

# **The Irish Government and Dealing with Northern Ireland Conflict Legacy**

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Implementation of the Good Friday Agreement

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I would like to begin by thanking the Chair, Deputies, Senators and Clerks for inviting me to the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement to discuss my research findings. I also thank all contributors to my research, especially victims and survivors groups and their representatives.

## What is the research about?

This research looks at three key questions:

1. How effectively has the Irish government dealt with Northern Ireland conflict legacy?
2. What more could the Irish government do to assist dealing with conflict legacy?
3. How might the Irish government enhance its efforts?

## What is the overall conclusion so far?

**This research suggests that the Irish government has taken some steps towards dealing with conflict legacy since 1998, but more needs to be done to meet the needs of victims and survivors.**

In the early 2000s there were various reports into legacy cases in Ireland by Justice Barron and MacEntee.<sup>1</sup> In addition, Judge Peter Smithwick's tribunal report was released in 2013.<sup>2</sup> The Irish government also supported the Stormont House Agreement's proposed legacy mechanisms in 2014.<sup>3</sup>

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<sup>1</sup> Mr Justice Henry Barron, *Report of the Independent Commission of Inquiry into the Dublin and Monaghan Bombings* (October 2003); see also Houses of Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights, *Final Report on the Report of the Independent Commission of Inquiry into the Dublin and Monaghan Bombings* (March 2004); Mr Justice Henry Barron, *Report of the Independent Commission of Inquiry into the Bombings in Dublin 1972-73* (June 2004); see also Houses of Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights, *Final Report on the Report of the Independent Commission of Inquiry into the Dublin Bombings of 1972 and 1973* (February 2005); Mr Justice Henry Barron, *Report of the Independent Commission of Inquiry into the Murder of Seamus Ludlow* (October 2004); see also Houses of Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights, *Final Report on the Report of the Independent Commission of Inquiry into the Murder of Seamus Ludlow* (March 2006); Mr Justice Henry Barron, *Report of the Independent Commission of Inquiry into the Bombing of Kay's Tavern, Dundalk* (February 2006); see also Houses of Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights, *Final Report on the Report of the Independent Commission of Inquiry into the Bombings of Kay's Tavern, Dundalk* (November 2006); Mr Patrick MacEntee S.C., Q.C., *Commission of Investigation into the Dublin and Monaghan Bombings of 1974 Final Report* (March 2007). All documents are accessible at <http://www.dublinmonaghanbombings.org/home/publications.html> <accessed 1 June 2019>.

<sup>2</sup> His Honour Judge Peter Smithwick, *Report of the Tribunal of Inquiry into Suggestions that Members of An Garda Síochána or Other Employees of the State Colluded in the Fatal Shootings of RUC Superintendent Harry Breen and RUC Superintended Robert Buchanan on the 20<sup>th</sup> March 1989* (Dublin: Government of Ireland, 2013): at [http://opac.oireachtas.ie/AWDData/Library3/smithwickFinal03122013\\_171046.pdf](http://opac.oireachtas.ie/AWDData/Library3/smithwickFinal03122013_171046.pdf) <accessed 1 June 2019>.

<sup>3</sup> The Stormont House Agreement (December 2014): at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/390672/Stormont\\_House\\_Agreement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/390672/Stormont_House_Agreement.pdf) <accessed 1 June 2019>.

Ireland has faced external challenges to progressing specific legacy cases. These include Brexit, the UK authorities' lack of cooperation at times and the collapse of power-sharing in Northern Ireland. Nevertheless, my recommendations outline how the Irish government can still take further steps towards dealing with conflict legacy.

## Why should the Irish government deal with conflict legacy?

In terms of dealing with the past, the primary focus so far has been on Northern Ireland because an estimated 3,453 of the 3,720 conflict-related deaths occurred there.<sup>4</sup> But the conflict also had a direct impact on the Republic of Ireland. There were at least 121 conflict-related deaths in this state.<sup>5</sup> Thirty-four people, for example, died following the Dublin-Monaghan bombings in May 1974. 300 others were injured in this attack.<sup>6</sup> On the recent anniversary of this atrocity in May 2019, the Taoiseach's statement reminded us that the Dublin-Monaghan bombings represents 'the highest number of casualties in any single day during the Troubles'.<sup>7</sup>

There were other cross-border attacks by both loyalist and republican paramilitaries into or originating from the Irish state. Examples include attacks in Belturbet, Castleblayney, Dundalk, Dublin and cross-border incidents in counties Armagh, Derry, Down, Fermanagh and Tyrone, as further detailed in my written evidence. Seven Irish security force members were also killed during the conflict.<sup>8</sup> In addition, various interviewees highlighted the Irish government's crucial role in building and sustaining peace. This evidence shows that the Irish state was directly involved during the conflict and the peace process.

## What are the key priorities for the Irish government to consider when dealing with conflict legacy?

My recommendations are made with three key priorities that interviewees and others want at the heart of the legacy processes:<sup>9</sup>

1. to assist victims and survivors in their search for justice, truth and closure
2. ensuring public confidence in the Irish government across these isles

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<sup>4</sup> See table 1 and table 14 in David McKittrick, Seamus Kelters, Brian Feeney, Chris Thornton and David McVea, *Lost Lives: The stories of the men, women and children who died as a result of the Northern Ireland Troubles* (Edinburgh: Mainstream Publishing Company, 2007), p.1552, p.1559.

<sup>5</sup> See table 14 in McKittrick *et al.*, *Lost Lives*, p.1559.

<sup>6</sup> 'Lost Lives: Dublin and Monaghan Bombings – 17 May 1974' at:

<http://www.dublinmonaghanbombings.org/home/lostlives.html> <accessed 9 June 2019>.

<sup>7</sup> Statement by An Taoiseach on 45<sup>th</sup> anniversary of Dublin/Monaghan bombings, Friday 17 May 2019: at

[https://merriestreet.ie/en/News-Room/News/Statement by An Taoiseach on 45th Anniversary of Dublin Monaghan Bombings.html](https://merriestreet.ie/en/News-Room/News/Statement%20by%20An%20Taoiseach%20on%2045th%20Anniversary%20of%20Dublin%20Monaghan%20Bombings.html) <accessed 10 June 2019>.

<sup>8</sup> See table 20 in McKittrick *et al.*, *Lost Lives*, p.1562.

<sup>9</sup> These key objectives reflect some of priorities identified by other individuals and groups. See for example Healing Through Remembering, 'Response to the NIO Consultation: Addressing the Legacy of Northern Ireland's Past', pp.8-12: at <http://healingthroughremembering.org/wp-content/uploads/2018/10/HTR-Response-NIO-Legacy-Consultation-FINAL.pdf> <accessed 1 June 2019>; and The Commission for Victims and Survivors, 'Oireachtas Committee on the Implementation of the Good Friday Agreement Speaking Note', 11 April 2019: at [https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_the\\_implementation\\_of\\_the\\_good\\_friday\\_agreement/submissions/2019/2019-04-11\\_opening-statement-judith-thompson-commissioner-for-victims-and-survivors-ni-the-commission-for-victims-and-survivors\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_the_implementation_of_the_good_friday_agreement/submissions/2019/2019-04-11_opening-statement-judith-thompson-commissioner-for-victims-and-survivors-ni-the-commission-for-victims-and-survivors_en.pdf) <accessed 1 June 2019>.

3. enhancing British and Irish relations by co-operating on conflict legacy

## Recommendations

My recommendations come under six themes.

**Theme 1: Full engagement with the Stormont House Agreement:** Key recommendations under this theme include that the Irish government should:

- parallel the Historical Investigations Unit in Northern Ireland. Alternatively, they should create an oversight committee, body or appoint an independent person to help oversee ongoing legacy cases in Ireland;
- assist the Independent Commission for Information Retrieval by sharing archival documents where required to cross-check information provided;
- create an oversight mechanism, individual, committee or academic team to help oversee the national security redaction process of archival documents;
- reappoint a victims commissioner for the Republic of Ireland.

**Theme 2: Transparency and sustained communication with victims and survivors:** Key recommendations include that the Irish government should:

- create a Citizens Assembly or Victims Forum in Ireland to ensure maximum engagement with victims and survivors.

**Theme 3: Mental and physical health services for victims and survivors:** The Irish and British governments must ensure that victims and survivors must be able to equally access required services across these islands.

**Theme 4: Engagement and cooperation between Irish and British authorities:** Recommendations to try to increase engagement and cooperation include:

- this committee and government officials visiting the UK to raise awareness of legacy cases with interested parties and politicians in the Welsh Assembly, the Scottish Parliament, and the Westminster Parliament.
- Irish government ministers and politicians raising awareness of legacy cases in the UK media.

**Theme 5: Remembrance:**

- The Irish government should organise and hold an annual remembrance day related to the Troubles alongside the British and Northern Irish authorities.

**Theme 6: Acknowledgement statements:**

- The Irish government should consider giving acknowledgement statements alongside all sides involved in the conflict. These are not necessarily apologies. They are an acknowledgment that each side took different approaches during the conflict that negatively affected or have been perceived as counter-productive to other groups.

## Research methods

The above recommendations are partly based on interviews that have been conducted so far with:

- various victims and survivors groups
- Irish and UK politicians, past and present
- former Irish and UK security force personnel
- former Irish republican and Ulster loyalist activists and prisoners
- and academics

I cross-reference interviewee responses with each other alongside other sources detailed in my report.

I look forward to discussing and reviewing these recommendations with the committee.

## Brexit and citizenship

Finally, as requested, I will also provide a few thoughts on Brexit's impact on citizenship across the island of Ireland. Professor Niall Ó Dochartaigh of the National University of Ireland Galway and myself produced work on 'Citizenship on the ethnic frontier: nationality, migration and rights in Northern Ireland since 1920'.<sup>10</sup> We also looked at the rights of Irish people in England, Wales and Scotland, and the rights of UK citizens in Ireland from 1920 to today.

There are two central points about how Brexit may impact citizenship on this island:

1. The Good Friday Agreement partly helped to end the conflict by recognising the contested nature of British and Irish citizenship in the north. The peace agreement therefore accepted the right 'of all the people of Northern Ireland to identify themselves...as Irish or British, or both'. It stated that this right 'would not be affected by any future change in the status of Northern Ireland'.<sup>11</sup> It is vital to ensure dual citizenship in Northern Ireland remains. Otherwise, Irish people in Northern Ireland will feel that their voice is ignored, and their identity overlooked. This point matters because one factor encouraging conflict on this island between 1912 to 1998 was the perception or existence of particular national identities being suppressed.
2. Our research found that Irish people moving to England, Scotland or Wales, and UK citizens moving to Ireland, have received generous citizenship rights. For example, an Irish person moving to Britain does not face restrictions in voting or accessing healthcare. Will Irish people living in the UK still experience the same generosity after Brexit? It remains unclear.<sup>12</sup>

I also look forward to questions on this topic from the chair, deputies and senators.

**This document has been created by Dr Thomas Leahy for the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement.**

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<sup>10</sup> Niall Ó Dochartaigh and Thomas Leahy, 'Citizenship on the ethnic frontier: nationality, migration and rights in Northern Ireland since 1920', in Steven G. Ellis (ed.), *Enfranchising Ireland?: Identity, Citizenship and State* (Dublin: Royal Irish Academy, 2018).

<sup>11</sup> The Good Friday Agreement (1998): at <https://cain.ulster.ac.uk/events/peace/docs/agreement.htm> <accessed 13 June 2019>.

<sup>12</sup> For more on the risks of Brexit to Ireland, see for example Thomas Leahy, 'Brexit and the 20<sup>th</sup> anniversary of the Good Friday Agreement', in *Welsh Brexit*, 9 April 2018: at <http://blogs.cardiff.ac.uk/brexit/2018/04/09/brexit-and-the-twentieth-anniversary-of-the-good-friday-agreement/> <accessed 13 June 2019>; Katy Hayward and Mary C. Murphy, 'The EU's influence on the Peace Process and Agreement in Northern Ireland in light of Brexit', in *Ethnopolitics*, 17:3, 2018, pp.276-291; Jonathan Tonge, 'The impact of withdrawal from the European Union upon Northern Ireland' in *The Political Quarterly* issue 3, volume 87, pp.338-342; and BrexitLawNI, *Brexit and the Peace Process* (2018): at <https://brexitlawni.org/assets/uploads/Brexit-and-the-Peace-Process.pdf> <accessed 1 June 2019>.