

Response to Consultation Paper
Addressing the Legacy of Northern Ireland's Past

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Introduction

Reconciliation is a stated principle and aim of the Consultation Paper: Addressing the Legacy of Northern Ireland's Past (May 2018) (hereafter 'the consultation document'). Reconciliation is noted in the consultation document under principles, that is "the principle that reconciliation should be promoted". Later in the document reference is made to the Implementation and Reconciliation Group (IRG) with its stated aim "to promote reconciliation and anti-sectarianism and to review and assess the implementation of the other legacy institutions proposed in the Stormont House Agreement".

Drawing on our body of research work on reconciliation undertaken over a 14 year period by the authors of this consultation response (see Hamber & Kelly, 2004a; 2004b; 2005a; 2005b; 2005c; 2007, 2008; 2009a; 2009b; 2012; 2016; 2018a; 2018b; and Kelly, 2012) we submit a brief summary of what we have learned, and how this might be of value to the proposed new legacy institutions and the consultation document. **We will not address all of the questions posed in the consultation document but rather answer those relevant to our previous research on reconciliation specifically.** Our focus will be on the work of the Implementation and Reconciliation Group (IRG) in particular, although reconciliation has a bearing on the other institutions and their potential political, social and individual impact.

We will begin by making some general points about the usage of reconciliation in the consultation document before making some specific responses to the questions posed in the consultation.

The main points we will make, expanded below, is that although reconciliation is a stated aim and principle of the process (and the Secretary of State also affirms this in the Foreword) there is, firstly, no attempt to define what is meant by reconciliation. Secondly, the document does not outline how reconciliation might be supported and promoted. We understand that implementation might be the task of IRG members, but we will go on to explain that our research findings suggest that this might be very difficult for a number of reasons. We will argue that the current proposed structure of the IRG, and the appointment process in particular, will compound the challenge of reconciliation. At the same time, we believe that the work we have done in defining reconciliation could be beneficial to the process.

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Before addressing the issue of whether the IRG is appropriately structured to promote reconciliation we will reflect on the value of explicitly defining reconciliation in order to ensure clarity of understanding and agreement in approach. Our reflections are based on significant research conducted specifically on Northern Ireland, as well as on-going, long-term engagement in discussions with a wide range of stakeholders on the issue of post-violence reconciliation locally and globally. We believe that this research and insights could be of value to the implementation of the proposed IRG structures and the legacy institutions as a whole.

Defining Reconciliation

Political conflict damages relationships between individuals and communities, as well as trust in public institutions and the state. Building peace therefore requires attention to relationships. In its simplest form, reconciliation is the process of addressing conflictual and fractured relationships after political conflict. The term reconciliation can, however, be confusing when applied to societies emerging from violent conflict, as it requires not only the reconciling of broken relationships (as the term semantically implies), but also the process of building previously non-existent relationships between individuals, groups and institutions. This can include a range of activities at multiple levels from inter-personal and inter-group initiatives that could include positive encounter, dialogue, education and mutual understanding, to political level trust-building processes, including public acknowledgement and apologies of wrongdoing, institutional reform, truth recovery and reparations.

The process of rebuilding relationships is also a multi-directional process. To help understand this complexity, we have proposed a “working definition” of reconciliation that, we argue, involves five interwoven and related strands:

1. **Developing a shared vision of an interdependent and fair society.** This requires the involvement of the whole society, at all levels. Although individuals may have different opinions or political beliefs, the articulation of a common vision of an interdependent, just, equitable, open, and diverse society is a critical part of any reconciliation process.
2. **Acknowledging and dealing with the past.** The truth of the past, with all its pain, suffering, and losses, must be acknowledged, and mechanisms implemented providing for justice, healing, restitution or reparations, and restoration (including apologies, if needed, and steps aimed at redress). To build reconciliation, individuals and institutions need to acknowledge their own role in the conflicts of the past, accepting and learning from it in a constructive way to ensure non-repetition.
3. **Building positive relationships.** Following violent conflict, relationships need to be built or renewed, addressing issues of trust, prejudice, and intolerance in the process. This results in accepting both commonalities and differences, and embracing and engaging with those who are different from us.
4. **Significant cultural and attitudinal change.** The culture of suspicion, fear, mistrust, and violence is broken down, and opportunities and space open up in which people can hear and be heard. A culture of respect for human rights and human differences is developed, creating a context for each citizen to become an active participant in society and feel a sense of belonging.
5. **Substantial social, economic, and political change.** The social, economic, and political structures that gave rise to conflict and estrangement are identified, reconstructed or addressed, and transformed. This strand can also be thought of as being about equality and/or attaining equity between groups.

Three additional points are important in understanding this definition.

First, paradoxes, tensions, and even contradictions are always present in reconciliation processes. For example, the articulation of a long-term, interdependent future (Strand 1) is often in tension with the requirements for justice (Strand 2) (see Lederach, 1997). Fostering economic change (Strand 5) may also require a change in resource allocation or ownership (for example in post-Apartheid South Africa), yet may negatively affect the potential to build positive relations between those who gain and lose in this process of redistribution (Strand 3).

Second, reconciliation is a morally loaded concept and an ideological term. Relationships are fundamental to human interaction and, as a result, reconciliation is often linked to our basic beliefs about the world (see van der Merwe, 2000). Someone from a theological background might stress the importance to building empathy within the reconciliation process, while a human rights advocate might wish to promote the rule of law as an effective means of regulating how people engage with one another and to wider institutions.

Third, reconciliation is not just about individual outcomes in isolation (say, addressing social inequalities between groups, Strand 5) but rather the process of addressing the detail of the five strands holistically. This is challenging because the social, interpersonal, and political contexts are in constant flux. Reconciliation should, therefore, be understood as dynamic and progressive, but also conflictual and prone to setback. As such, reconciliation should be measured as the ability of a society to manage the complex paradoxes and tensions inherent within, and between, the five strands, as outlined above.

With the definition in mind we would like to specifically address one of the questions in the consultation.

Question 12: Implementation and Reconciliation Group: Do you think the IRG is appropriately structured to allow it to review the work of the legacy institutions, to commission an independent academic report and promote reconciliation?

Our answer to this is ‘no’ as the IRG is not appropriately structured to allow it to review the work of the legacy institutions, to commission an independent academic report and promote reconciliation.

Further comments on this answer:

Our reason for saying this is that, firstly, in the absence of a definition of reconciliation, or any outlined process on how to achieve a shared understanding of the concept, the IRG will not be able to promote reconciliation or assess whether the other institutions are doing likewise.

We recommend that a more detailed process of reflection is needed if a term such as reconciliation is to be used. We would encourage consideration of the adoption of the definition (outlined above) as a framework through which the institutions might understand and operationalise the reconciliation aspects of the legacy institutions. We would engage with any legacy institutions established to discuss how best to operationalise this complex issue, utilising the definition outlined above.

We acknowledge that one cannot simply apply our working definition to any context without reflection and analysis. Each context is unique, and even the language used (including the term reconciliation itself), can be fraught with controversy and sensitivity. In some societies reconciliation is seen as a ‘soft’ term that favours compromise over formal justice (this is often heard in Latin American countries), and has been rejected by some victims and human rights advocates. In other societies, such as Northern Ireland, the connotations are different. In our research in this region, we found apprehension to using the term reconciliation among some peace-focused practitioners, not because it is seen as ‘soft’ but rather because it is understood as a process that fundamentally transforms societal and political relations. Some research respondents have indicated to us that they have experienced resistance to initiatives which explicitly use the term reconciliation, as it implies a ‘hard’ process that requires meaningful, but potentially uncomfortable personal, cultural or community change.

Reconciliation is a challenging and even paradoxical concept that is highly contextual. In any setting, a genuine interrogation of how a society understands the core elements of reconciliation is vital. This may uncover differences between those who view reconciliation as a transformative process (were underlying differences are addressed, new relationships and cultures of connection emerge and all concerned change in the process) and those who view it as a more limited, functional process (basic levels of respect and tolerance but with little social interaction or addressing root causes of the conflict).

As outlined above reconciliation is seen as a process where different goals stand in tension with one another, and these need to be managed. It is why **it is inadequate to state that reconciliation is a principle of the entire legacy process without recognising that different people have different understandings of the term.** By its nature any process of building and rebuilding relationships will mean tensions exist. For example, in the consultation document, there are tensions between the principle regarding the “the pursuit of justice” and the principle that “the suffering of victims and survivors should be acknowledged”. For some victims, acknowledgement or sharing their story is a form of justice, yet for others justice through the courts will be the only way true acknowledgement will take place. The current institutions can deliver neither form of acknowledgement in its entirety. For example, there is no provision for someone who has been severely injured to either access the ICIR or HIU, which only focuses on death. In other words, there are tensions built into the very process of the proposed institutions. This is often inevitable in dealing with the past in societies emerging from conflict. However, to manage these tensions a certain style of leadership is needed that moves beyond the confrontational toward compromise and nuance to help a society address the paradoxes we have outlined in a reconciliation process.

Our research has continually found a lack of common vision among the political leadership in Northern Ireland and their ability to hold and manage a complex process of reconciliation.

At the political level in Northern Ireland a more minimalist view of reconciliation has been adopted at the political level, which accepts that different communities (with different political aspirations) exist, but only limited efforts have been made to break down the social, residential and educational segregation which exists between the two main communities. With significant improvement in the security context since the 1998 Agreement, and trust between estranged groups generally better than in the past, attitudes towards ‘the other’ have gradually improved (Morrow, Robinson, & Dowds, 2013), but the underlying divisions remain unresolved. Trust between political parties has deteriorated significantly in recent years and at the time of writing

this article the devolved legislative Assembly (at the core of the 1998 Agreement) has been suspended for over a year.

Our research shows that this political impasse has been exacerbated by the lack of a common vision of the future of the region (Strand 1). The 1998 Agreement provided for the establishment of a devolved local government structure within the United Kingdom: a compromise for unionists who wish to remain within the UK at large, and, for nationalists and republicans, a stage in a longer-term process towards a constitutionally united (Northern Ireland joining the Republic of Ireland) island of Ireland. This has resulted in different political understanding of what a ‘reconciled’ society might ultimately look like.

As a short-term goal following prolonged violent conflict, a minimalist approach that promotes tolerance of ‘the other’ might be a useful first step. However, without creating conducive or supportive conditions for inter-community interventions to thrive and sustainable relationships to develop, the danger of getting stuck at this stage, or backsliding is ever-present.

Our research has found that there is a strong public desire for the political classes to jointly design—and publicly commit—to a process of horizontal and vertical relationship building (which broadly could be termed reconciliation). While community-focused relationship-building work has been financially well supported (for example, the EU alone has contributed nearly €2 billion for community-based work) and well-received with the general population, without significant policy-making to systemically address inter-communal division, its impact is inevitably limited.

This leads us to a second recommendation in relation to whether the IRG is appropriately structured or not. Given the consistent findings that it has been difficult for politicians to find a common vision about how a reconciled society might look, it seems counter-productive that members of the IRG will essentially be political appointees, that is either nominated by the Irish and British Governments, and then eight nominations from political parties. With such a structure it is likely that the disagreements and lack of common vision of what reconciliation is will merely be passed into the IRG itself rather than resolving the issue or offering a way forward. Of course, if the governments and parties could jointly find a way to agree on a common vision for reconciliation and work together on this into the future this would be ideal. Unfortunately, our research evidence (let alone the impasse currently in the peace process and the collapse of Stormont) does not support the likelihood of this happening in the short-term, so we suggest an alternative appointment process is needed.

A more appropriate process would be to convene an Appointments Panel made up of the governments and political parties who have to jointly agree the members of the IRG who they feel command the confidence to actively promote reconciliation (as well as meet a range of criteria for appointment such as a track record of actively promoting positive community relations, human rights, and evidence of acting impartially in relation to the past). A panel made up of such appointees, and with the support of the governments and political parties at the time of appointment, could help guide the political parties on what steps they need to take deliver on the reconciliation agenda, e.g. acknowledgement statements, apologies, symbolic acts, etc. and move the governments and political parties to make the public commitments to relationship building our research has identified.

By selection through a politically-led appointments panel the members of the IRG will be empowered by the parties and governments to further the issue of reconciliation and command their confidence from the start of the process.

This has implications for a further question in the consultation.

Question 11: Commissioning the academic report on themes and patterns: Do you think that the ESRC should be engaged to commission the academic work on patterns and themes to ensure independence, impartiality and best practice in academic research?

We would answer this as ‘no’ as it seems the only reason the ESRC is being considered in this process is because the IRG is trying to ensure independence, and this links to the political appointment process as currently proposed. If the appointment process is agreed collectively through a rigorous selection process, then the IRG should have the confidence of all parties and governments to commission the pre-requisite research and produce an independent report from the start.

Conclusion

To build reconciliation requires a common vision and leadership to drive the process forward along the interdependent strands our definition has proposed. Given our research findings, we believe the IRG, as currently proposed, will produce a minimalist approach to reconciliation at best, and deepen political rifts or become an organisational stage for airing political differences about interpretations of the past at worst. At the same time, we would argue that in Northern Ireland, greater efforts to find a common vision for the future, while also seizing the opportunity to address the hurts of the past, is now urgently required. It is important that we remain attuned to the potential outcomes of choosing a transformative or minimalist approach to addressing a legacy of political conflict and monitor the outcomes these approaches deliver.

We have found our “working definition” to be a useful tool to “diagnose” the development of reconciliation processes over time and where new impetus might be required. We would suggest that our working definition of reconciliation could provide a flexible framework for considering how the legacy institutions might conceptualise and operationalise reconciliation.

When it comes to the issue of the IRG promoting reconciliation specifically, in the first instance the reconciliation process as steered through the IRG needs to command the confidence of all parties and the governments (and the general public), and this needs to be built in from the start of the process, hence appointees that do not represent political position or see themselves as appointees or guardians of a specific political perspective are needed. Once this is in place, the governments and political parties need to commitment themselves to the independent outcomes of the process and the recommendations of the IRG members they have agreed to forward the reconciliation agenda in the legacy institutions and beyond.

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