

# **The Alliance Party of Northern Ireland**

## **Dealing with the Past<sup>1</sup>**

**November 2007**

Political parties in NI have specific obligations to give leadership in a process of reconciliation under the terms of the Good Friday Agreement.

The Alliance Party recognises that, integral to healing and reconciliation, mechanisms for helping those most affected by the troubles to come to terms with their experience, are a necessary component.

To those who argue that 'picking over the past' is counterproductive, keeps wounds open and inhibits society from “moving on”, we would argue that

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<sup>1</sup> This document may be taken as a summary of the Alliance Party's perspective, approach and proposals related to dealing with the legacy of the past. Our response to the Eames/Bradley Consultative Group on the Past will be available towards the end of January 2008.

to ignore the legacy of the past is not to limit its impact. To do so is likely to inhibit progress at best and at worst to continue the generational cycle of violence followed by cessation, followed by resurgence in violence, which has been evident historically throughout the conflict in Ireland. We do not wish the current process for be another false dawn in this cycle, but believe that only by attempting to address this legacy can we underpin the progress made to date. This is supported by experience both from within Northern Ireland and from other countries emerging from conflict.

Furthermore, in the absence of a comprehensive framework for dealing with the past and its legacy, it is by default being dealt with in piecemeal and “patchy” ways, often with a sectarian tit-for-tat mentality focused primarily on high profile cases, leaving many survivors and victims feeling devalued, ignored or abused by the process. The wider implications of such an approach is often to compound the hurt and division for individuals and the community and rather than progress healing and reconciliation. We believe that a comprehensive, 'joined up' approach is, therefore, required.

As a Party which is working to build a united community and which

attracts cross-community support, our views are informed by listening to people throughout our community.

Consistent with this, we do not identify victims and survivors on a sectarian basis and advocate definitions which are inclusive. We have also argued for recognition of victims/survivors as a diverse group of people with a range of needs and contributions. This was highlighted in our response to Government consultations on a proposed policy directed at victims, involving mainly services and financial assistance. In that document we also suggested practical steps and underpinning values to help avoid the creation of a hierarchy of victimhood.

We are sensitive to the tensions in acknowledging all who self-define as victims in our society, but if society is to move forward, we must find ways of acknowledging the pain and suffering of individuals and their families without absolving people of personal responsibility. We therefore approach the issue of victims and the legacy of the past from a humanitarian perspective rather than a political one.

In relation to specific measures for victims and survivors, our contact with victims groups has identified a need for a strong advocate to act on their behalf, to provide liaison and support between agencies and individuals and to ensure that the needs of victims and survivors are properly prioritized within Government. We therefore called for the establishment of a Victims Commissioner and made strong challenges to those responsible when political interference in the appointments process threatened to undermine the credibility of the Interim Victims' Commissioner during Direct Rule and also subsequently, when OFMDFM under devolution, delayed the reappointment process, again placing a question mark of any potential future appointee to the office.

The wider impact of the past and its legacy, however, is an extremely complex, emotionally sensitive and multifaceted issue. Whilst it is not a matter solely limited to victims and survivors, there is clearly a strong linkage between the two areas. We have, therefore, stressed the need for a coordinated approach between policy areas for Victims and Survivors, which is devolved to OFMDFM, and the Past and its Legacy, responsibility for which continues to reside with the Northern Ireland Office and the Secretary of State.

On this wider issue of the legacy of the past, we proposed to the NIO that a consultative group was needed, drawing on international experience, to develop consensus around proposals for dealing comprehensively with the past. The role of this group is not to implement proposals nor to deal with the past, but rather to seek the mind of the public regarding the various options and models available by which that might be achieved.

This proposal came to fruition with the establishment of Consultative Group for Dealing with the Past, under the joint chairmanship of Lord Eames and Dennis Bradley.

Now that such a body is established, we believe that its work and recommendations have the potential to lead to a more holistic approach. Its outcome might also consolidate a number of different debates and initiatives currently underway and help deal with unaddressed issues including, but not limited to:

- ***Recording, reflecting, remembering the past.***

Alliance notes that it is probably *not* the role for political parties to be

overly prescriptive on what testimonials or memorialsto the past should be and a number of organisations are already addressing some of these issues. We are also conscious of the necessity of appropriate timing and not to rush to creations which could do more harm than good as contested arenas rather than opportunities in processes of reflection and healing.

- ***Memorialisation.***

There is scope for creativity in relation to permanent memorial(s), e.g. a memorial does not need to be physical.

- ***Day of Remembrance/Reflection.***

A special day could be set aside for this purpose and through the work of Healing Through Remembering, this year the 21<sup>st</sup> June was established as an opportunity for such personal reflection. It would be our view that, at least initially, no particular form of remembrance or reflection should be prescribed. Instead, it would be for individual citizens and civic society to develop organically the form of remembrance. Space must also be left for individuals to opt in or out to whatever degree they are comfortable.

- ***Testimonials/Storytelling.***

This would allow those who have been most affected by the troubles

and others to place their testimony, both positive and negative, on the record, leading to some form of permanent archive.

- *A wider truth and recovery process.*

While a mechanism for testimonials may provide a partial way to proceed, there may be a need for a wider process for truth recovery. It would be appropriate to draw on international experience, but any mechanism needs to be tailored to the particular needs of Northern Ireland and the uniqueness of our situation. There is unlikely to be a solution which can be lifted from another conflict and applied directly in our own circumstances. Whilst there has been much attention given to the South African-style Truth and Reconciliation Commission, the level to which it was successful in that case is questionable and whilst valuable lessons may be learned from it, we do not view it as a suitable template for truth and reconciliation processes in Northern Ireland.

Furthermore, a number of factors may impede a wider truth and reconciliation process. Firstly, there is a lack of consensus on who is a victim, although the definition established by the British government in legislation is a comprehensive one. There are also competing demands for justice. There is a selectivity involved in demands as to who should be

investigated, held accountable and/or punished.

Secondly, there is a certain debate over whether it is possible to reach any sense of objective 'truth'. Given Northern Ireland's contested history, such attempts are likely to be heavily contested. It is probable that the eventual conclusions to the Bloody Sunday Inquiry for example may not satisfy any agenda.

Thirdly, it is feared that powerful interests such as paramilitary groups will wish to protect their secrets. Such fears may also apply to both the British and Irish states.

Linked to the issue of Truth is the issue of Justice, and there is clearly tension around both issues. One of the major omissions from the Good Friday Agreement and its subsequent implementation is any holistic and comprehensive approach to transitional justice. In some international cases, justice in the form of the conviction and punishment of those responsible for atrocities is deemed to be an essential precondition for reconciliation, while in other cases a process of truth recovery and apology is deemed to be an appropriate basis for reconciliation.

It is debatable if either course of action in isolation can deliver healing and Northern Ireland has not yet been placed on either course, reconciliation remaining an elusive goal.

The different expectations and needs of victims must be at the heart of this process and there must be recognition that there is no single, universal solution. Some simply wish to move on and put their experience behind them. For others to do so, they need to know the truth of what happened and also often why it happened. For others still, the knowledge of the truth alone is not sufficient, without seeing justice done.

A key challenge in dealing with the past concerns the provision of a truth and reconciliation mechanism which can deal with the range of needs which some, but by no means all, victims perceive as an essential component if they are to achieve some sense of 'closure'.

Legal inquiries may hold out the prospect for some families to uncover truths about traumatic events but these may leave the needs of many others unaddressed and there are numbers of victims and their families who do

not benefit from any type of process.

Responsibility for dealing with the past remains with the Secretary of State and the NIO, as this has implications for issues such as policing, justice and national security, which are reserved or excepted matters. Amongst those issues we would identify the following:

- **Victims of ‘punishment attacks’ and ‘exiling’**

The Alliance Party's Justice Spokesperson has spoken out over the years about issues related to paramilitary-style summary justice, through either so-called “punishment attacks” or “exiling”, by which paramilitaries exercised control over communities to the exclusion of the lawful justice system. ‘Exiled’ people are a legacy of this system, who have been either internally displaced within Northern Ireland or forced to flee the country under threat of paramilitary beatings or death. It is not enough to simply call for this practice to stop; rather, those who have been exiled need to have the threats against them lifted and be allowed to return to their homes in safety if that is what they wish to do. Doing so is a practical recognition of lawful authority.

- **‘On the Runs’**

Alliance acknowledges that issues concerning those on the run from the justice system will have to be revisited and addressed. Our detailed proposals regarding this issue have been submitted to the NIO, both Governments and to the Preparation for Government Process.

Specifically, the absence of preparatory work for a judicial process or legal record in respect of returnees remains unresolved. It remains our position that due process must be followed, such as appearance in court and release on license, rather than amnesty.

- **The Disappeared and other unsolved murders**

This is a particularly sensitive area, denying the right of families to properly mourn for their dead and to have a grieving process. Alliance sees it as vital that pressure is maintained on the IRA to fully address this outstanding issue.

The early-release scheme under the Good Friday Agreement, which saw prisoners released early from jail did not equate to an amnesty, in that prisoners records were not expunged and they were released on license.

The police retain unsolved cases from ‘the troubles’ as open case files and, should people be charged and convicted of offences in the future which predate the Good Friday Agreement, whilst they would be eligible for immediate release under the early release scheme, they would still have a criminal record and be free only under license .

A special Historical Enquiries Team (HET) has been established within the PSNI for the purpose of examining these cases, but it faces an uphill struggle due to the numbers involved and the lack of resources available. Related to this is the need to ensure that all past instances have been properly recorded and indeed investigated. This has been highlighted through a number of recent cases investigated by the Police Ombudsman.

- **The use of Public Inquiries**

There have been some limited efforts to find the ‘truth’ behind some selective incidents during ‘the troubles’. These entirely relate to actions of the state. The Bloody Sunday Inquiry was established in early 1998, pre-dating the Agreement, to explore what was perhaps the greatest abuse of state force during ‘the troubles’.

There are other demands for separate inquiries into a number of other instances where the forces of the British and Irish Governments were alleged to be acting in collusion with Republican and Loyalist paramilitaries respectively. A list of six of these was agreed by the British and Irish Governments at the Weston Park peace conference during July 2001. It is right that the state is held to the highest standards, but consideration needs to be given to the needs of the families of other victims too, including those killed by paramilitary organisations.

## **Conclusion**

Implicit in the views expressed above from the perspective of the Alliance Party, is recognition that there is no simple answer to questions the subject of 'the past' raises in the context of Northern Ireland; however, that they are complex, sensitive and painful is not an argument against dealing with these issues. If we are to build a truly stable, peaceful, prosperous, just and fair society and a future in which we can all share, we must be willing to address and learn from our past experience.

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Any process for victims and survivors must be victim-centred and led; however, the wider process of dealing with the past must reflect the variety of individual needs of victims and survivors and those of a wider society in transition, and requires a variety of creative responses.

We pledge ourselves to playing our part in the process.

**November 2007**

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