

The Proposal and Process

Proposal

1. An independent Agency will be appointed jointly by the British and Irish governments. (It should be headed by a senior Judge(s) – but not one who is currently serving in either the UK or RoI. Ideally, it should be someone without any connections to either government. Maybe they would agree to have some international body such as EU, ECHR or ICC oversee it.)
2. A team of trained Mediation officers will be appointed to facilitate the process. (Initially numbers would be small.)
3. The principle is that the Process is voluntary and on a pilot basis. However, those who enter the pilot scheme and meet the requirements would receive amnesties if they meet the conditions set out below, even if the scheme is wound up.

Process

1. The former combatant approaches the Agency with an offer of disclosure.
2. The Agency has a Questionnaire the former combatant is required to fill out.
3. The former combatant must state what happened. When, Where, Why, How and to Whom? (If they know the identities of the victims/survivors, which in some cases they may not.)
4. They must make it clear if they are making an application on behalf of themselves or a group. If the latter they must provide proof of this through some accompanying documentation that can be independently verified showing the consent of the other parties. (While group applications may be less likely to occur, they would remove certain limitations on the disclosure process that arise where individuals are acting on their own behalf.)
5. The contents of the application cannot be disclosed to any law enforcement agency, or other third party.
6. Nothing disclosed by the applicant(s) either intentionally, or inadvertently can be used to investigate or prosecute another individual or group.
7. Nothing disclosed by the applicant(s) either intentionally, or inadvertently can be used as the basis for a civil action for reparations or other damages or loss by victims/survivors. (Basically, any damages would be paid by the state.)
8. The identity of the applicant(s) will remain confidential in the initial phase of the process and may remain so where its disclosure might have repercussions for their own family members. This might be a particular problem where injuries and deaths arose within communities as a result of intra-paramilitary conflicts.

9. Penalties only arise in the case of false statements. Such penalties should be significant enough to discourage cranks, attention seekers and malicious declarations.
10. It will be a criminal offence to disclose any information submitted by an applicant without their prior knowledge and consent.
11. Having received an application and satisfied itself as to the applicant's bona fides, the Agency will appoint a Mediation Officer to approach victims/survivors to notify them of the nature of the information received and ask them if they wish to engage with the former combatant. If so, on what basis?
12. Where the victims/survivors, or some of them in the case of groups, wish to engage, they would meet with the Mediation Officer initially to discuss the basis of the engagement. The first phase of the engagement would be through the Mediation Officer who would decide if, and when it would be appropriate for the parties to meet face to face.
13. The Mediation Officer will design protocols based on the discussions with the former combatants and victims which both sides would be required to sign off on to enable the Process to move to the next stage. In the early phases of the programme this would be, inevitably, on a trial and error basis but drawing on best practice elsewhere.
14. The Mediation Officer would also have to consider the most appropriate conditions under which both sides would meet. Factors could include the state of health of the parties and whether both parties lived in the same jurisdiction. If the number of victims/survivors is large they might need to meet separately with former combatant(s), or in small groups. Factors such as mobility/disability/age/mental capacity might arise for some victims/survivors and indeed some former combatants.
15. Transportation, accommodation and other expenses should be available with an agreed tariff.
16. The Mediation Officer would have discretion on whether to recommend counselling and other supports for victims/survivors or former combatants. Like travel expenses this would be paid for by the government(s) on the basis of an agreed tariff.
17. To give some sort of finality to the process there would be a requirement for both sides to respond within specified time frames to each phase. Perhaps it could be three months for victims/survivors to respond to the initial contact from the Mediation Officer and nine months for the engagement process. Should the victims/survivors wish to withdraw from or suspend the engagement with the former combatant(s) they should be granted a three months period of reflection. However, the overall process would not take more than 15 months, except by the mutual agreement of the former combatant(s) and victims/survivors.
18. Whether the parties engage face to face or not, the aim of the process is to agree a **Joint Statement of Reconciliation*** whenever possible. Where the process is not

- completed it would be open to each party to make a statement providing their own understanding of what transpired. This would be made available to the other side.
19. Publication of all statements would be subject to mutual agreement by all parties.
 20. Both sides would undertake to provide an account of the incident(s) and to having their account checked against other sources such as newspapers, eyewitnesses and other participants in the process.
 21. The Mediation Officer would be given full access to official documents, including army and police records, to ensure the account is as full and accurate as possible. In particularly sensitive instances this task could be undertaken by the Judge(s) appointed to oversee the Process
 22. Where the former combatant(s) and victims/survivors could not reach agreement on joint disclosure their records would be placed in a secure archive that could not be opened until all the participants had died, or subsequently consented to publication.
 23. Where both parties agree to publication of statements of reconciliation or discrete accounts, they would be encouraged to engage with the wider community, schools, conflict resolution groups, researchers and other relevant audiences in order to encourage greater understanding of the nature of the conflict, encourage others to participate and counter the longstanding problem of the transgenerational transfer of conflict that bedevils societies such as Northern Ireland.
 24. Where it is appropriate, memorials might mark the location of incidents with the names of those injured, as well as those who died, on it, and with an agreed formula of words. Ideally the design and wording, apart from the names of those who died, should be simple and uniform as in war cemeteries.

For the initial pilot scheme, it would probably be most appropriate to deal with candidates who were not involved in feuds between para military groups on the same side of the sectarian divide. Besides, the fact that many people involved in PIRA-OIRA-INLA feuds and UDA-UVF feuds still live in close proximity will be a significant deterrent to volunteers from these conflicts coming forward. Ideally initial cases should involve people at a significant physical remove from each other, in different jurisdictions and pertaining to incidents that happened in the early stages of the conflict. Time does make a difference.

*Joint Statements of Reconciliation would relate primarily to Reconciliation on the truth, and accuracy of the information. It would also, hopefully, include reconciliation between victims/survivors and former combatants. However, it must be accepted that this may not be possible in all cases.