

The Irish Government and Dealing with Northern Ireland Conflict Legacy 1969 to 2024

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Executive summary of research recommendations



This document has been created by Dr Thomas Leahy.

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All views outlined are mine alone based on the research.

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Publications by author (journal articles unless stated otherwise):

'Rigorous impartiality'? The UK Government, Amnesties and Northern Ireland Conflict Legacy 1998-2022', in Laura McAtackney and Máirtín Ó Catháin, *The Routledge Handbook of the Troubles* (London: Routledge, 2024, Book chapter).

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Public reports:

'The Irish Government and dealing with Northern Ireland conflict legacy', full report to the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement, 20 June 2019.

'The Irish Government and dealing with Northern Ireland conflict legacy', executive summary for the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement, 20 June 2019.

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The Irish Government and Dealing with Northern Ireland Conflict Legacy, 1969-2024

What is the research about?

This research looks at three key questions:

1. How did the Irish Government deal with Northern Ireland conflict legacy incidents and themes involving the Republic before 1998?
2. How has the Irish Government dealt with Northern Ireland conflict legacy incidents and themes since 1998?
3. How might the Irish Government enhance its efforts on addressing conflict legacy?

What is the overall research conclusion so far?

This research suggests that before 1998, there were gaps in how the Irish state addressed conflict legacy. Since 1998, the Irish Government has taken steps towards dealing with conflict legacy. But more is required to meet the needs of victims and survivors.

Irish Government efforts to deal with conflict legacy initially increased in the early 2000s following the peace process. Examples include:

- 1998-1999 – The appointment of John P. Wilson as the Victims Commissioner, and the creation of his report *A Place and a Name*. Various recommendations by Wilson have been adopted, including commissions of investigations into the Dublin-Monaghan bombings, and a compensation scheme for victims and survivors.¹
- 1999-to present – The Irish and British Governments passed legislation to ensure that the Independent Commission for the Location of Victims' Remains (ICLVR) can receive confidential information to assist finding those 'disappeared' by paramilitary groups.²
- 2001 – The Weston Park Agreement saw the Irish and British Governments agree to 'appoint a judge of international standing from outside both jurisdictions to undertake a thorough investigation of allegations of collusion in the cases of the killings of Chief Superintendent Harry Breen and Superintendent Bob Buchanan, Pat Finucane, Lord Justice and Lady Gibson, Robert Hamill, Rosemary Nelson and Billy Wright'.³

¹ Mr John P. Wilson, *A Place and a Name: Report of the Victims Commission* (Dublin: Government Publications sales office, July 1999).

² *Northern Ireland (Location of Victims' Remains) Act 1999*: at <http://www.legislation.gov.uk/ukpga/1999/7> <accessed 14 June 2019>; *Criminal Justice (Location of Victims' Remains) Act 1999*: at <http://www.irishstatutebook.ie/eli/1999/act/9/enacted/en/html> <accessed 16 June 2019>; see also <https://thedisappearedni.co.uk/> <accessed 14 June 2019>.

³ Northern Ireland Office and Department of Foreign Affairs, 'Implementation Plan issued by the British and Irish Governments' (1 August 2001), point 18: at <https://cain.ulster.ac.uk/events/peace/docs/bi010801.htm> <accessed 16 June 2019>.

- 2003-2006 – Release of Mr Justice Henry Barron’s reports into various cross-border killings and attacks by Ulster Loyalist paramilitaries. These reports also considered allegations of collusion by British security and intelligence services in some of these incidents. The cases he addressed included the Dublin bombings of 1972 and 1973, the Dublin and Monaghan bombings in 1974 and the Dundalk bombing in 1975.⁴
- 2003-2008 - Compensation was paid to victims/survivors through a Remembrance Commission in the Republic.⁵
- 2005-2007 – Mr Patrick MacEntee SC QC released his report on specific issues raised in Barron’s report into the Dublin-Monaghan bombings.⁶
- 2006-2013 – Judge Peter Smithwick tribunal investigates allegations of collusion between the IRA and Gardaí in the killing of two RUC superintendents Harry Breen and Bob Buchanan in south Armagh in 1989.⁷
- 2014 – The Irish Government supports the Stormont House Agreement alongside other parties including the British Government. It proposed new institutions and mechanisms to address legacy.⁸
- 2023 to present – The Irish Government has commenced an inter-state case under the European Convention of Human Rights against the British Government’s Northern Ireland Troubles (Legacy and Reconciliation) Act 2023. The Irish Government argues the act lacks victims/survivor support, is against the political consensus north and south, and is not compatible with the European Convention on Human Rights due to the form of amnesty it provides without prior truth recovery mechanisms.⁹

⁴ 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). All documents are accessible at <http://www.dublinmonaghanbombings.org/home/publications.html> <accessed 1 June 2019>.

⁵ Department of Justice and Equality, ‘Remembrance Commission’: at http://www.justice.ie/en/JELR/Pages/remembrance_commission <accessed 1 June 2019>.

⁶ Mr Patrick MacEntee S.C., Q.C., *Commission of Investigation into the Dublin and Monaghan Bombings of 1974 Final Report* (March 2007). Available at: <http://www.dublinmonaghanbombings.org/home/publications.html> <accessed 1 June 2019>.

⁷ 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 20th March 1989* (Dublin: Government of Ireland, 2013): at http://opac.oireachtas.ie/AWDData/Library3/smithwickFinal03122013_171046.pdf <accessed 1 June 2019>.

⁸ *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 <accessed 1 June 2019>.

⁹ For example, see ‘Statement by the Tánaiste Micheál Martin, on the Government decision to initiate an inter-State case against the United Kingdom’, 20 December 2023, Department of Foreign Affairs and Trade at: <https://www.gov.ie/en/press-release/82232-statement-by-the-tanaiste-micheal-martin-on-the-government-decision-to-initiate-an-inter-state-case-against-the-united-kingdom/> <accessed 12 February 2024>.

This is not an exhaustive list of Irish Government efforts. Nonetheless, this research suggests that the Irish Government needs to do more. This summary provides the latest practical ideas for what they could do.

The Irish Government faces external challenges influencing if they can progress specific legacy cases.¹⁰ These include the UK authorities' lack of cooperation at times in specific cases¹¹ and the UK Government's Legacy Bill. Nonetheless, these recommendations set out how the Irish Government can still take further steps.

Evidence

This research will be published as a journal article in 2024 (looking at what the Irish Government did in relation to six conflict legacy incidents and themes before 1998) and a book in future (looking at the what the Irish Government has done about conflict legacy since 1969 up to 2024, and what more it could do).

I have utilised a wide range of sources in this research. These include: Irish and UK national archive papers between 1969 up to the latest releases for 2001; memoirs by key politicians and others involved in the conflict and peace process; over thirty interviews including with Irish/Northern Irish politicians from multiple parties and perspectives, former Irish/UK security personnel (Irish Defence Forces, An Garda Síochána, the Royal Ulster Constabulary and the Ulster Defence Regiment); former Ulster Loyalist and Irish Republican prisoners; victims and survivor groups alongside academics specialising on Irish/Northern Irish conflict legacy; inquiries and tribunal reports including by Barron and Smithwick; Oireachtas historical debates online; and various other sources. Whilst gaps remain in all sources, cross-referencing this range of material has helped discover a consensus view on the research questions.

Purpose of this report

My research publications will enable the reader to understand what the Irish Government has (and has not) done about conflict legacy so far. I am aware that recent events further demonstrate that the UK Government has a (and perhaps the) most significant influence on legacy policies, since it is the overall constitutional power. The purpose of this executive summary is to provide the consensus areas where the research suggests the Irish Government can further act to help address the legacy of the conflict in and abouts Northern Ireland.

The need for an updated report

¹⁰ This point was recognised by various interviewees including Margaret Urwin, interview with author, 6 April 2017, Dublin; and Irish politician one, interview with author, 16 May 2019.

¹¹ The Barron reports noted the difficulties that limited cooperation from British authorities has caused in particular conflict legacy cases. For example, see *Final Report on the Report of the Independent Commission of Inquiry into the Bombings of Kay's Tavern, Dundalk*, pp.61-63; *Final Report on the Report of the Independent Commission of Inquiry into the Dublin and Monaghan Bombings*, pp.1-2, 51-52; and *Report of the Independent Commission of Inquiry into the Dublin and Monaghan Bombings*, pp.14-20. One notable exception was the Smithwick Tribunal. But Smithwick re-emphasised the importance of full-disclosure where possible of both UK and Irish files in order to establish what exactly happened and why in future legacy cases, as he was still relying on voluntary cooperation from UK authorities. *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 20th March 1989*, pp.4-5.

This document updates recommendations I made in reports and evidence to the Oireachtas Committee on the Implementation of the Good Friday Agreement in 2019. Some of my recommendations had to alter following the UK Government's recent Legacy Bill. Others have been refined following further research.¹² For a copy of the 2019 reports, email LeahyT1@cardiff.ac.uk

¹² Thomas Leahy, 'Executive summary of recommendations on the Irish Government and Dealing with Northern Ireland Conflict Legacy', (2019); Thomas Leahy, 'Full report on the Irish Government and Dealing with Northern Ireland Conflict Legacy', (2019).

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, where an estimated 3,453 of the 3,720 conflict-related deaths occurred.¹³ But the conflict had a direct impact on the Republic of Ireland. There were at least 121 conflict-related deaths in this state.¹⁴ Thirty-four people, for example, died following the Dublin-Monaghan bombings in May 1974. 300 others were injured in this attack.¹⁵ During the anniversary in May 2019, the Taoiseach reminded everyone that the Dublin-Monaghan bombings represented 'the highest number of casualties in any single day during the Troubles'.¹⁶

The Dublin and Monaghan bombings are part of various cross-border attacks, incidents and activities that occurred in this jurisdiction. Examples include: the Dublin bombings in December 1972, which killed two people; the deaths of two teenagers in the Belturbet bombing in county Cavan in December 1972; the Dublin bombing in Sackville Place that killed one person in January 1973; the December 1975 Dundalk bombing which killed two people; and the Castleblayney bombing in county Monaghan in March 1976, killing one person.¹⁷ The Barron reports into these incidents emphasised the cross-border nature of the attacks. It also noted alleged collusion between elements of the British security services and Ulster Loyalist paramilitaries that requires further investigation for some incidents.¹⁸ Allegations of collusive attacks by paramilitaries and representatives of a neighbouring state alone can explain why the Irish Government needs to address conflict legacy.

Other Troubles-related incidents in the Republic of Ireland occurred during and after the 1970s. The Smithwick Tribunal of Inquiry that reported in 2013 investigated alleged collusion between the IRA and Gardaí in the killings of Royal Ulster

¹³ See tables 1 and 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, 1559.

¹⁴ See table 14 in McKittrick *et al.*, *Lost Lives*, p.1559.

¹⁵ 'Lost Lives: Dublin and Monaghan Bombings – 17 May 1974' at:

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

¹⁶ Statement by An Taoiseach on 45th anniversary of Dublin/Monaghan bombings, Friday 17 May 2019: at

https://merrionstreet.ie/en/News-Room/News/Statement_by_An_Taoiseach_on_45th_Anniversary_of_Dublin_Monaghan_Bombings.html <accessed 10 June 2019>.

¹⁷ 'Lost Lives': at <http://www.dublinmonaghanbombings.org/home/lostlives.html> <accessed 16 June 2019>.

¹⁸ 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).

Constabulary members in south Armagh in March 1989.¹⁹ The Irish Republican Army (IRA) also killed seven Irish security personnel during the conflict.²⁰ These examples alongside others show that the Irish Government, alongside the Northern Ireland Assembly and the British Government, has a responsibility to deal with the legacy of the conflict for victims and survivors across these isles.

The Irish Government has recognised that it needs to fully engage with conflict legacy. In March 2019, Simon Coveney, then Tánaiste and Minister for Foreign Affairs and Trade, said:

We must address the legacy of the past and we must remember what happened. We also have a duty to the families of those who lost their lives and those injured to provide whatever justice, truth and healing is possible. Human rights and the rule of law must be upheld for everybody and we must learn the lessons of the past as we seek full reconciliation and, hopefully, a much better future.²¹

Citizens in the Republic of Ireland want the Irish Government to address conflict legacy. The Commission of Victims and Survivors recently released their population survey in the Republic in 2023. 1010 adults participated. In total, 82% of respondents ‘believe it is important to address the legacy of the Troubles/Conflict in the Republic’. Furthermore, 69% ‘believe Irish Government Departments and their strategies and initiatives should pay regard to the needs of victims and survivors of the Troubles/conflict’.²² The Irish Government’s further engagement in addressing conflict legacy is a matter of public interest in the Republic of Ireland.

¹⁹ 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 20th March 1989* (Dublin: Government of Ireland, 2013).

²⁰ See table 20 in McKittrick et al., *Lost Lives*, p.1562.

²¹ Seanad Éireann debate on ‘Dealing with the past in Northern Ireland: statements’, Wednesday 27 March 2019.

²² Commission for Victims and Survivors, ‘Republic of Ireland population survey’, 23 June 2023, p.3.

Executive summary: What could the Irish Government do next to address conflict legacy?

There are three primary themes where the research suggested the Irish Government could further address conflict legacy. These are:

- 1) To continue opposing amnesties as permitted by the UK Government's current Legacy bill.
- 2) Consistent engagement with victims/survivors and their representatives from across the island and UK to address outstanding legacy cases/themes.
- 3) Various ideas on how the Irish Government could engage with any future agreed legacy process. This includes deciding what key themes on its involvement in the conflict and peace process will be explored.

Below, I briefly explain each theme and supporting evidence.

1) Continue opposing the unilateral UK Government Legacy Bill.

The overwhelming majority of interviewees did not support amnesties from prosecution for legacy incidents. Interviewees were representative of multiple different views on the conflict and legacy process, including from Ulster Unionism, Irish Republicanism, various victims/survivor groups and security force veterans north and south.

The Irish Government is currently fulfilling this recommendation. They have already commenced an inter-state case against the UK Government's Legacy Bill.

Most interviewees support the Irish Government opposing the UK Government's legacy plans that include an amnesty that is not contingent on truth-recovery first.

For example, during an interview in late 2022 when talk of amnesties increased, David Crabbe, former civil servant and Ulster Defence Regiment member, said the Irish Government:

are absolutely right to oppose [amnesties] ... the vast majority of my colleagues don't want it ... if somebody did break the law...they should face the full rigours of the law ... it tarnishes me and my services because it looks like we needed that legislation.

Crabbe felt amnesties for all could imply equal responsibility for the conflict, something he and his colleagues reject.²³ Alan Brecknell from the Pat Finucane Centre, who lost his father after a Loyalist attack where there is suspected collusion, outlined in 2022 his opposition to any legacy act proposing amnesties: 'The British Government is basically saying that for those over 300+ killed by the British security forces, it's okay'. In regards to the Irish Government, he explained: 'they have said all the right things' but wanted them to look internationally with the ECHR and

²³ David Crabbe, interview with author, 22 November 2022.

elsewhere to protest against any amnesties.²⁴ Margaret Urwin, author and coordinator for Justice for the Forgotten victims/survivors group representing those killed by Loyalists often in suspected collusion cases on the border and in the Republic, supported the Irish Government for 'resisting' amnesties. Urwin explained why:

Like every other victim and survivors group, all our victims could be left without any avenue to truth or justice ... Certainly the Irish Government are declaring themselves totally opposed to it. All the parties here are too...and all the parties in the north. As far as I know all the victims groups...are opposed to the amnesty plan too. There is nobody really in favour of it apart from some veterans.²⁵

These views were repeated in interviews with people from different backgrounds.

Recent polling demonstrates amnesties are opposed by the people of Northern Ireland. A LucidTalk poll in 2021 found that seven out of ten people in Northern Ireland disagreed with ending prosecutions related to the conflict.²⁶ In 2023, Amnesty International also found that a majority of people across the UK opposed amnesties from prosecution proposed by the UK Government's Legacy Bill for the north.²⁷ On 28 February 2024, the High Court in Belfast ruled that the UK's Legacy Act was 'in breach of the European Convention on Human Rights', which does concur with the Irish Government's reasons for opposing the amnesty.²⁸

This evidence alongside the interview quotes above show the validity in Irish Government statements in saying that they opposed the British Government's Legacy Bill in part to reflect the views of victims/survivors, most political parties and people on the island of Ireland. Former Taoiseach Leo Varadkar regretted having to pursue an inter-state case but said: 'we did make a commitment to survivors...and...victims that we would stand by them'.²⁹

Despite widespread support for the Irish Government in opposing the UK Government's Legacy Bill, some interviewees questioned why the Irish Government has proceeded with an inter-state ECHR case. They also raised questions generally about the Irish Government's own record in addressing conflict legacy.

One Democratic Unionist Party (DUP) politician said: 'Yes they are right to oppose [amnesties]'. But they added 'I get the sense that elements within the Irish Government feel...secretly quite happy' with amnesties. They suggested the Irish

²⁴ Alan Brecknell, interview with author, 19 January 2022.

²⁵ Margaret Urwin, interview with author, 24 January 2022.

²⁶ 'Poll shows majority of people oppose British government amnesty plans', in *The Irish News*, 26 July 2021: at <https://www.irishnews.com/news/northernirelandnews/2021/07/27/news/poll-shows-majority-of-people-oppose-british-government-amnesty-plans-2399377/> <accessed 4 August 2022>.

²⁷ Amnesty International UK Press Release, 'Northern Ireland: Majority of the UK Public are Against the Troubles Bill – New Poll', 23 June 2023 at: <https://www.amnesty.org.uk/press-releases/northern-ireland-majority-uk-public-are-against-troubles-bill-new-poll> <accessed 22 February 2024>.

²⁸ Julian O'Neill, *BBC News Northern Ireland*, 'NI Troubles: Legacy Act immunity clause 'breaches' human rights', 28 February 2024 at: <https://www.bbc.co.uk/news/uk-northern-ireland-68419238> <accessed 3 March 2024>.

²⁹ Rory Carroll, 'Ireland to launch human rights case against UK over Troubles Legacy Act', in *The Guardian*, 20 December 2023: <https://www.theguardian.com/world/2023/dec/20/ireland-takes-human-rights-case-against-uk-over-troubles-legacy-act> <accessed 22 February 2024>.

Government's in their view poor record on some legacy cases made them doubt their sincerity when arguing against the UK Government's legacy plans.³⁰ DUP leader Gavin Robinson told DUP members in May 2024: 'The Republic has repeatedly failed to face up to the role it played in the Troubles whilst regularly being critical of the UK Government's role'.³¹

In 2022, Kenny Donaldson from the South East Fermanagh Foundation explained his view about the amnesties and the Irish Government opposing them:

our starting position is always that the rule of law should prevail ... with this [UK Government] bill...it is asking victims and survivors who have already carried so much including pain to be party to the granting of immunity to the perpetrators of...crimes ... I've always believed that the Irish Government's approach has been about quality proofing what the British do. They'll sit there and judge but offer nothing ever proactive themselves ... they go absolutely mute on any questions about their own role.³²

In summary, these latter perspectives agree amnesty acts should be rejected. They feel, however, there are unsolved legacy matters involving the Republic that makes them doubt the Irish Government's motives for bringing the inter-state case. My research suggests advancing Irish Government responses to the other themes outlined below might improve confidence for why the Irish Government opposes the current UK Legacy Bill.

2) Consistent engagement with victims/survivors and their representatives

Interviewees from multiple perspectives felt the Irish Government should engage on a more consistent basis with victims/survivors.

Some interviewees felt that engagement opportunities with the Irish Government to discuss legacy themes and cases were inconsistent, or inadequate.

Kenny Donaldson explained in 2022 that for SEFF 'It is ten years ago that we last met a Taoiseach, Enda Kenny'.³³ Other victims/survivor groups felt at times they were not receiving consistent engagement from different parts of the Irish state.

From discussions with interviewees, and as partly recommended in my previous reports on the Irish Government and conflict legacy,³⁴ there are three ways that the research found this might be addressed:

A) Reviving the role of a Victims Commissioner specifically for legacy themes and cases involving the Republic of Ireland. For instance, Margaret Urwin of Justice for the Forgotten explained how: 'John Wilson was the victims commissioner here and families were able to go and speak to him. He published his report in 1999'.

³⁰ Democratic Unionist Party politician, interview with author, 24 August 2021.

³¹ Mark Rainey, 'Irish Government must face up to its own actions during Troubles: DUP leader', *News Letter*, 4 May 2024 at: <https://www.newsletter.co.uk/news/politics/irish-government-must-face-up-to-its-own-actions-during-troubles-dup-leader-4616156> <accessed 4 May 2024>.

³² Kenny Donaldson, interview with author, Enniskillen, Fermanagh, 25 May 2022.

³³ Kenny Donaldson, interview with author, 25 May 2022, Enniskillen, Fermanagh.

³⁴ Leahy, 'Executive summary', recommendations 10 and 12, p.9; Leahy, 'Full report', recommendations 10 and 12, pp.10, 35-36, 38-40.

Margaret Urwin does feel that a Victims Commissioner should be appointed in the Republic of Ireland again.³⁵ Having a Victims Commissioner in the Republic during any new future legacy process could help ensure a sense of consistent and coordinated engagement and dialogue with Irish Government officials and TDs.

B) Creating a victims forum in the Republic, similar to its northern counterpart.

Either mechanism suggested above would provide ways for all victims/survivor groups to interact regularly with the Irish Government.

C) A further suggestion was for the Department of Taoiseach to coordinate Irish Government engagement on legacy matters.

3) Future themes to discuss with victims/survivors related to how the Irish Government will address conflict legacy

There were various suggestions about what the Irish Government might do related to its role in addressing conflict legacy as part of any future agreed legacy process that may emerge. The key points were:

A) My research identified a consensus around six key themes about the Irish Government's role in the conflict and peace process that research participants were keen to explore in a legacy process. The six themes are:

- 1) How the Irish state addressed the legacy of cross-border Ulster Loyalist paramilitaries' attacks in the Republic and allegations of Loyalist-UK security force collusion in some incidents. Examples to collectively discuss include the Dublin bombings 1972, the Belturbet bombing 1972, Dublin and Monaghan bombings 1972, and the Dundalk bombing in 1975.
- 2) Irish Government security efforts against Irish Republican paramilitaries operating within the Republic. Themes covered would include the Special Criminal Courts, broadcasting restrictions and more.
- 3) Cross-border security cooperation with the British Army, Ulster Defence Regiment and Royal Ulster Constabulary against paramilitaries.
- 4) Irish Government interactions with Ulster Unionism, including debates about Articles II and III of the 1937 Constitution.
- 5) Irish Government efforts to obtain reforms for northern nationalists.
- 6) Irish state assistance to Irish security force and prison service members and their families following attacks by paramilitaries.

The Stormont House Agreement in 2014 proposed thematic reviews of key themes from the conflict as part of the 'Implementation and Reconciliation Group'.³⁶ The six themes identified could be discussed further by the Irish Government with victims/survivors to find consensus for any future agreed legacy process that might arise.

³⁵ Margaret Urwin, interview with author, 6 April 2017, Dublin, Republic of Ireland; see more in Leahy, 'Full report', recommendation 10, p.35-36.

³⁶ *The Stormont House Agreement*, 23 December 2014, p.6. at:

B) Independence of historical investigations as part of any legacy process.

If the UK Labour party wins the next UK general election, Hilary Benn, Labour's Shadow Northern Ireland Secretary of State, has publicly stated they would seek to repeal the current UK ideas for immunity from prosecution.³⁷

The question is: what would follow? If returning to the Stormont House Agreement, there were areas where victims/survivors alongside others questioned the Irish Government's role. For instance, SEFF did not support the Stormont House Agreement. But, in 2018, Kenny Donaldson said if a Historical Investigations Unit ever came into existence as the Agreement suggested: 'there has to be a comparable investigative process in the Republic...fully independent'.³⁸ In 2018, Alan Brecknell agreed: 'there is an unequal balance within the Stormont House Agreement [with] no Historical Investigations Unit...south of the border'.³⁹

These concerns will re-emerge if the Stormont House Agreement (or aspects of it) returns. Discussions could take place consistently now with victims/survivors groups in particular to explore if there is consensus on this discussion.

C) Progressing outstanding points from previous investigations, tribunals and reports

As detailed in my 2019 report to the Oireachtas Committee on the Implementation of the Good Friday Agreement, various interviewees believe there are areas that still need to be addressed after previous reports into some legacy cases in the Republic.⁴⁰

In relation to the Smithwick Tribunal, Kenny Donaldson said: 'We had a finding, but we didn't have any action. A finding without action is pointless ... it's about accountability being seen to being done'.⁴¹ Various politicians from the Unionist community agreed. In contrast, various former TDs and Irish security force veterans felt Smithwick's verdict was not precise because it did not name the suspect(s).

In relation to cases Justice for the Forgotten represent, Margaret Urwin commented: 'I think the Gardaí could further provide information about...attacks. There should not be a difficulty with providing more information at this stage'.⁴²

Multiple interviewees also commented on victims pensions, mental and physical health services. Between 2003 and 2008, compensation was paid to various victims

³⁷ Richard Wheeler, *Irish News*, 'Hilary Benn: Labour government would repeal Troubles Legacy immunity law', 6 September 2023 at:

https://www.irishnews.com/news/northernirelandnews/2023/09/06/news/benn_labour_government_would_repeal_troubles_legacy_immunity_law-3589767/ <accessed 26 February 2024>.

³⁸ Kenny Donaldson, interview with author, 14 September 2018, Lisnaskea, Fermanagh, Northern Ireland.

³⁹ Alan Brecknell, interview with author, 19 January 2022.

⁴⁰ Leahy, 'Executive summary', (2019), recommendation nine, p.8-9; Leahy, 'Full report', (2019), recommendation nine, pp.9-10, 33-35.

⁴¹ Kenny Donaldson, interview with author, 14 September 2018, Lisnaskea, county Fermanagh.

⁴² Margaret Urwin, interview with author, 6 April 2017, Dublin.

and survivors through a Remembrance Commission in the Republic of Ireland.⁴³ Nonetheless, these wider points were raised as areas for further discussion.⁴⁴

⁴³ Department of Justice and Equality, 'Remembrance Commission': at http://www.justice.ie/en/JELR/Pages/remembrance_commission <accessed 1 June 2019>.

⁴⁴ Leahy, 'Executive summary', recommendations 15 and 16, p.10; Leahy, 'Full report', recommendations 15 and 16, pp.11, 43-46.

Concluding remarks

I welcome feedback on these recommendations. The recommendations represent reflect current research findings that are being developed further in my publications. Their purpose is to provide the Irish Government but also the public with ideas for how the Irish Government can further assist dealing with conflict legacy.

Margaret Urwin from Justice for the Forgotten's words summarise the importance of the Irish Government continuing with its efforts to further engage and deal with Troubles legacy:

The whole concentration as far as we can see up to today has been naturally on deaths within Northern Ireland, where of course the vast majority of them happened. But ways have to be found to include the victims who were killed in the Republic of Ireland and indeed in Britain and in other places within Europe. If they are all victims of the same conflict, there has to be a way found to include all victims in that mechanism ... The Irish Government has to be there in legacy mechanisms for dealing with the past, and, also, so of course do the British Government, both as co-guarantors of the Good Friday Agreement.⁴⁵

Dr Thomas Leahy

29 April 2024.

⁴⁵ Margaret Urwin, interview with author, 6 April 2017, Dublin.