**Stephen Farry**

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The Stormont House Agreement (SHA) mechanisms represent the best and last opportunity for a comprehensive system to deal with the legacy of Northern Ireland’s past.

There are large numbers of victims and survivors in our society still bearing physical and psychological wounds, experiencing mental trauma and with practical needs still not fully addressed. They continue to have significant expectations for truth, justice and accountability.

While we need to be realistic regarding how much can be achieved, it is nevertheless important to try to provide the opportunities for closure and reach other outcomes.

The current consultation of the legacy of the past should be understood as applying to the specific details that build on the foundations set out in the SHA and how to best implement them.

This agreement has obtained the support or assent of the UK and Irish Governments, plus a cross-section of Northern Ireland political parties, including Alliance, and large numbers of victims and survivor groups and stakeholders in civic society.

Indeed, the SHA represents the culmination of efforts across those stakeholders and others, such as academics to find a comprehensive set of mechanisms. In particular, it builds on previous work, including the Eames-Bradley commission and the Haass-O-Sullivan talks.

Any blockage, unpicking or rejection of the SHA mechanisms would effectively set back the prospects of the formulation of any alternatives by many years, and indeed potentially forever. Not only would there be no line drawn under the past but the current inefficient and ineffective status quo would continue.

This is not the time to have a fresh discussion on addressing our past starting with a blank piece of paper. The debate does not lie between the SHA arrangements and some other theoretical alternative. Rather, the debate lies with the arrangements and the unsustainable status quo in which a number of different organisations have partial, piecemeal and sometimes duplicate responsibility, and the progress around investigations is slow and cumbersome, and the use of limited resources is inefficient and wasteful.

Overall, Stormont House may not be the perfect or ideal system or approach for addressing the past but pragmatically it contains a balanced set of mechanism that pragmatically reflect the most viable way forward. Furthermore, while these mechanisms may not address the needs of every victim and wider family, they offer the most effective means to provide a degree of outcomes or closure for the greatest numbers.

Alliance has long advocated a new approach to dealing with the legacy of Northern Ireland’s past. We played a key role in developing the SHA mechanisms, through the Haass-O’Sullivan initiative, through to the more formal governmental facilitated Stormont House process, and successfully contributed a number of detailed proposals.

Our influence is particularly evident in a number of areas. These include the underlying principles to guide the process, namely:

* Promoting reconciliation.
* Upholding the rule of law.
* Acknowledging and addressing the suffering of victims and survivors.
* Facilitating the pursuit of justice and information recovery.
* Human rights compliant.
* Balanced, proportionate, transparent, fair and equitable.

We have also been central to the development of the proposed Implementation and Reconciliation Group.

For Alliance, reconciliation must be a central theme in dealing with the past. Northern Ireland was already a divided society and a contested space before the Troubles. However, conflict reinforced divisions and created many wounds.

Reconciliation is about hearts and minds, and can apply in an individual or society. It is a different concept from sharing, integration and cohesion which are more about how society should be organised. Some believe reconciliation can more readily be achieved through drawing a line under the past, as the re-opening of wounds would be counter-productive to progress.

We reject this view and believe it is only through seeking to address the past, and recognising the pain which may be involved in that process for many, we can truly achieve reconciliation and reinforce a shared and integrated society.

At present, the draft legislation is relatively light on the reconciliation aspect of the work of the Implementation and Reconciliation Group (IRG) and throughout the process. Without reconciliation, Northern Ireland will be entirely unable to move forward from the legacy of its past. The failure to prioritise reconciliation thus far has meant any progress made on integration and sharing has been limited: reconciliation is the foundation on which to build our shared society, and without it we have been struggling to make meaningful progress on the fundamental issues still dividing us.

Whilst a comprehensive approach to dealing with the past is an important step on the road to a fully shared and reconciled society, it will not in itself achieve that reconciliation. Indeed, the process of securing truth and justice will inevitably reopen or expose old wounds, making it all the more vital a space for reconciliation and understanding is created as a formal part of these legacy institutions.

The role of the IRG and in particular the reconciliation aspect is not well developed in the draft legislation. However, we do welcome that a belated decision has been taken to place the body on a statutory basis, and subsequently the proposal to create the additional legislative duty to ‘promote’ reconciliation was added.

While a comprehensive approach to securing truth and justice in relation to the past is an important step on the path to a fully shared and reconciled society, it will not in itself achieve that reconciliation. Indeed, the process of securing truth and justice will inevitably involve exposing or reopening many wounds. More specific measures should be considered.

Opportunities need to be made available for people individually or collectively with others to engage in processes and dialogue to help address or resolve aspects of the past to help them to find a degree of peace. Different people will want to travel in different ways and different distances, and some not at all. This work would best be conducted through the community and voluntary sector, procured via the IRG. There needs to be a wider conversation on how this could be taken forward.

Based on its examination and reflections, the IRG would also make recommendations to the two governments and any Executive on further actions it considers would assist in progressing reconciliation.

At present, there are four main threats to the implementation of a package of measures already in broad terms agreed by the UK and Irish Governments, and a cross section of Northern Ireland political parties since late 2014, and subsequently supported by many victim groups, academics and other elements of civil society.

The first danger is apathy or complacency. The current consultation on draft legislation is proceeding in a very low key manner. This may inadvertently play into the hand of opponents of the process.

The second danger is opposition within Northern Ireland. This is not the time for refighting old battles or rehashing old arguments, nor is it a time for entirely new approaches or mechanisms to be proposed.

Some are suggesting a line should simply be drawn under the past entirely or the focus should exclusively be on truth recovery and oral history. However, this neglects the clear demands across a wide range of victims for the justice and the legal and ethical requirements upon the state to facilitate investigations.

Related to this is the argument investigating the past will be too expensive. However, realistically only a small number of prosecutions will have the evidentiary basis to be taken forward and in practice the main output of any investigatory process will be family reports. The potential cost of the SHA arrangements and its potential improved delivery also needs to be assessed relative to the current, much more inefficient and effective status quo.

Another concern is the proposed Historical Investigations Unit assumes functions that should otherwise be exercised through the PSNI. Alongside other arguments for independence, the PSNI itself strongly supports the concept of legacy investigations being conducted by a separate organisation. It overcomes the ongoing tension and competition for resources between policing the present and policing the past, and opens up the basis for a dedicated funding stream for legacy work.

The final concern is the allegation investigation of the past is and will be inherently biased against the state and will aid the writing of particular narratives of the past. It is worth stressing any and all cases can be investigated today, and the different organs of the criminal justice system should follow whatever evidence available to its logical conclusion.

The current status quo is somewhat piecemeal and has certain bodies with restricted investigatory remits. By contrast, the full SHA mechanisms should provide greater confidence in a much more comprehensive process. Indeed, the vast majority of outstanding cases for any HIU relate to non-state actors.

The third danger is this overall package becoming unpicked and the legislation not being supported within the House of Commons. This relates to the proposals for some form of statute of limitations. Not only is this misguided and anathema to the rule of law, but lies outside the scope of the SHA.

Yet, the scale of focus on this, in particularly fed by backbench Tory MPs, elements of the media and leading figures in the armed forces (arguably crossing a line into the political sphere), could dwarf the rest of the consultation responses. There is no witch-hunt against soldiers and those who know better and indeed should be champions for the rule of law should not be feeding such propaganda.

While any consultation is not a mini-referendum, the potential exists for a weakened Conservative Government struggling to manage Brexit becoming a hostage to small band of unreconstructed backbenchers.

Assuming the SHA can be legislated for, the final danger lies within implementation due to insufficient resources. The challenges lie in terms of both finance and sufficient personnel in particular to staff the HIU. The current financial package currently on offer from the UK Government is widely recognised to be insufficient and will need to be augmented.

Finally, the SHA contained a commitment to seek an acceptable way forward on the proposal for a pension for severely physically injured victims in Northern Ireland. However, this is not covered by the consultation. It is nevertheless critical the UK Government acts on this in the absence of a devolved Executive.

There are around 500 people with often severe physical injuries from conflict-related incidents. In many cases, these are life-altering circumstances, interfering with their ability to earn or to do things many other people take for granted. They have had to essentially live off benefits. Many of these injuries date from the early years of the Troubles.

Whilst there has been broad political consensus on a pension, the DUP and Sinn Féin have been unable to agree on who should be eligible for the pension. This argument is presented by some as a proxy or a means to reopen the now well-established definition of a victim set out in the Victims and Survivors Order NI 2006.

It is better to proceed with the pension on the current scope and accept payment to a few contested individuals is by far the better and pragmatic recourse to enable financial support to be provided to the overall body of severely injured people.

**Stephen Farry MLA is the Deputy Leader of the Alliance Party**

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