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Fintan O’Toole: Conditional Troubles amnesty is the best option left

There will be no justice for victims and the bereaved. But we can at least have the truth

In the anatomy of contemporary European savagery, the Troubles in Northern Ireland barely register as a pin prick. What is 3,500 deaths over 30 years when we think of 100,000 over three years in the war in Bosnia? But what marked the Troubles is not the scale of suffering but its intensity. It happened, not just in a small society, but disproportionately at the blandly euphemised “interfaces”. Even leaving aside the atrocities perpetrated in Dublin, Monaghan, Birmingham, Guildford and other places outside Northern Ireland, there were 16,209 bombings, 36,923 shootings and 47,541 people injured.

The Methodist Church has estimated that one in three people of all ages in Northern Ireland have been directly or indirectly affected by this violence. Within the most affected areas, the proportion must be far higher. And while the needs of the victims are paramount, there is also trauma for those who inflicted violence and for their families.
Almost none of this has been dealt with. It is 22 years since the Belfast Agreement stressed that “it is essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation”. It is 14 years since the St Andrew’s Agreement and five years since the Stormont House Agreement, both of which promised to create processes to do just that. With rare and very specific exceptions (the Bloody Sunday inquiry being the obvious example), most victims have been left to wander as characters in a story that has no end, no moment of truth, no justice.

The first step out of this maze is to face the bitter fact that the criminal and judicial systems cannot and will not ever provide that ending. There are about 1,700 unsolved murders and tens of thousands of other acts of extreme violence that left people with life-changing physical and psychological injuries. The Historical Inquiries Team that was supposed to investigate these incidents has been disbanded. Key evidence (decommissioned weapons, British state secrets) cannot be used. Even if British soldiers or members of parliamentary groups or security forces are brought to trial, those trials will be seen by one side or another as selective justice. They will produce whataboutery, not reconciliation.

And anyone convicted of a Troubles-related offence, including multiple murders, that occurred between 1973 and 1998, will, under the Belfast Agreement, serve a maximum of two years in prison – a sentence so disproportionate to the crime that it may be seen as devaluing, rather than honouring, the life of the victim.

If we stop pretending that police inquiries and trials are going to bring justice and reconciliation, the way forward becomes clear. It is set out in a very important proposal by John Green, who as chairman of the Glasnevin Trust, has done superb work on the creation of public memory of conflict in Ireland, and by the historian Pádraig Yeates. It has been submitted to the House of Commons Select Committee on Northern Ireland, which is considering the British government’s new (and deeply flawed) proposals on “addressing the legacy of Northern Ireland’s past”.

The proposal (which I have signed, along with many others) is a product of widespread consultation with victims, with combatants from all sides and with people in politics and academia. The nub of it is conditional amnesty: a system in which those with personal knowledge of violent incidents can give that information to the victims and their families without fear of prosecution. It is a hard-headed exchange: truth for amnesty.

The proposal is to establish a reconciliation commission, headed by a mutually agreed international chairperson, or two senior British and Irish judges. Under this commission, there would be two implementation bodies, one aimed at “truth recovery”, the other at “justice facilitation”. The first, staffed by independent professional civilian investigators, would gather and verify information from all available sources, including perpetrators. (Perpetrators who do not avail of the conditional amnesty would remain at risk of prosecution should their offences subsequently come to light.) The second would help victims and bereaved families to access and deal with this information in a way that is most dignified and sensitive to their trauma. There are already good models for doing this developed, for example, by Wave Trauma Centre.

This is not a soft option for anyone. It is not easy for those who committed acts of violence to burst the self-protective bubbles of justification that surrounds them. It is not easy for victims and the bereaved to go through a process that brings all the pain of bereavement or life-altering injury to the surface. And it is not easy for governments to formally give up on the idea that tens of thousands of violent crimes can be effectively written off.

But all the other options are worse. Selective amnesties (for example, for British soldiers) are repulsive. Inquiries into this or that atrocity merely generate more resentment about those that are being ignored. Maintaining the fiction that the police and the courts will ever resolve these crimes is cruelly dishonest. And simply letting all of the hurt continue to fester makes individual and collective healing impossible. Historical memory abhors vacuums – either this space is filled with truth or it will be occupied by dangerous evasions.