

OPTIONS FOR TRUTH RECOVERY

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Last autumn Healing Through Remembering produced a report entitled Making peace with the Past: Options for truth recovery regarding the conflict in and about Northern Ireland (copies can be downloaded from www.healingthroughremembering.org).

The options suggested are

Option 1: "Drawing a Line Under the Past"

The "drawing a line under the past" or the "do nothing else" option other than the current ongoing patchwork of processes would continue (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).

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.

Option 3: Community-Based "Bottom-Up" Truth Recovery

There are existing models of communities devising and carrying out their own forms of truth recovery.

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.

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.

Option One has conflated two separate and distinct options. 'Drawing a line under the past' is one option. Continuing the current on-going patchwork of processes is another – they are not the same. There are in fact six options given, rather than five.

The construction of a state, the rebuilding of society, the need to work with former opponents, the compromises that an end to conflict requires, a realisation that no one has clean hands, fear of stirring up new bitterness and demands for revenge, fears about the amount of truth that can be borne, the psychological burden on individuals, a wish that future generations do not bear similar anguish: some or all of these things may seem to require a prudent silence and a line under the past. Such an approach is not to be despised but there is a real doubt whether such an approach is available today; the past will continue to leak into the present, as it has in places like Spain which created a pact of silence after Franco.

It is also interesting that one approach to getting at truth – the traditional one – is given little

consideration and it not even considered as an option – that is getting at truth through criminal trials. Implicit in this report is that we basically give up on the Courts – to get truth and by extension justice (the legal opinion commissioned by Healing Through Remembering on the viability of prosecution based on the work of the Historical Enquiries Team does not encourage optimism about a large number of successful prosecutions).

The Offences Bill

The giving up on justice was one of the difficulties that lead to the withdrawal in early 2006 of the Offences Bill. Under the proposed legislation republican–on-the-run (estimated to be up to 150 people) were eligible to go home without serving prison sentences, as were loyalists as well as soldiers and police officers accused of committing crimes while combating terrorism during the Troubles.

Under the proposals, those affected would have applied to a commissioner who would decide if they were eligible for a special trial. A tribunal made up of a retired judge sitting without a jury would have heard the case. But crucially the accused would not have had to appear for their trial. Those found guilty would get a criminal record but be freed on licence. Thus the reality of an offence was preserved. But this was all too much for all the parties. For Unionists terrorists were literally getting away for murder. For supporters of the security forces, members of the armed forces and police were being put on a par with terrorists. For nationalists nobody in the police or the army who committed murder or other crimes would ever go to prison. The legislation became an orphan and was abandoned. Feelings on all sides were too raw and we hit certain uncomfortable realities that most people recoil from and don't want to face. The reality is that after community conflicts there is often little justice and the truth is often obscured, and when it is obtained, often inadequate and bitter. The truth of Virgil's 'lacrimae rerum' (the tears of things) is highly relevant. There's no way that we can repair the past. The pain of dealing with this issue and its deep intractability needs to be acknowledged.

A Truth-Recovery Commission would almost certainly have to have an amnesty built into it in exchange for truth telling. We can be sure that this will not be uncontroversial, given the controversy around the Offences Bill.

All Truth is Bitter

In this area all truth is bitter. And this needs to be recognised, as does the deep sense of righteousness and blamelessness of some of the key players. Unless truth is bitter to some extent for all then truth-recovery will simply feed into a sense of righteousness and blamelessness (and all issues of responsibility have been carefully sidestepped by the Good Friday Agreement and subsequent political discussions – the elephant in the room is that the key players don't really feel that they have anything much to say sorry about, so don't expect too much acknowledgement of responsibility for anything).

Some of the bitter truths lurking around us are the following: the IRA campaign was not justified, the structural discrimination of a Unionist State, British State inactivity from 1920 to 1969, the moral murk of the 'war' against terrorism and issues of collusion, Irish State abandonment of the North from 1920 to 1969, Irish State involvement in smuggling weapons to the North (the Arms Trial period), and the role of some Unionist politicians in fuelling loyalist paramilitary violence. Can these big questions, for which there will have to be some accounting some day be faced at the present time, particularly as we move, precariously, fragily to some DUP/Sinn Fein dominated Executive? Can we take too much truth? If not, the ongoing patchwork of processes with the occasional big story (e.g. the Denis Donaldson exposure) bursting on the scene, is probably the best we can do. And maybe this approach can be built upon – it could be interesting to examine what this might look like.

The report has its merits as far as it goes. The challenge for Healing Through Remembering is to move beyond setting out the options to taking a position – or at least narrowing the options. Otherwise we are simply into endless analysis and posing of questions.

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