



Making Peace with the Past:

Options for truth recovery regarding the conflict in and about Northern Ireland

Executive Summary

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MAKING PEACE WITH THE PAST

OPTIONS FOR TRUTH RECOVERY REGARDING THE CONFLICT IN AND ABOUT NORTHERN IRELAND

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This document is the executive summary of *Making Peace with the Past: Options for truth recovery regarding the conflict in and about Northern Ireland*. The report was developed by the following members of the Healing Through Remembering Truth Recovery and Acknowledgement Sub Group

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Healing Through Remembering

Healing Through Remembering is a project which emerged from discussions held in 1999 with a range of individuals concerning the issue of dealing with the past. The project was formally launched in 2001, and the first focus was a consultation based on the question:

How should people remember the events connected with the conflict in and about Northern Ireland and in so doing, individually and collectively contribute to the healing of the wounds of society?

The Report on this consultation was published in 2002. This led to the establishment of sub groups to work on each of five recommendations identified in the Report: Storytelling, Day of Reflection, Living Memorial Museum, Network of Commemoration and Remembering Projects, and Truth Recovery and Acknowledgement.

This latest report, *Making Peace with the Past*, has been produced by the Sub Group on Truth Recovery and Acknowledgement.

Truth Recovery and Acknowledgement Sub Group

The Truth Recovery and Acknowledgement Sub Group was established in August 2004. Its membership comprises a diverse range of individuals acting in a personal capacity, including people from loyalist, republican, British Army, and police backgrounds, as well as individuals from different faith backgrounds, victims groups, academics, and community activists.

Healing Through Remembering and the Truth Recovery and Acknowledgement Sub Group present this report in the hope of fostering further discussion among all interested parties on options for making peace with the past.

Making peace with the past

The question of how to deal with the past in relation to the conflict in and about Northern Ireland evokes strong and conflicting emotions. The question is often associated with South Africa's Truth and Reconciliation Commission, and many advocate or reject the idea of truth recovery according to what they believe about the South African model. This report challenges this approach and expands the discussion beyond the South African case to other international experiences. Specifically, the *Making Peace with the Past* document suggests five different options with regard to truth recovery (including one which explores drawing a line under the past), and describes how each of these options might help to meet different needs.

The options proposed are the product of a group of people whose experiences as victims, combatants, and members of civil society and local communities encompass many of the conflicting points of view brought together by the Healing Through Remembering Initiative. This group of individuals known as the Truth Recovery and Acknowledgment Sub Group met over the last two years, commissioned studies, considered local and international viewpoints, and discussed options for truth recovery in depth. The members considered the many recent and ongoing inquiries and initiatives which are part of the process of truth recovery, such as the Bloody Sunday Inquiry, the post-Cory inquiries, the work of the Police Ombudsman, the Patten Commission, the Historical Enquiries Team, the Stalker Inquiry, and so forth. The Sub Group also considered other truth-related issues such as the wrangling over the so-called "On The Run" Legislation and ongoing revelations and allegations about collusion. Consideration of all these developments reinforced the Sub Group's view that, however one views the issue of truth recovery, the past continues to destabilise the present.

In addition to considering local developments, the Sub Group studied the international legal context including international courts and tribunals, as well as models of truth recovery used over recent years in many countries, including Chile, East Timor, Argentina, Guatemala, Rwanda, South Africa, and Uganda. As a result of these deliberations, the Sub Group agreed on a range of options which could be used singly or in combination to begin to meet the diverse needs and realities of truth recovery related to the conflict in and about Northern Ireland. The options are grounded in a comprehensive review of available evidence and are presented for public discussion to facilitate the debate on dealing with the past.

Over the past 30 years the conflict in and about Northern Ireland has resulted in enormous levels of trauma, distress, and suffering. In recent years, the political situation has changed significantly, and many people are anxious to find a way to make sense of the past and look towards the future.

Some people are fearful of any process to determine the truth about the past. Some are apprehensive because of what they and others have done or experienced. Others are worried that the process might only open old wounds without resolving anything; and some people are concerned that the fragile peace process and any chance of political progress may be jeopardised. Others are anxious that there will be no attempt to deal with the past, and that instead, the violence and injustices will be allowed to fester, or take on the appearance of having been normal, justifiable, and acceptable.

In such a conflicted situation, with high emotional, social, and political stakes, it can seem threatening even to discuss these questions. The legacy of the conflict includes lack of trust in the “other side”, ingrained pessimism about whether change is possible, and cynicism about the motivation of other actors. These concerns and the associated issues are explored in depth in this report. Without movement towards an agreed process, the suffering and conflict will not be acknowledged, still less resolved.

This report is the product of just such an agreed process, in which people with very different experiences and political and cultural viewpoints found the space and the will to discuss many options for truth recovery. Agreement was reached on five options of potential utility. The Sub Group also identified ways in which the various players involved had to change and to build trust and confidence with opponents. That such a diverse group was able to discuss and agree on alternative ways forward suggests that society as a whole may be able to engage in a purposeful consideration of these issues provided the necessary structures and processes are put in place.

The aims of this report are to:

- Broaden and deepen the public debate on the important issue of truth recovery;
- Increase awareness of the different ways people have tried to deal with the past, in a variety of conflict situations, and how their approaches have worked;
- Critique the assumption that a single truth-recovery model must be selected, by describing different approaches which could be used singly or in combination;
- Identify broad principles and values which are likely to frame any process of truth recovery;
- Offer options for truth recovery with regards to the conflict in and about Northern Ireland in a complex, nuanced way, including alternative ways of dealing with a variety of needs;
- Describe practical issues and likely reactions to different options; and
- Offer for public debate and scrutiny five options for truth recovery that hopefully can provide a basis for moving the “dealing with the past” debate forward.

The options

Based on extensive research into a broad range of international contexts, Healing Through Remembering has identified five options which might be applicable to dealing with the consequences of the conflict in and about Northern Ireland:

- “Drawing a Line Under the Past”
- Internal Organisational Investigations
- Community-Based “Bottom-Up” Truth Recovery
- A Truth-Recovery Commission
- A Commission of Historical Clarification

Healing Through Remembering has described and assessed each option in the light of the following:

- Different interpretations of “truth”;
- Broad principles for processes of truth recovery;
- Purposes of truth recovery; and
- Likely advantages, disadvantages, and reactions to each model.

The purposes of truth-recovery mechanisms

While some may feel that no truth-recovery process is needed in the context of the conflict in and about Northern Ireland (see Option 1 below), on the basis of international experiences, a number of useful reasons have emerged for an engagement in some form of truth recovery in the wake of violent conflict. These include:

- To make known the truth, in all its forms, about the conflict;
- To take seriously the needs of victims from all sections of the community;
- To increase understanding of the conflict and the systems which underlay it, and the consequent need for political processes which accommodate different and competing political and national traditions;
- To build in society the capacity to distinguish the truth of the past from lies about it, which will serve in building a stable political future;
- To learn lessons about the past in order to guard against future conflict;
- To broaden ownership of and responsibility for the process of conflict transformation;
- To hold accountable those inside and outside the jurisdiction who played a part in the conflict; and
- To explore conditions under which political actors can nurture greater trust, confidence, and generosity towards each other.

In addition, where a truth-recovery process is established, lessons from international evidence suggest it should also be based on the following principles:

a. **Prioritising the needs of victims** is broadly accepted as a key principle in dealing with the past. This serves as a reminder that “moving on” is not the main priority, at least not until victims’ needs have been addressed.

b. The aim is **recovery** of truth, not the imposition of false reconciliation. Victims should not be under pressure to forgive, nor should ex-combatants be required to be contrite.

c. The broad legal principle is that individuals have the **right to a remedy**; that is, the right to have wrongs reversed or replaced if possible,¹ and to have grievances addressed and injustices ended. In any case, transitional or peace processes must not allow injustices or violations of rights to continue.

d. International courts consistently order or recommend **reparations**, usually in the form of financial compensation. Increasingly, international bodies are recommending other forms of reparation, including public apologies or appropriate commemoration of the dead and injured. Broadly, there is acceptance of a variety of forms of restitution, compensation, rehabilitation, and “satisfaction” to recompense victims, knowing that such measures can never make up for what happened to victims. Reparations and compensation is seen both as a moral imperative and as a sound basis for reconciliation.

e. International legal standards reflect the notion that there is an arguable **right to truth**. That right is often expressed in order to ensure both that perpetrators do not enjoy impunity from being held to account and that the rights of victims are protected. This right is seen to be both an individual and a societal right; that is, individuals have the right to know the truth about their individual cases, and society has the right to know about the patterns and systems which permitted or fostered victimisation and violations of human rights. As will be seen in the analysis of individual models of truth recovery, there may sometimes be conflict between discovering truth about events for the individual, and acknowledging the role in the conflict of political, social, and economic institutions. While conflicted societies often continue to argue about the causes of conflict, what actually happened, and its significance to the society, a process of truth recovery should dramatically increase society’s understanding and acceptance of the facts, and severely limit the possibilities of lying about or wilfully misinterpreting history.

f. While some form of amnesty has often featured as an element of the broader post-conflict reconciliation packages, in recent years such amnesties are increasingly circumscribed by international legal standards. This means, for example, that blanket amnesties of specified groups of actors over a particular timeframe of conflict are not lawful under international law. Similarly, crimes which are deemed so serious as to be “international” in nature (e.g. genocide, crimes against humanity) cannot be lawfully amnestied. That said, where states are involved in “genuine” efforts at national reconciliation or reconstruction which may involve forsaking prosecutions in lieu of truth recovery, they are given considerable latitude, providing such efforts are not a mask for an unwillingness to prosecute.

g. Any truth-recovery mechanism or process must be, and be accepted as, **independent** of the state, combatant groups, political parties, civil society, and economic interests.

¹ There may be legal remedies in the case of seizure of property, for example, or revocation of citizenship, while this is unlikely in cases of death, torture, or illegal imprisonment.

Options for truth recovery regarding the conflict in and about Northern Ireland²

Below are the five options developed by the Truth Recovery and Acknowledgement Sub Group for discussion. They are presented here and in the *Making the Peace with the Past* document as discrete options. However, the debate that follows this report may consider how they might be developed or changed, and what might be transferable between options, thus developing, if necessary, new options.

Option 1: “Drawing a Line Under the Past”

The “drawing a line under the past” or the “do nothing else” option would mean that the ongoing patchwork of processes would continue. However, no additional formal steps would be taken towards a process of truth recovery. Those who favour this option believe that any process of truth recovery is not necessary, is not possible at this time, or is likely to:

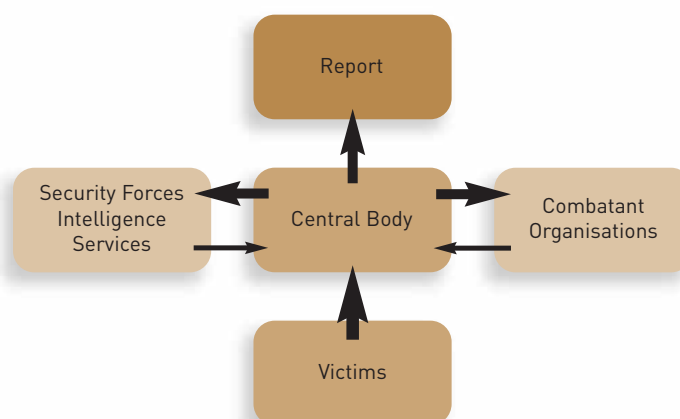
- Open old wounds without resolving anything;
- Destabilise the already fragile political system; and
- Criminalise those who were actively involved in violence, without changing the systems and structures which gave rise to and encouraged the conflict.

Discussion: The absence of an official process to establish a broader “social truth” would mean that the ongoing patchwork of truth recovery (e.g. the various post-Cory inquiries, the work of the Historical Enquiries Team, the work of the Office of the Police Ombudsman, individual cases before the courts, and disclosures from former informers and agents) would continue.

Option 2: Internal Organisational Investigations

In this option, organisations which have been involved in acts of violence take primary responsibility for assisting as much as possible in providing victims with the truth about what happened to their loved ones. The organisations would become involved voluntarily, in order to meet victims’ requests for information, and would build on their experience in conducting internal investigations. A variety of possible formats, including tribunals or investigations by group members at an internal level, could be available.

Option 2: Internal Organisational Investigations



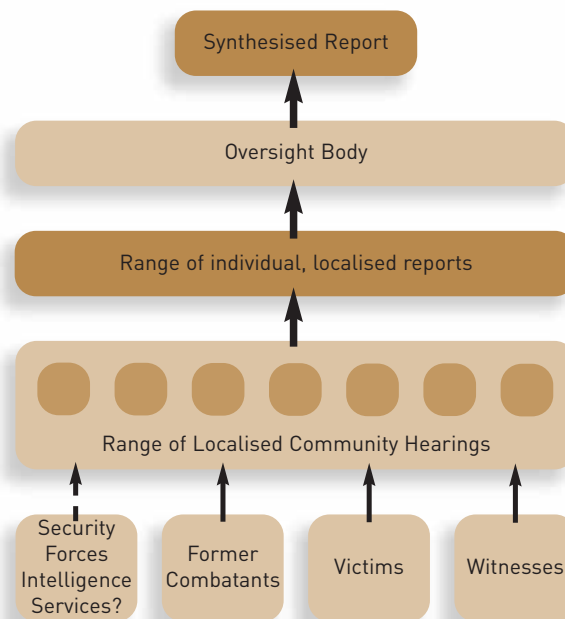
Discussion: This option could provide ex-combatants and the security forces with the opportunity to make a commitment to healing and reconciliation. At the same time, there might be considerable public mistrust of organisations investigating incidents in which they themselves had been involved. This option might deliver information about what happened to individuals, if victims and families were prepared to ask for investigations. It would not lead to prosecution or the naming of names, nor would it directly help in transforming institutions or political leadership. However, a willingness to participate in such a process might show some commitment to trying to resolve past grievances.

Option 3: Community-Based “Bottom-Up” Truth Recovery

There are existing models of communities devising and carrying out their own forms of truth recovery. The involvement of local people in collecting and documenting local truth would take advantage of this skills base, and would itself be a mechanism for communal healing and reconciliation. This model could take into account structural issues, combine with storytelling and local history as well as “top-down” truth recovery, and could vary from one community to another. It could give voice to victims and marginalised communities, record previously untold stories, underline the validity of different experiences between and within communities, and emphasise the importance of individual and grassroots experiences, thus providing an alternative to dominant “macro” narratives.

² See Chapter Four of *Making Peace with the Past* for a detailed description and analysis of each of these options.

Option 3: Community-Based “Bottom-Up” Truth Recovery

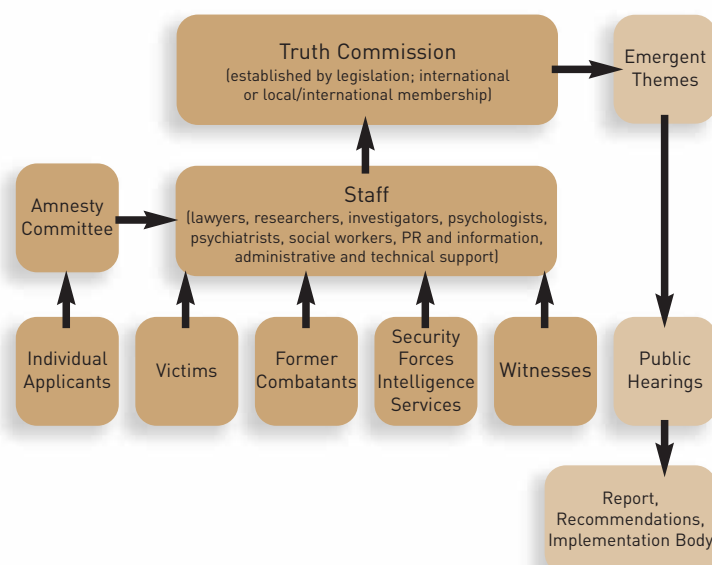


Discussion: “Bottom-up” truth recovery may promote community development, open up space for reflection, and resonate with other ongoing activities such as storytelling and community testimony. It offers particular possibilities of healing when there are internal communal divisions. Such deliberations could in turn feed into a broader societal process of truth recovery, whether or not there was a formal, state-sponsored mechanism. As a localised mechanism, it risks varying greatly from one community to another, or focusing within single identities, and therefore not holding to account all institutions and protagonists. This option would not lead to prosecution or the naming of names, but a broad collection of stories and narratives about the past.

Option 4: Truth-recovery Commission

Such a commission would focus on events of the past over a specified period of time. It would explore the causes, context, and consequences of violence as well as examine specific events and patterns. Set up by legislation by the Irish and British governments, with independence from both, it would have the power to compel witnesses, grant amnesty, recommend prosecution, order reparations, and present a report with recommendations. A Truth-recovery Commission could build on the truth-recovery work that has already taken place, but do so in a much more inclusive fashion, which would not only cover a broader range of incidents, but also find, investigate, and document events in a broader framework of the causes, nature, context, and consequences of violence. Such a Commission would collect testimony from victims. It could also try and persuade those that committed acts of violence to reveal information by, for example, offering to expunge criminal records or a guarantee against future prosecutions in exchange for truth telling.

Option 4: Truth-recovery Commission

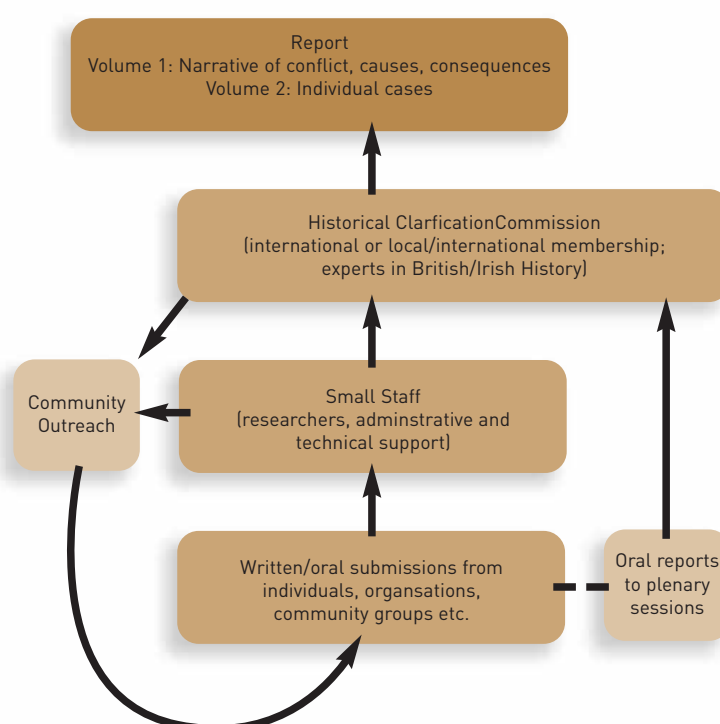


Discussion: This would be a practical and symbolic expression of the willingness of society to deal with its violent past as part of the transition to becoming a more inclusive society. It offers the possibility to document individual events, as well as organisational and institutional aspects of the conflict. It could have both “carrots” and “sticks” to reach the truth. Such a commission need not be exactly like the South African Truth and Reconciliation Commission, nor exactly like any of the previous inquiries here in Northern Ireland. It would work best if it were independent, included eminent international figures, avoided an overly adversarial and legalistic way of working, and saw itself as part of the wider process of making peace with the past rather than the only vehicle. Whether it could be established, and succeed, would depend greatly on the trust, participation and confidence of victims, ex-combatants, and institutions within society to participate in it.

Option 5: A Commission of Historical Clarification

The primary focus of this option is historical, the causes of conflict, with less emphasis on either victims or those who had been involved in past acts of violence. The focus would be on devising an independent, authoritative, historical narrative about what occurred during the conflict and why, in order to encourage a broader sense of collective (rather than individual) responsibility for what happened. An agreed narrative would limit misperceptions and disagreements about what actually happened, and thus help to prevent future cycles of violence based on grudges and manipulation. This narrative would be developed by an independent body over a period of time.

Option 5: Commission of Historical Clarification



Discussion: This option would probably generate less political opposition, be less expensive, and could be the start of a broader public debate on what happened. It would produce a report, and could make recommendations. However, this type of Commission would have no evidentiary powers, no power to compel witnesses, grant amnesty, or prosecute, so it would not enable individuals to discover what happened in particular incidents, nor would it be able to name names or push for prosecution. Also, it would be unlikely to meet the needs of victims, and would risk seeming distant and scholarly, both of which would limit public ownership of its results.

Conclusion

The *Making Peace with the Past* document from Healing Through Remembering is not designed to offer a definitive view on how or whether Northern Ireland should have some form of truth-recovery process. Indeed, considerable attention has been given to considering the option of not introducing any new form of institutional truth-recovery process beyond the ongoing initiatives. Rather, this report is intended to provide sufficient detail and context to help focus the debate concerning truth recovery regarding the conflict in and about Northern Ireland on realistic options for the future.

The report presents five options for truth recovery and it is hoped that, through public debate and consultation, this will lead to the development of a method for dealing with the past by either drawing on the options presented here to create a new option, or to a specific approach being adopted. Combinations of options should be considered, as well as changes to the options presented. Considering such developments should not, however, preclude the option of agreeing to “draw a line in the sand”. It is hoped this report will lead to informed and dynamic debate. The process of producing this report is also a sign of hope and, in our view, proof positive that people from very diverse backgrounds, and holding very different points of view, can have a reasoned debate on this difficult and emotive topic.

Of course, any process of truth recovery could become a place in which competing versions of history would be strongly advocated by the various protagonists. Truth recovery is not, however, a political “free-for-all”. Instead, formalised truth recovery usually entails a systemic attempt to uncover, research, record, and validate as much as possible what actually happened. An objective and respected source of truth narrows the capacity of politicians, ex-combatants, victims or other actors to simply assert partial or untrue versions of history.

The absence of trust has been widely viewed as core to the stop start nature of the peace process in and about Northern Ireland. For advocates of truth recovery, it is precisely the capacity to distinguish between the truth and the lies of the past that is required to build the trust required for a stable political future. One of the features of engagement in truth recovery in other contexts has been the notion that individual and national engagement in such a process contributed to a greater spirit of political generosity amongst the political protagonists. At its best, this is evidenced by diminution in absolute moral certainties concerning the past actions of “their side”, and a concurrent greater willingness to see beyond the victimhood of one’s own community to countenance the suffering of the “other”. Despite appearances to the contrary, all of the main political actors in Northern Ireland have shown themselves capable of generosity to political opponents, both within and without their own communities. Again, for those who support truth recovery this is its key virtue; it exposes the myth of blamelessness. In doing so, it would also provide both a context and a framework to build upon and embed the notion that political generosity is required for the good of our society as a whole.

Finally, across all sectors in society there is a widespread consensus on the desirability of processes and structures which prioritise the needs of victims. If we accept that many victims want to know the truth about what happened to them or their loved ones and why, then there is a moral imperative for all of us affected by the conflict to engage seriously in a debate on truth recovery.

This executive summary is taken from *Making Peace with the Past: Options for truth recovery regarding the conflict in and about Northern Ireland*. Copies of the full document are available to order from Healing Through Remembering or to download from www.healingthroughremembering.org.



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