

**THE ULSTER POLITICAL RESEARCH GROUP**

**NORTH BELFAST BRANCH**

## **Navigating a contested present**

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## INTRODUCTION

This document has been put together from a series of consultations with Loyalist ex-combatants, ex-prisoners and community workers exclusively from an Ulster Defence Association [UDA] background, hosted by the North Belfast UPRG.

This engagement is based on the following key questions from Haass:

What are the most important issues to be addressed in terms of parades, how well does the current system do in addressing them, and are there changes to the current system you would recommend?

What are the most important issues to be addressed regarding flags and emblems, how well does the current system do in addressing them, and are there modifications you would recommend?

What are the most important issues to be addressed regarding flags and emblems, how well does the current system do in addressing them, and are there modifications you would recommend?

In your view what does dealing with the past entail, how essential is it at this time, and are you aware of other approaches where we can integrate existing initiatives?

What are the most important elements of a shared future?

## BACKGROUND

### The Moral obligations

Whilst we are constantly bombarded with the notion that there is a moral responsibility on us all to deal with the destructive legacies of our past, which continue to weigh heavily on society; we must also be conscious that dealing with the past is not just a moralistic consideration, but also a responsibility that we have undertaken to complete within our mandating of the Belfast Agreement, thus making it a legislative, political and societal obligation within what was an International Agreement.

Yet whilst the Belfast Agreement was constructed from within that moral framework, it is important that we also recognise that with the introduction of the specific architecture and out-workings of that Agreement, it can be argued that it has since left the moralistic domain behind and has become an exclusively legal, political and legislative blunt instrument, thus allowing little moralistic input to frame or interpret delivery.

Furthermore, there was nothing in that Agreement beyond a benign obligation to deal with the past.

However, it must also be recognised that a large section of the population do not feel that they have any particular moral obligation placed upon them, and have little disenable appetite as well as an inherent tendency to avoid dealing with the past aligned to a strong desire to instead turn the page and focus on a new future.

This view supports the idea that the past still remains all too present with us, and asserts that the focus should be on how to confront the present and transform it rather than looking back to the past.

Furthermore, this view is imbued with the underlying concern that the energy and resources (and particularly the financial muscle) required to deal with the past could in fact subtract from the energy, resources and dynamism needed to build a new democratic society.

Indeed, to follow this argument, this view would assert that the new dispensation and the political architecture itself could be at threat if the alleged role and culpability of some of those who now find themselves in the political domain is exposed, which could hold the potential of unravelling the agreement itself and leaving us even more firmly anchored to the past.

Yet the argument behind the opposing moral-obligation approach, is if we fail to effectively deal with that past, not only will it continue to impact on our present as we have seen, but it will also stall the development of a new future for Northern Ireland, and condemn us to repeat the mistakes of our past.

This view advocates that unless changes are made now, that the next generation will become further separated and polarised by active hatred and hostility that will eventually begin to express itself in conflict, with future generations consigned to carry our burden as their inheritance.

Whilst we all share that particular concern, the fact remains that many of us go beyond simply expressing that concern and translate those moral obligations into actively working at a communal level to de-glamorise conflict, de-commission mindsets and re-stabilise and reconcile communities.

Indeed, Loyalism is certainly not insulated from the concept, sense or application of a moral responsibility and in this regard the expression of *'abject and true remorse to all innocent victims'* in the announcement of the Loyalist ceasefire by the CLMC, best encapsulates an adherence to and observance of those moral obligations.

### **Principles and practice**

In principle, Loyalism may not be opposed to a process of dealing with the past. Indeed, this principle has even managed to extend into practice, where much effort to deal with particular difficult legacies of the past within Loyalist communities has already been expended.

We can clearly see this effort in the high-resolution indicators represented by the removal and re-design of UDA paramilitary murals across many Loyalist areas, particularly intended to prevent the next generation aspiring to conflict as their inheritance, and thus ensuring that no further combatants( or victims) are created.

It can also be seen in the genuine reconciliation work being conducted with Republicans and other Loyalist groupings of different affiliation, at a communal level, that has fostered improved relations within and across former conflict communities, and which has resulted in a significant reduction in violence and much reconciliatory progress at that local level.

In an effort to deal with the past, North Belfast UPRG hosted the Ballycastle and Londonderry conferences (2002) with church and community representatives, where the organisation (UDA) opened itself to accountability through the methodology of a secret ballot, to lay down a blueprint for transition. We also see it in a localised transitional justice programme with Republicans (2012) that focussed on exchanging experiences of conflict to begin to deal with the past at a local level.

In this regard, Loyalism is particularly dealing with a past located and anchored in the present, and laying the foundations in that present, to raise the aspirational bar towards a better future.

Yet it is important to reflect that the majority of effort has remained almost exclusively outside the bright glare of the public spotlight and thus remains mostly undetectable due to its low-resolution status, particularly in regard to the internecine and communal aspects of conflict, which require the application of extreme sensitivity and confidentiality in regards to potential negative community impact on what are already damaged communities.

### **The over-arching concerns**

That Loyalism remains attuned to, and not insulated from, both the implications of dealing with the past on the macro-political level, and in particular the potential impacts that could reverberate across those communities that have borne the brunt of the conflict and whom are still living with the harsh socio-economic realities, is itself beyond doubt.

Yet there are many in civic-society that tend to remain more reticent (and blinded) to the over-arching concern that the energy and resources, and particularly the financial-muscle required to deal with the past, could in fact subtract from the energy, resources and dynamism needed to build a new democratic society.

Or the all too real worry that the new dispensation and the political architecture itself could be at threat if the alleged role or culpability of some of those who now find themselves in the political domain is exposed, which could hold the potential of unravelling the agreement itself and leaving us even more firmly anchored to the past.

Worst of all, they often fail to take account of how dealing with the past could in-fact slowly destroy the very fabric of a community given the close kinship ties that exist within communities and the prominence of the internecine experience within and across communities, with little cognisance to the realities of life in working-class communities that are tentatively emerging from conflict.

### **The Loyalist experience at a communal level**

Indeed, these over-arching concerns are themselves compounded and informed by the experience of society's messy attempt to deal with the past which have become all too real for Loyalist communities with the current piece-meal and one-sided approach being applied, that has cemented attitudes at a communal level.

This legalistic blunt instrument path, i.e. Historical & Retrospective inquiries, super-grass trials, Public Inquiries, Private prosecutions, and the slow drip feed of so-called 'truths' that continue to leak into the public domain; all serve to reinforce the point that there is no societal moral obligation as well as no undercurrent of political will to deal with the past.

There are also many that would hold the view, and more importantly would see the reality, that this approach is beginning to deposit a whole new legacy within conflict communities and consequentially opening new unhealable and untreated wounds (and potentially laying a landscape for retributive responses), with extremely limited closure for any in the 'victims sector' being expressed to justify this blunt instrument approach, and the all too real worry that this could create further sub-plot conflicts as a return on that investment.

Indeed, the statistical fact that 98% of cases in terms of the HET are focussed almost exclusively on those from a Loyalist background, not only introduces a clear and undeniable disparity in approach, but also supports the conclusion that Loyalists are being pursued through a security methodology whilst Republicans continue to be embraced through an exclusively political one, which also means that the depositing of that whole new legacy is also currently happening exclusively within Loyalist designated communities.

Indeed, there are legitimate fears, and some relevant experience of this, that the process of dealing with the past (from whatever angle we approach it) could in fact magnify and focus directly within a community itself, where deposited-truth could have the potential to turn a community in on itself and allow it to implode, or even turn one community against another with a different paramilitary affiliation, lodging many unpalatable and unbearable truths within these communities in the process, where the demographic profile and close proximity of communities holds a particular intensity of its own.

Indeed, in this context, rather than providing reconciliation and healing as hoped, it could instead provoke further violent reaction, where people may be able and prepared to pursue a personal sense of retribution that itself becomes the very antithesis of reconciliation.

In fact, this is where the moral responsibility argument itself breaks down irrevocably, as the experience of Loyalism having been left unaided to pick up the pieces and manage the implications of society's mess at an indigenous communal level continues to dominate the experience, whilst wider society itself continues to insulate itself from how this plays out on the street, within families and across communities.

The particular irony in this; is that whilst society make frequent calls for Loyalist-actors to simply go away, this underlying infrastructure has been necessary in regards that implication management, despite the fact that there has been no resources allocated at a communal level for this express purpose, and that this occurred without any community impact assessments regarding the mitigation of consequences.

However, this experience, and the absence of any apparent or visible societal obligation to the community, aligned to an apparent disregard in relation to how those implications play out, has as a consequence severely affected the Loyalist communities' appetite for dealing with the past.

**CONSIDERATIONS****The limitations of the past**Former combatant organisations in transition

Despite the moral obligations and the current practice in relation to dealing with the past; the reality is that former combatant organisations have made a transition, and may no longer have access to the 'truth' as a comprehensive narrative, and this fact should inform the expectation management of society.

Indeed, on a structural level; recurrent changes in leadership, expulsions of members, depleted memberships through an end to recruitment, the creation of various dissident factions, the growth and transition of former members into criminal gangs, etc; have all left large and undeniable knowledge gaps or have left much knowledge structurally out of reach, which itself is compounded by the fact that organisations given their secretive nature neither kept or maintained records.

Furthermore, on a purely human level, many members are of a certain age, in ill health, dead or dying, or have made the transition that society has asked for to civilian status and no longer wish to maintain contact. Therefore, much knowledge remains out of reach due to natural wastage and the passage of time.

Furthermore, whilst sound-bites are emerging from the Republican leadership in relation to dealing with the past, at the grassroots there is greater and detectable reluctance that provides a clear disparity between the leadership view and the view of the former-combatant constituency itself, thus relaying mixed messages into the public domain that have no relation to the true undercurrent within communities.

The State(s) and legislative limitations

Bearing in mind that the local conflict here has been consistently framed within a wider International context, with both allegations and some partial evidence of 'International collusion' having formed a part of that conflict paradigm, it is clear that a process of dealing with the past would require a wider remit than that currently focussed on communal and local actors or indeed on one particular State.

A particular problem here is that the Introduction of any draft legislation needed to deal with the past, in our current dispensation, as a part of the United Kingdom exercising devolved administration, can only by consequence of this dispensation, apply to the local and wider UK contexts.

This would not place any particular obligation on the Republic of Ireland Government or indeed other International actors that are alleged to have had a role or culpability in the conflict to comply with any process, and thus would exclude many other International actors without comparative legislation existing across a range of International jurisdictions or at least commitments of compliance and commitment being issued.

Without this as a foundation commitment or legislative responsibility, in regards the International Community, the past can only remain an incomplete catalogue, and cannot be explored in terms of its wider complexity and culpability, and thus the 'truth' can only remain a local and extremely limited construct at best.

Indeed, this was best seen in the all too recent expenses scandal, where what we received was the 'blanked-out pages', and there is nothing to suggest that it won't be more of the same in the process of dealing with the past.

Even though there are files/records that in theory should govern and make accountable State actors, how can we be sure that these files themselves are not dislocated or violated?

Of course, this concern comes into stark focus when the British Government holds out the prospect of State files being released within 20 yrs instead of 30 as current; and with the Irish Government stating that they are prepared to review practices that may have been conducive to IRA activity during the conflict.

#### The discolouration of propaganda

We also must recognise that the past is not a blank-canvas, and that much background colours (distorted truths) have already been added from long running propaganda campaigns that were themselves an aspect of warfare.

Republicans would typically and almost exclusively have an extremely narrow focus on State actors in particular, more often than not punctuated with what Loyalists would see as inflated claims of systemic collusion, yet there is often no room for reflection or acknowledgement on the many lives the State may have saved by its actions. We also see a selective-memory in the fact that Republicanism have quickly swept behind them evidence of unearthed collusion within their own movement, and the many lost lives of Catholics and Republicans that this resulted in.

The exploration of propaganda (as discoloured truths) must form part of the remit of any authentication process in truth recovery, yet the existence of propaganda over numerous years, would introduce further severe limitations into adequately and comprehensively dealing with the past.

#### Different analytical starting points

Our analytical starting points, are themselves dependent on what cultural tradition we happen to be from, and create a divergence, with these typically relating to either three hundred years of conflict and resistance vs. 35 years of current conflict, in terms of the conflict timeframe.

Given that our typical lifespan does not tend to exceed a third of the time within the expanded Republican framing of that conflict, many would question how we can explore and deal with our past in this context considering there is no resource of living memory available.

The past can only be explored in terms of living memory in terms of its remit, and this itself introduces a time-framed limitation to dealing with the past.

#### The emergence of a post-ceasefire generation

The issue of the past becomes even more complex when we have a new post-ceasefire generation emerging, that do not have the same access of memory or experience of the past attached, and how their views are weighted will have to be considered carefully, given that 'victimhood' can often be a concept and experience inherited inter-generationally.

One of the greatest limitations here, is that this is a section of society that are post-ceasefire, who didn't mandate the Agreement, with many not even born in the conflict timeline, thus placing no particular moral imperative on them to deal with the past.

#### The reduced role of the two Governments and local Institutional reluctance

There is a view that the British and Irish Governments, as guarantors and persuaders of what was an International Agreement have left the stage too early in regards to dealing with the past.

This has allowed political parties to use the new political architecture to delay delivery on many other key aspects of the Agreement such as: the Bill of Rights, The Civic Forum, Anti-poverty strategies, the Cohesion Sharing and Integration policy etc.

These 'un-deliverables' are key to implementing the Agreement in its entirety, as these were elements in dealing with the past that have not yet been subjected to Institutional Reform.

#### The problem with different levels of community capacity

It is a matter of record that levels of capacity are much lower in PUL as compared to CNR communities.

Indeed, this is borne out in the NIO 'renewing communities' report and also with the introduction of the Dunlop report, which resulted in the development of CEP's (North Belfast) that did not address the identified gap in capacity between communities.

Furthermore, it must be recognised that CNR communities have access to more well-developed architecture and resources in Transitional Justice such as the Pat Finucane Centre to further their campaigns (this centre is accessed by members from a PUL background yet its location re-enforces perceptions that it is a CNR product, that keeps the PUL community from using it, hence it is almost exclusive in its pursuit of justice on behalf of one traditional community at the expense of another), whilst no similar or comparable architecture exists in the PUL community.

This is a capacity gap that must be addressed in order to create a level playing field in terms of dealing with the past, otherwise we have not got parity or inclusiveness as our starting point. Information, skills and comparative architecture in Transitional Justice and human rights training/advocacy must be a prime consideration in addressing this capacity gap as a matter of urgency and equality.

#### The beneficiaries of conflict

Although we tend to focus on conflict in terms of the restrictive combatants/perpetrators & victim/survivors framing, in conflict there have also been many 'beneficiaries' that are ignored, particularly around the security and construction industries.

Many of these would not only become beneficiaries (financially), but may also have become 'contributors' to the conflict through securing particular contracts through access to paramilitary infrastructure and influence, that allowed these groups access to the appropriate financial resources necessary to maintain the logistics of conflict.

These beneficiaries are also part of the conflict paradigm in terms of their role and culpability in helping make conflict sustainable in order to meet their own financial interests.

Yet, a particular limitation here, is that these beneficiaries will not have any particular moral obligation to engage in a process of dealing with the past, thus leaving gaps in any process.

#### Other combatants and contributors not in focus

Whilst we tend to concentrate on the known 'illegitimate' and specific combatant groupings, we miss various other organisations that were on that conflict spectrum yet have been carefully mislaid, such as Ulster Resistance or the Third Force.

The moral obligation to decommission did not focus on these groupings, thus neither will a comprehensive process of dealing with the past. This has and will continue to leave parts of the wider narrative lost and unaccountable.

Indeed, many of these did not decommission or become subject to the same level of accountability already placed on other combatant groupings, which leads many to think that some form political expediency has been and still is a prime consideration in the selection/identification process.

Likewise, Media as a conflict-actor has always been perceived as an impartial observer in the conflict, yet many would argue that they have contributed to conflict through quoting so-called 'security-sources' that have placed damaging propaganda in the public domain, as well as also highlighting many individuals for public attention that has resulted in eventual assassination, thus re-enforcing perceptions and experiences of the media part of both the targeting-apparatus and continuing demonisation-process (black propaganda) of conflict.

#### Truth Recovery

Even if the complex legal issues around immunity etc were to be addressed, there is no appetite amongst our members at an individual level to stand in court or provide an account for their individual actions.

We firmly oppose the concept of 'legalistic truth' and believe it is not a viable option. Indeed, it is clear that the fire at the forensic laboratories and the decommissioning of guns have destroyed much of the evidence-bank for this.

Delivery of a 'corporate truth' is a distant possibility through interlocutors, but there would not be widespread support from the membership to support this.

Though steps towards a corporate-truth have already been taken in the declaration of 'abject and true remorse to all innocent victims' in the CLMC ceasefire statement.

The authentic-truth of why this should never happen again that acknowledges all hurt and trauma, and builds a better society is one we would be willing to explore further.

#### The Ignorance of a Civic-Voice

Our policy on flags and emblems is informed by the decision taken on the Union Flag at Belfast City Hall, and the resultant community attitude this decision evoked, and this has made protocol on flags difficult to agree or implement.

In terms of the Union-Flag, the Common Sense document, the UPRG's 1987 blueprint for power-sharing, clearly set out the parameters of what is possible regarding settlement and what would be deemed as a step too far:

*"Whilst we have no doubt that compromise and accommodation can be reached between Catholics and Protestants in Northern Ireland, it is impossible to compromise on the existence of Northern Ireland itself – it either exists or it doesn't. At present it exists and is a part of the United Kingdom. This situation may not be the whole-hearted wish of everyone in the province but must be recognised to be the wish of most."*

For many in our community, the removal of the Union-Flag is interpreted as a denial and constitutional-subversion of this fundamental constitutional fact, despite the fact the existence of Northern Ireland as a part of the United Kingdom, was recognised, negotiated and agreed under the terms of the Good Friday Agreement, and reinforced through the principle of consent.

Whilst many would acknowledge that the decision had democratic overtones, in that it was a majority vote, and was democracy as it is understood in pure numerical terms, it is also clear that the un-democratic undertones were the rejection of a civic-voice in the consultation, with the vast majority of staff, visitors and the wider public clearly wanting the flag retained or advocating no change, thus providing no civic-mandate for removal upon which to act. Indeed, the consultation identified that only a mere 2% of those surveyed expressed that they were offended by the presence of the flag, with a further 5% unhappy with it, giving a total of 8% against the flying of the Union-Flag above our City Hall. Indeed, this left 65 % in favour of retaining the Union-Flag, and 24% that didn't care either way.

This decision has in effect ignored and undermined the wider civic-voice in what prides itself as a civic-chamber. In a democracy, you do not consult, receive the answer you don't like, and then implement against the findings anyway. The decision to pursue the removal of the flag, despite warnings of the likely consequential impact on community relations, was not only foolish, but also provocative, and helped create a situation to substantially damage relations across the city.

Despite these warnings, no community impact assessment was undertaken by Belfast City Council to measure the possible ramifications of such a decision, despite there being a tension monitoring framework in place to facilitate this process.

This decision has had wider implication, in that it has meant that local protocol and agreements developed and adhered to around all flags, emblems and symbols of culture, especially where they are more contentious on interfaces, are now void and undeliverable.

#### The dissident threat and a fractured Republicanism

Many would acknowledge that Mainstream-Republicanism has long been concerned with the residues of their former armed-campaign, which increasingly have begun to express themselves within a myriad of various dissident factions.

Whilst there is no doubt that Republicanism has been quick off the mark to stand up both publically and privately to this threat against post-conflict society, that lurks within their particular midst; Yet at the same time, many would point out that they have often been less than generous with their assessment and accuracy of the level of threat actually posed by these groups, or indeed the impact on the Loyalist community.

Republicans would previously have applied terminology like 'micro-groups' to these factions, playing down the threat to wider society, and more importantly themselves, yet this indicates that they have now moved into a space where the assessment has dramatically changed, to one where these dissident groupings represent a '*real and sustained threat*' to our emergent post-conflict society and the new political dispensation.

The reality of the dissident threat has remained all too real for the Loyalist community, with under-car bombs and mortar firing tubes discovered lately within predominately Loyalist areas, that not only placed a local civilian population at extreme and unacceptable risk, but which were also placed worryingly close to a Protestant primary school and highly populated residential areas on more than one occasion.

Indeed, it has been increasingly obvious for some time, particularly within Loyalist communities, that various chunks of the Republican movement have become sliced off the seemingly once solid Republican monolith, albeit without having yet gained the necessary community traction required to intensify or popularise that campaign.

It is also clear that these dissident residues in our midst continue to cling to the umbilical cord of a militant ideology, with the haemorrhaging of members, expertise and munitions a feature of the transitional process itself that Republicanism has undertaken. This is in itself a measure of how far Republicanism has come.

However, many would argue that any reconciliatory message invariably gets diluted by the high-resolution image of young kids dressed in paramilitary uniform, the presence of a masked man firing a volley of shots at a Republican commemoration, as well as the backdrop of bombings/shootings etc that have been a recurrent feature.

From a Loyalist perspective, the aggregated de-construction happening within the Republican Movement has occurred over a period of time, as that movement signed up to historic and important societal developments such as supporting Policing and ending their previous policy of abstentionism within the ROI jurisdiction etc, with various chunks of that movement being sliced off at each key juncture deemed a step too far.

It is clear these groups are now engaged in a battle for the hearts and minds of Republicanism itself, and this is something that has kept Sinn Fein increasingly focussed on looking over their own shoulder and thus engaged in playing to that parochial audience, with the intention of placing a sticking plaster over what is becoming an increasingly fractured form of Republicanism.

We have seen Sinn Fein lose many former-heartlands such as Ardoyne/Kilwilkee to dissident control. To regain control and influence they have had to play for the same audience, with policing, parades, protests, prisons and patriotism the chosen battlefields.

The simultaneous mantles of 'patriots' and 'peace-builders' sends out a contradictory and bi-polar message from Republicans that must be addressed.

#### The bottom-up delivery deficit

Whatever template that the political parties come up with; we must remember they cannot deliver at the grassroots without support for their proposals.

Top-down processes have their own limitations in terms of delivery, and it is in the bottom-up approaches that best ensure dealing with the past becomes embedded within and between communities and can represent Transitional Justice as its applicable at the coal-face.

#### An electioneering strategy

A lot of the current difficulties are complicated by the existence and continuance of a slow-burning election fuse, where many political parties, both current and aspirational, are using the issue of identity to mount an election challenge to the mainstream parties. This has particularly meant that mainstream parties are increasingly playing to the dissidence and discontented in their midst and have been left looking over their shoulders in playing to a parochial audience. The current difficulties thus suit certain divisive agendas.

## **The Implications of the past**

### The demographic environment and destabilisation

If we take North Belfast (for example), an area of around 3 square miles, that is often described as a 'patchwork quilt' of small isolated Loyalist/Republican interface communities living cheek by jowl, where statistically 20% of conflict related deaths/injuries occurred.

It is not only clear that this area had a disproportionate share of the conflict experience in relation to Northern Ireland but that it also still has the highest number of interface walls anywhere in Northern Ireland. This contested and constricted demographic, and the statistical evidence in relation to conflict related deaths, gives credence to the view that North was the 'cockpit of the conflict'.

There is a view that truth recovery deposited into this particular unique demographic, has the potential to bring truths into a domain where people or communities, because of that specific demographic intensity and proximity, may be able and prepared to pursue a personal sense of retribution, which itself could further destabilise communities.

We have to remember and consider that many traditional neighbouring communities are only little more than a mere stone throw apart, and thus within striking distance, and the constrained nature of the demographic invariably means that lives continue to intersect with a frequency and proximity that is regular. Many would argue that truth in this context could prove not only divisive but also extremely dangerous.

### The internecine experience and retribution

Due to the prominence of internecine warfare and intra-community feuds, the process of dealing with the past could magnify and focus directly within a community itself, where truth could have the potential to turn a community in on itself and allow it to implode, or even turn one community against another with a different paramilitary affiliation.

Add to this the complexity of issues that may arise around rape and domestic abuse etc, as an experience that conflict itself may have itself hidden within communities (recent public cases highlight this well), as well as the presence of overt and open criminality within communities, and we have an extremely explosive mix to deposit within communities, that will require much caution.

Indeed, this is borne out in the experience of Rwanda, South Africa and Mozambique, where truth commissions did not necessarily provide a closure. In fact, in Mozambique ex-combatants were kidnapped when truth emerged in a retributory manner.

Due to the constrained demographic within communities and the existence of well-developed kinship ties that define these communities, there are concerns that truths may emerge that could destroy the very fabric and spirit of a community itself and result in a rise in retaliatory and retributive actions that could slowly destroy a community.

### The antithesis of reconciliation

Whilst there are many that are quick to make the assumption that the truth is a good thing, yet by the same measure, we must also consider that it may also cause far more problems that it can intend to solve in the first instance, and thus we must approach the idea with caution, as the truth as well as containing the power to heal also has the power to inflict further hurt and division.

It becomes even more complex when other concepts such as retribution, justice and forgiveness become structural bolt-ons to truth, which should only serve to re-enforce that initial sense of caution. In this context the quest for truth becomes a proxy for a disparity of other outcomes.

We must therefore consider, and acknowledge, that even an honest attempt to deal with our past may deteriorate into a search and quest for revenge; where instead of bringing a healing quality that can cauterise, cleanse and ultimately heal the many societal wounds and deep divisions that exist, that it can also re-open old wounds as well as cause new fresh, raw & festered wounds in return.

#### The continuance of ideological and political warfare

One of the major difficulties in re-imagining our past; is we have no common understanding of the 'past', and it invariably begins to resemble a battlefield for the apportionment of blame, extracting retribution, seeking justification for actions etc.

Indeed, it should not surprise us that a game of 'poking the eyeball' of your political opponents has developed in relation to the issue of dealing with the past.

Indeed, in a recent publication, in the International Journal of Transitional Justice, 'the sharp end: armed opposition movements, transitional truth processes and the rechtsstaat', this gave us many clues that 'poking the eyeball' would be the chosen game.

It is important to understand that this research exclusively involved Republican ex-combatants and as such gave valuable insights into where the debate around the past would end up, as it began to 'frame' the parameters of the discussion. The point is made well that, *"The data suggests that transitional armed opposition movements see transitional justice as a site for continuing their political projects and potentially inflicting damage to their opponents, as well as attrition, given the victim-perpetrator character of such movements."*

With this point in mind local Government and political parties cannot drive such a process, and such a process cannot be allowed to become a methodology to damage political opponents.

Indeed, in this context, there are concerns that a process of dealing with the past, will merely legitimise political/ideological warfare and destabilise the new political dispensation.

#### The politicisation of a reconciliation initiative

The politicisation of the reconciliation initiative has implications.

Republicans have continually called for a 'national reconciliation' process and a 'border poll' as part of their reconciliation initiative, which are exclusively politicised concepts that have clouded and politicised the debate, rather than keeping it in contained in transitional justice frameworks.

However, this concept fails to acknowledge the complexity of relations and associated strands at the core of the Belfast Agreement and pursues reconciliation on an exclusive and restrictive North/South basis, without cognisance to the crucial East/West relationship that exists, and is more aligned to their political aspirations of a 'United Ireland' rather than a genuine debate to deal with the past.

Whilst there is still reluctance on behalf of local institutions and certain political parties to work either the East/West or North/South strands of the GFA, with an inherent tendency to still continue to promote one at the expense of another, then reconciliation itself can only be a partial process.

On another level, perceptions around the pursuance of cultural warfare abound in the PUL community are a concern. There are enduring concerns around the lack of inclusivity around cultural expression, particularly around parades and symbols of British identity such as the Union flag.

#### The legitimisation of hierarchal and restrictive distinctions

We are concerned that hierarchal distinctions in terms of victimhood, seen clearly in recent apologies to the family of a murdered Garda officer, without a similar apology forthcoming to the widows of murdered RUC officers or indeed others.

This approach clearly attaches a differing value to each life according to their jurisdiction.

Many would now also ask, was it an apology because the action was wrong, or an apology because politically Republicans were concerned that the rather fragile political project they are trying to build in the Republic of Ireland was in danger if it wasn't addressed, with the worry that their many detractors could use the issue to possibly curtail or even derail their project?

If this is indeed the case, then it reduces an apology to no more than a game of political chess and brinkmanship, in a morally-bankrupt version of dealing with the past, where truth and apology are subject to wider political considerations. In that political context, many would now question the actual sincerity of the apology.

Furthermore, whilst it is difficult to equate the terms victim/survivor and combatant as somehow linked, nevertheless for many there can be blurred understanding of what each is. Indeed, from Republican analysis, a combatant can be understood as a victim or survivor of a scenario that he or she did not necessarily create but which was an inheritance of personal or community conflict experience that he/she was exposed to. This grates uneasily against the individual tradition of thought, where Unionism will not accept this societal dimension, thus it is a colour excluded from their palette, in favour of other more individualistic colours.

Support has also been given for a victims-charter from the DUP, UUP, TUV & the Orange Order, that makes a rigid and restrictive definition of victimhood, that will not include those from a paramilitary background.

This is not to suggest that victims can be placed on the same page as a perpetrator, for they cannot, but combatants, regardless of what they choose to do with their victimhood, must be understood in relation to the environment they inherited, the experience they endured and the impact that they still retain.

#### The socio-economic drain of resources

The current approach of public enquiry's/HET/RET and prosecutions, could infact tie the courts and judicial system up for many years to come, in a society already locked in deep recession/austerity, with diminishing budgets a key feature. Indeed, any other process that replaces or supplants this process, will also require appropriate budgets attached.

This means that the associated cost could cripple what is already a weak and fragile economy. To continue to follow this route would no doubt deposit a huge cost across the entire judicial system and require comparative resources in terms of community implication management that would place an extra burden on society that we simply could not afford.

#### The development of a victims industry and cultures of dependency

We must also consider the so called benefits-culture that many professionals refer to, and the possibility that the victim's agenda will simply become an extension of or contribute to this known benefits-dependency, that could retain people in victimhood rather than helping them escape it.

Indeed, like all societal benefit schemes, a victims-industry will naturally become susceptible to an abuse of the system, which must be managed accordingly with appropriate procedures to minimise anticipated abuse, and prevent the victimhood of entire communities as an ethical consideration.

We decide as a society to do; we must take extreme caution in creating a scenario where we create and perpetuate the existence of 'victim-communities', that sustains the concept of victimhood itself, rather than assisting victims to escape that enduring label. Indeed, if trauma is itself trans-generational this could have an enduring legacy all of its own as victim-hood becomes a sustainable concept.

#### The trade-off between amnesty and amnesia

In post-conflict societies amnesties are often viewed as a lawful part of the transition from conflict. We realise that this is perhaps the most contentious element within dealing with the past, but at the same time, we must realise, though not necessarily accept, that without an amnesty in place the range of conflict-actors cannot even begin to talk openly about their role in the past (as we have seen recently reference Adams and the question of IRA membership and his complicity), and thus in this context it is more likely a form of amnesia will endure.

Furthermore, amnesty already has much precedence in Northern Ireland, with decommissioning understood as a de-facto amnesty for guns with a commitment to pursue no forensic examination undertaken in exchange.

We must accept, even though we may not like the reality, that the peace-process has already destroyed a huge forensic reservoir with the extensive decommissioning of weaponry and munitions, and the fire at forensic HQ has also contributed to the fact that evidential-truth recovery itself is a seriously flawed concept in regards to dealing with the past, that makes the likelihood of prosecution extremely low and limited in its extent.

If society requires closure, this will rest on securing maximum information exchange, and the introduction of amnesty is the only methodology that will allow this occurrence. However, for many in society, not only would this cost far outweigh the potential benefits, in terms of limited recovery of truth, but it will remain unacceptable.

#### The statistics of conflict

It is estimated that approximately 60% of conflict deaths/injury were carried out by Republicans, 30% by Loyalists & 10% by State Forces.

In this context, any insight into the actions of the past must become proportionate to the statistical facts.

This should ensure that 60% of the efforts to deal with the past become focussed on the actions of Republicanism as prime combatants.

## **The expectations of the past**

### The Diplock system and its continuing implications

For those convicted in a Diplock Court, the media can still effectively write what they like about these individuals without any recourse, on the premise that they have no character to assassinate. This example particularly shows how the past continues to play out in our present and highlights the need for a bill of rights.

If we are dealing with the past in its entirety, and placing that past behind us, then the human rights of those convicted in the diplock-system must be comparable with those granted to the ordinary population, especially in relation to this anomaly.

### Violated rights: emergency legislation & short-circuited justice

In dealing with the past from a rights-based and justice approach, as a society we must consider the existence of emergency legislation that in effect short-circuited justice.

No access to solicitors during interview, non-jury trials in special diplock-courts, remand and internment for several years without trial, and the torture and forced confession of suspects (often with no or little evidence), all meant that the concepts of justice and rights were never aligned.

If we are going to deal with the past, it just doesn't require institutional reform of the system, (which we have had under Patton reforms/devolution of Justice powers, police ombudsman etc), but since this reform is an acknowledgement that the justice system itself was flawed, all convictions under emergency legislation and the diplock-system must also be conceded as flawed.

Whilst institutional reform has since re-balanced the justice system in a rights-based approach, yet the 'truth' of a corrupt justice system has never been fully acknowledged for the many victims of this unjust system, and thus this must also become an element we must consider in dealing with our past, as it is part of the human-wrongs that occurred and that still impact on many people. In this context violators (and innocents) would also become the violated.

### The toxic socio-economic underbelly of conflict-communities

The often-ignored underbelly in relation to the full spectrum of Social-injustice, continues to adversely impact on all working-class communities emerging from conflict, and has left those who already experience their lives at the edges and margins of society, feeling even more disenfranchised, neglected and discarded.

In Health our communities remain susceptible to high mortality, suicide, drug-dependency and mental health rates, combined to a lower than average life-expectancy. These stark facts are compounded by the emergence of post-traumatic-stress-disorders as a residue of the conflict.

In Education the underachievement of our youth continues to ensure a failure that will dictate and determine the life chances of what is our successional generation.

In Employment high levels of unemployment are a phenomenon that continues to rage unabated and many have been left unable to effectively compete in the market, where there exists a distinct poverty of opportunity in terms of both job creation and in making our communities employment and investment ready.

In Environment dereliction and deprivation remain rife, and more pronounced, particularly on interfaces and within isolated communities.

In social Welfare reforms are now at an advanced stage which are anticipated to adversely affect those most vulnerable and susceptible to poverty within our communities. It is important to reflect that these reforms advance with the full consent, concerns and input of our political representatives.

These Westminster so called reforms ought to take cognisance of the fact that we are an area of the UK still emerging from conflict and dealing with the particular legacies of that conflict. We would argue these changes have to be tempered to take account of Northern Ireland's unique set of circumstances. Indeed, under the terms of the GFA, in the section on a proposed Bill of Rights, it is underscored that any legislation should be informed by the particular circumstances obtaining in Northern Ireland.

Meanwhile, on a policy front the lack of co-ordinated programmes and action plans to address poverty is itself indicative of the failure of Government and an abdication of their inherent responsibility.

These factors still represent the socio-economic explosive that lurks within the restless undergrowth of our new society.

Whilst we would agree that much progress has been made within the peace-process, the political-process itself remains locked in abject failure regards addressing the social-injustice experienced, which is felt more acutely within those working-class communities that found themselves at the coal-face of that conflict and who still endure the harsh socio-economic realities, and many would reflect that the political process is not working as intended or designed.

#### No authentic DDR process for Loyalism

Despite Loyalism developing organic exit strategies from conflict, and the success of the Demobilisation and Disarmament elements of this; there has been minimal support for ex-combatants in terms of the Re-integration aspect. This has left organisations on the Loyalist side unsupported in terms of any exit strategy and means residues of conflict still remain a concern. There is now a need to afford Loyalism to forge an authentic re-integration strategy.

#### Prisoners of the past

We particularly remember the then UUP leader David Trimble's comment which ushered in what were the tender and fragile beginnings of our peace process –

*“Because you have a past, doesn't mean you can't have a future”*

These emboldened comments; perhaps best encapsulated the spirit of generosity and courage that the Belfast Agreement was reached within, and although quite abstract, were a vitally important contribution in gaining traction at the edges and margins of society for the new dispensation.

Yet these words also underscored a particular appeal to those that best represented that past, ex-prisoners and combatants, and placed the prospect of forging a better future within their grasp too.

It also had a particular resonance to those from a Loyalist background, in that Political Unionism seemed prepared to countenance and support their full and active citizenship within the development of this new society.

These words done much to convince prisoners, that upon their release and re-integration, that they too could become stakeholders in this new society, begin to play a full and valued role, and be afforded the same opportunities and rights as those afforded to every other citizen.

Indeed, for many prisoners and their families, that iconic imagery of the family backlit by the damn of a new tomorrow on the cover of the Agreement, could well be them.

Of course the role and influence of prisoners and their representatives, in both supporting and shaping that Agreement, and getting it mandated at the grassroots, was recognised by the visit of Mo Moylam, then Secretary of State, to the Maze Prison in January 1998, and in the subsequent prison-releases that followed within the confidence building measures.

The role of ex-prisoners has continued, with many actively involved in both the political process, and more importantly within a peace-process itself that is building that peace from the bottom up.

However, there are concerns that despite prisoners being released physically, the reality is that many still remain psychologically imprisoned, and unable to escape that 'ex-prisoner' tag or its consequences.

In terms of health; ex-prisoners still endure high rates of alcohol and prescription addiction running at approximately 5 times the proportions experienced in the 'normal population', with self-harm and suicide rates significantly increased;

In terms of employment and employability; low employment rates amongst the ex-prisoner constituency remain unduly high, and once they have to sign that bit on the job application that says 'have you any criminal convictions', the prospects of employability are severely diminished.

Indeed, although there has been guidelines produced to instruct on the employment of ex-political prisoners, and some employers have embraced these, these remain a voluntary commitment and have no legislative framing in terms of rights.

Furthermore, due to not having paid national insurance stamps for periods between up to 10-25 years, many will receive a significantly reduced pension when they reach pensionable age, thus leaving a significant underclass across society that has yet to begin to fully express itself.

Ex-prisoners are also often unable to get access to home contents insurance or a mortgage due to their conviction.

Add to this that long periods of incarceration have left many ex-prisoners often distant from partners, wives and children, having missed them grow up, and unable to form relations due to the impact of isolation, and there still remain severe psychological social traumas, with many unable to access counselling due to issues of confidentiality and prosecution, compounded by the emergence of post-traumatic-stress-disorders as a residue of the conflict.

Furthermore, travel restrictions to several foreign countries still prevent and restrict access, obstructions from university still exist with ex-prisoners having to go in front of an assessment panel, and taxi/security licencing restrictions all create more limitations and obstructions; which mean that ex-prisoners cannot enjoy the same level of opportunity as that afforded to the 'ordinary population'.

Another important consideration is that media remain able to write anything about those convicted in a diplock court with little recourse.

More worryingly, there are valid experiences within the ex-prisoners constituency of intergenerational-discrimination occurring, where the conviction of a parent has resulted in the barring of children from accessing certain career paths, such a military service for example.

Of course, we must put this issue of prisoners in context and consider the wider impact beyond the prisoner themselves.

It has been estimated by Shirlow (QUB) that there has been approximately 40,000 ex-prisoners that have went through our prisons, from both Republican and Loyalist backgrounds.

If each of these ex-prisoners have 5 family members, (be it a wife, partner, children etc), and given that that may itself be a severe underestimate, we can increase Shirlovs initial figure of 40,000 by a multiple of 5 in terms of the wider impact that may occur across our communities, where kinship ties are much more defined, thus giving us a figure of 200,000 people that are impacted by ex-prisoner issues in an indirect nature.

In this context, the lower pension rate, reduced employability etc, just doesn't stop with the prisoner themselves, but reverberates across a far greater range than what we may at first assume.

And this is set against the backdrop where the often-ignored underbelly in relation to the full spectrum of Social-injustice, continues to adversely impact on all working-class communities emerging from conflict, and has left communities already well defined by the toxic socio-economic realities of our past.

In communities that have traditionally had a high proportion of young men joining paramilitary organisations and subsequently going to jail, this has left a far greater legacy than the statistics account for.

And as yet there is no delivery of an anti-poverty strategy in the programme for Government; focussing on transforming former conflict communities in particular, where the prisoner is a prominent feature.

This has left many in our community as 'Prisoners of the past', from which there is no release.

We are not suggesting that ex-prisoners can be placed on the same page as victims, for they cannot, but the issue of prisoners of the past must also be addressed if we are to develop a peaceful and equitable society.

**THE WAY FORWARD****The need to reconcile the present**

Taking into consideration the many limitations, implications and expectations that exist in relation to dealing with the past; and also the fact that many in society do not feel any particular moral obligation placed upon them, which is a factor that cannot be ignored; it will be extremely difficult and maybe even impossible to deal with the past as we understand it.

Indeed, there is no discernible appetite, either in the political domain, wider society or indeed more importantly within our communities for dealing with the past, but rather a desire to turn the page and focus on a new future.

Not only are the expectations or benefits of such a process limited at best, given the severe limitations that exist, but they are also far out-weighted by the potential implications.

Yet that which we do tend to find a sense of commonality on, and where we can make much progress, is the need to create that better future.

Yet the question is, can this best be achieved through a focus on the past or a focus on the present?

For whatever path we choose may take us in different directions towards that better future, and in each case that future may and most likely will, differ as an outcome.

We cannot deal with the past, until we have dealt with the present, and the inherent failure within our political system is the delivery of the GFA in its entirety and a focus on making Northern Ireland work.

In this regard, many within the Loyalist community would now advocate that we best lay the foundations for a better future in the present, by focussing all our available resources/energies on confronting and transforming that present.

This view supports the idea that we can confront and transform the present in terms of health, education, employment and social welfare, identity etc, with particular regard to those working class communities that have borne the brunt of conflict and still live with the all too real impacts in terms of a restricted quality of life and depleted opportunities.

This is especially relevant, since the socio-economic landscape itself is seen as an important backdrop to the onset of conflict, emanating from the edges and margins of society, and more worryingly can still represent a fertile environment for further conflict to arise that could potentially contaminate and destabilise the development of a better future.

As such, a dedicated anti-poverty strategy should be the first steppingstone in regards to any process of 'dealing with the past'; using this approach to transform the present and thus create that better future we all aspire to, which itself can make a real, tangible and measurable difference in people's everyday lives.

Furthermore, the introduction of a Bill of Rights and a Supreme Court charged with upholding these rights, should underpin the development of this better future, which can be constructed in the present.

A concerted focus on transforming the present is what the opportunity and challenge of 'dealing with the past' really means for Loyalist communities, as they still find themselves constrained by the toxic socio-economic realities dictated by the past.

Of course, elements of our past which continue to contaminate the present must also be confronted.

Yet any focus on the past taken in isolation without a reciprocal focus on the present; will not succeed in delivering a better, peaceful, prosperous, stabile or reconciled future.

Indeed, the focus on the present, as our more imperative reality, and the one which is best placed to actually transform people's lives, should be the prime consideration, and thus be weighted accordingly.

The reality remains, any exploration of the past; without due cognisance and commitment to the present, can only expose the causes and culpability of conflict, and will not actually address the consequences.

Therefore, a focus on the present should be afforded precedence in terms of its transformational capability.

Whilst as a society, it was always going to be a difficult journey to navigate between that chasm of deep and painful memory and the far horizon of exuberant hope; nevertheless it is towards hope and opportunity that we must set our moral-compass to navigate.

Whilst no one is suggesting we can simply forget the past, for we cannot; and we all realise how difficult, traumatic and perhaps even impossible it will be to simply turn that page for many amongst us, but we also have a responsibility to assist those trapped in that past to stake their claim to a future.

Yet there remains an inherent danger in applying all our focus, energies and resources on a re-visitation of the past; that will not only unduly subtract from what we can collectively achieve in the present, but would also leave us liable to become hostages to that past rather than architects of the future.

### Proposed framework for dealing with the present

5 PILLARS OF TRANSITIONAL JUSTICE	PROPOSALS
truth commissions	
institutional reform	<p>The suspension of the Parades Commission following a review and consultation on the Hillsborough Accord (2010), that leads to the implementation of recommendations which delivers an independent body with cross-community support.</p> <p>The implementation of the Bill of Rights proposed under the Belfast Agreement &amp; subsequently amended and agreed by the Governing parties at St Andrews; and a Supreme Court charged with upholding these rights. (UPRG: <i>Ulster Civil Liberties Centre- Bill of Rights (June 1975) &amp; Common Sense Document (Jan 1987)</i>)</p> <p>The delivery of the Civic Forum envisaged under the GFA as a societal safety value.</p> <p>The improved working of the North/South &amp; East/West strands of GFA.</p> <p>The delivery of an anti-poverty strategy in the programme for Government; focussing on transforming former conflict communities. (UPRG <i>Remembrance Day Statement 2007</i>), <i>Hillsboro Accord (2010)</i>)</p>
prosecutions	The immediate suspension of the HET/RET & Assisting Offenders (Supergrass system) as discredited processes.
reparations	The creation of an independent legacy commission, where the issues of victim/survivors of the past & prisoners of the past are explored and dealt with in two parallel thematic processes.
reconciliation & reintegration	<p>Agreed policy and protocols on the use of public space that takes account of the right for expression of identity/culture within the concept of a shared future.</p> <p>An authentic DDR process afforded to Loyalism to develop and deliver an exit strategy, as well as comparative TJ architecture for the PUL community to pursue a rights based agenda.</p> <p>The immediate rescinding of societal obstructions for 'Prisoners of the Past', where guidelines for the employment of political ex-prisoners are made legislative, &amp; insurance inequality is addressed.</p> <p>The time-framed legislative expiry of political ex-prisoner records (convicted in a Diplock Court) after a 5yr lapse where there have been no convictions in that interim period.</p> <p>Support for the creation of organic counselling outlets, to; a) allow former combatants with trauma to begin to deal with their issues in confidentiality b) begin to address internal aspects of the traumatic internecine experience c) promote healing from within and across communities.</p> <p>A TJ Reconciliation process focussed exclusively on the reconciliation of the ex-combatant/victim &amp; survivor sectors, taking account of the prominence of the internecine experience and internal communal fractures.</p> <p>The use of existing anti-terrorism legislation to stop parades, protests or events that promote and glorify terrorism or any of its stated objectives (this should negate rights when the prevention of terrorism take primacy)</p> <p>Appropriate resources allocated for the mechanisms to effectively address discontent.</p>