

Legacy: To What End?

Introduction

1. It is the lesson from that recent period of conflict which we call the “Troubles”, in which 3523 people were killed, 47,000 people were injured, relationships were torn asunder, parts of Northern Ireland ‘Balkanised’ and economic prosperity reduced in both parts of Ireland that violence inevitably leaves a legacy of lasting bitterness. Approximately 60% of the deaths were due to the actions of the Republican Movement, 30% to Loyalist Paramilitaries and 10% members of the Security Forces.
2. In this Island’s history would many of us not accept that there are things that we wish we had done differently or not done at all?

The 1998 Agreement - A Basis for Hope

3. In 1998, people north and south decided that their future would be different. They sent a message that violence should never again be used to pursue a constitutional preference. This place that many of us call Northern Ireland would become a shared homeplace, and whatever constitutional preference we held, the only acceptable way to pursue it was through working to make it prosper socially and economically, with good relations across the island and between these islands. This vision holds firm, whatever shape Brexit finally takes. Broad acceptance of this approach creates a bulwark against the violence of the past. It is a platform on which to build a peaceful and stable future for us all.
4. If we have genuine buy-in to this basis for our future, it will create an environment in which we can better decide how to deal with that violent past.

A Way Forward on the Legacy issues?

5. Just as in the introduction we pose the challenge around the use of violence so we must ask a similar question in respect of the legacy issues. To what end? The justice approach or an alternative way? How would either of these decisions impact victims in particular but importantly also society in general? What are we trying to achieve?

The Justice Approach

6. The reality of continuing the legacy process through the current justice structures is that:
 - a) The PSNI have indicated that it will be difficult to obtain convictions in all but a small number of cases due to the evidential threshold required to be met so leaving the vast majority of families dissatisfied, frustrated and potentially further distressed.
 - b) Bringing forward a significant number of further inquests would completely swamp the Coronial system and so increase delay and cause frustration.
 - c) Obtaining truth without justice can cause more distress to already deeply traumatised families.

- d) While civil actions can be brought against an identified individual, organisation or movement the process can prove costly and lengthy.
- e) The current legacy processes risk undermining the work of conciliation, potentially deepen divisions and increase the risk of further conflict.
- f) The cost of the current legal processes is considerable and the question is whether it is the best use of such resources in all the circumstances?

The Alternative Approach

- 7. If we decide not to use the current justice system could a structure be developed to enable individuals or families to tell of the impact that violence had on them and enable them to access a level of truth but within realistic limits?
- 8. I have set out below some suggestions about how an alternative might look for consideration:
 - (i) There would be a desk top review of every case unless a family requested none be carried out. Each family would have legal representation, with a significant Pro Bono aspect, to help guide them through the review process. In the review as much factual history as possible is gathered, bearing in mind any national security concerns. The review would include an appraisal of the impact of the death of the loved one or their serious injury on the wider family. Testimonies could be given at a review hearing and recorded for an archive and stored in a Peace Centre, as a poignant reminder of the impact on a society of the use of violence and a lesson for young people across this Island, who would as part of their education visit the Centre
 - (ii) We could hold a 'Day of Reflection' when at noon we would all stop for a minute's silence and think about those who were and are blighted by the conflict that disfigured our society. It would be a chance to recommit to challenge those hatreds across another year.
 - (iii) A pension could be awarded to seriously injured victims. This scheme is finally making progress. A common-sense definition of victimhood should be restored.
 - (iv) The paramilitary murals must come down and those organisations must leave the stage once and for all. This would be accompanied by a properly coordinated strategy to tackle organised crime in all its forms. Anybody responsible for murdering police, prison officers, and soldiers in the future should understand that they will receive a life sentence on conviction and there will never again be an early release of prisoners and in addition stiffer penalties would be introduced for all paramilitary crimes.
 - (v) A factual history commission could be established.
 - (vi) Individual perpetrators who wished to make a full admission and apology could do so and receive a sentence but be immediately released on licence.
 - (vii) Politicians in the Executive being required to commit to building a socially and economically prosperous society in Northern Ireland with strong relationships across this Island and between these Islands

- (viii) A major policy emphasis is rolled out so that across Northern Ireland our young people are provided with the opportunities to get to know each other at as young an age as possible.
- (ix) The establishment of two civic groups, which are not mutually exclusive, promoting good relations in a Northern Ireland for all and an Ireland for all context.
- (x) The two governments would accept and state clearly that in our history there were matters that we wish we had done differently or not done at all and in those circumstances agree that all prosecutions, civil actions, inquests and Ombudsman's investigations would be suspended for 30 years to enable us to commit during that period to ensuring that what happened should never happen again and we embrace the future.
- (xi) The financial commitment that would otherwise be spent through the justice system approach would be redirected towards health and education and building a genuinely shared future.

These suggestions are by no means comprehensive and can be added to by wider society and further developed.

9. If we continue on the present path we are in danger of being hidebound by the past, with all of its toxicity and legacy of further conflict. Our generation took and accepted some hard decisions in 1998 and did not do so to repeat the mistakes of the past and blight the future for our children. We should not waste the season of grace that was revealed
10. Legacy: To What End? First and foremost it has to be about recognising as much as possible the wrongs of the past and committing to not repeating them in our future. It is about saying "never again" about the use of violence to promote political preferences. If a commitment is not made to that then we should proceed to deal with legacy through our justice system, flawed as it may be and no matter what the consequences.

Trevor Ringland MBE LL.B

May 2020