process.</i></p>	<b>No</b>
<p><b>9: Oral History Archive</b> Do you think that the Oral History Archive proposals provide an appropriate method for people from all backgrounds to share their experiences of the Troubles in order to create a valuable resource for future generations?</p>	<b>Yes</b>
<p><b>10: Oral History Archive</b> What steps could be taken to ensure that people who want to share their experiences of the Troubles know about the Archive and are encouraged to record their stories?</p> <p><i>We will encourage our church members to take part in the archive</i></p>	
<p><b>11: Commissioning the academic report on themes and patterns</b> Do you think that the ESRC should be engaged to commission the academic work on patterns and themes to ensure independence, impartiality and best practice in academic research?</p>	<b>Yes</b>
<p><b>12: Implementation and Reconciliation Group</b> Do you think the IRG is appropriately structured to allow it to review the work of the legacy institutions, to commission an independent academic report and promote reconciliation?</p> <p><i>We propose a more inclusive composition of the group to include the churches and civil society leaders and to increase its status as a Reconciliation Commission so as to provide stronger leadership on the healing of wounds.</i></p>	<b>No</b>
<p><b>13: Stormont House Agreement proposals - overall view</b> Do you think that the package of measures proposed by the Stormont House Agreement provides an appropriately balanced and planned way to move Northern Ireland forward that can command the confidence of the community?</p> <p><i>We propose a less legal process and a more humanising and healing process appropriate to the needs of victims and perpetrators now that we are 20 years distant from the Good Friday Belfast Agreement. We sense that society is more ready for an alternative and more micro process that can happen at an inter-communal level.</i></p>	<b>No</b>

<p><b>14: Other views on the past</b>  <b>Do you have any views on different ways to address the legacy of Northern Ireland's past, not outlined in this consultation paper?</b></p> <p><i>Please see our proposals for reconfigure the HIU, ICIR and IRG.</i></p>	<p><b>Yes</b></p>
<p><b>15: Impact of the current system</b>  What are your views on the impact of the current system for addressing the past (as outlined in Part one) for different groups as described by Section 75 of the Northern Ireland Act 1998?</p> <p><i>Our proposals enable Protestant victims of IRA violence to be more fully heard and acknowledged with opportunities for inter-communal encounter.</i></p>	<p><b>Yes</b></p>
<p><b>16: Impact of the Stormont House Agreement proposals</b>  What are your views on the impact of the Stormont House Agreement proposals (as outlined in Part two) for different groups as described by Section 75 of the Northern Ireland Act 1998?</p> <p><i>While our proposals are offered with a concern for ALL victims, we believe they will enable Protestant victims of IRA violence to be more fully heard and acknowledged with opportunities for inter-communal encounter.</i></p>	<p><b>Yes</b></p>
<p><b>17: Opportunity to promote equality of opportunity or good relations</b>  Is there an opportunity to better promote equality of opportunity or good relations?</p>	<p><b>Yes</b></p>

18<sup>th</sup> September 2018