

OVERVIEW OF HAASS-O'SULLIVAN TALKS RECOMMENDATIONS

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1 March 2014

Presentation Outline

- Brief overview of Haass-O'Sullivan process
- Parades, selected commemorations and related protests
- Flags and Emblems
- Contending with the Past
 - Support for victims and survivors
 - Acknowledgement
 - Historical Investigation Unit
 - Independent Commission for Information Retrieval
 - Narratives and Archives
- Implementation

Brief Overview of the Haass-O'Sullivan Process

- May 2013 strategy, *Together: Building a United Community* called for creation of a Panel of the Parties of NI Executive
- Parties invited Haass and O'Sullivan to chair
- TOR required Panel to "Bring forward a set of recommendations by the end of 2013 on [1] parades and protests; [2] flags, symbols, emblems and [3] related matters stemming from the past ..."
- Panel received over 600 submissions and held 100 meetings with 500 people
- Seven drafts of the document were produced
- Final draft has been published by NI Executive

Context

- Haass-O'Sullivan is the latest in series of efforts to deal with the past
- Elements of the Good Friday Agreement 1998 were 'past facing' but no 'overarching mechanism'
- A 'piecemeal approach to the past'
- Three efforts to 'pull it all together'
 - Healing Through Remembering in 2006
 - Consultative Group on the Past 2007-9
 - Panel of the Parties of the NI Executive 2013 – initiative from NI politicians



Underpinning Assumptions in the Proposal

- NI society remains divided, 15 years post-GFA
- Divisions are causing political instability and civil unrest
- Promises made in our peace agreements have not been fully delivered
- Members of society are still 'struggling' with needs resulting from the conflict
- Passage of time adds urgency to these proposals
- Failure to act will increase public disengagement

Goals of the Proposals

- Addressing the legacy of the past will
 - Contribute to creating a 'modern, compassionate society' and 'a more united community'
 - Enable victims' needs to be addressed
 - Enable all to celebrate their culture peacefully
 - Ensure the rule of law is upheld
 - Ensure public spaces are 'shared, open and accessible to all'

Parades, Selected Commemorations and Related Protests

- Recognises parading as important cultural and historical tradition
- Freedom of expression and assembly under ECHR to be balanced against freedom from sectarian harassment and right to respect for private and family life
- NI legislation to establish Code of Conduct and create two new institutions
 - ▣ **Office for Parades, Select Commemorations and Related Protests**, to
 - Accept event notifications
 - Facilitate dialogue between event organisers and local communities
 - Refer parties to outside mediators
 - ▣ **Authority for Public Events Adjudication**
 - If mediation fails the Office will refer case to the Authority
 - 7 members: lawyer as chair, other members representative of NI community and range of skills
 - Can receive representations from persons who support or object
 - Will make decision based on human rights standards and clear criteria
 - Can order events to be changed or cancelled
 - Parties can seek Authority review its decision or can take judicial review

Flags and Emblems

- Most difficult issue in which to reach consensus because tied to ideas of sovereignty, identity etc beyond scope of talks
- Two elements: (1) flying of flags on official buildings and (2) the unofficial display of flags and emblems in public spaces
- Creates a **Commission on Identity, Culture, and Tradition**
 - ▣ Goal to increase understanding of citizens of the appropriateness and importance of identities in NI society
 - ▣ 15 members, inc 7 politicians
 - ▣ Hold structured discussions throughout NI on issues related to identity, culture and tradition – public & televised
 - ▣ Solicit public input on the topics of discussion
 - ▣ Submit a report after 18 months on issues inc flags; emblems; Irish and other languages, including Ulster Scots; a Bill of Rights; gender; public holidays, possibly including a day of remembrance or reflection; and memorabilia and other items in public buildings
- OFMDFM to bring recommendations receiving broad support to the NI Executive

Contending with the Past

- Most substantial part of the proposals (19 pp)
- Main elements:
 1. Support for victims and survivors
 2. Acknowledgement
 3. Historical Investigations Unit
 4. Independent Commission for Information Retrieval (inc. themes unit)
 5. Narratives and Archives

(1) Support for Victims and Survivors

- Outlines the continuing harms experienced by victims and survivors
- Welcomes CVS review of the Victims and Survivors Service
 - ▣ Calls for CVS to establish a Mental Trauma Service
 - ▣ Also calls on CVS to consider the needs of the injured
- Noted that the parties could not reach agreement on who could be considered a 'victim'

(2) Acknowledgement

- Desire among victims and survivors for acknowledgements from individuals, paramilitary organisations and governments responsible
- Acknowledging role of different actors does not equate their actions
- Acknowledgement is more than saying sorry. It should (1) be unqualified acceptance of responsibility; (2) express an understanding of the human consequences for individuals and society; (3) include sincere expression of remorse
- Encourage individuals, organisations and governments to work together on issuing acknowledgement statements
- Hope acknowledgement by leaders will encourage others to participate in information retrieval

(3) Historical Investigations Unit (HIU)

- Legislation to establish a **HIU** to replace HET and the historical unit of OPONI – one chronological list – focus on incomplete reviews
 - ▣ Review all cases but individuals will not be notified unless they opt in
 - ▣ If they do not opt in, they will not be contacted unless case is referred to PPS
 - ▣ **Where the evidence warrants, HIU could refer cases to the Public Prosecution Service**
 - ▣ Otherwise, report will be shared with family if they choose to get it
 - ▣ Also produce more general report for those injured in same incident
 - ▣ May also consider requests for reviews of cases involving serious injury
 - ▣ Will have own investigative powers and clear operational procedures
- Coroner's inquests remain outside this unit
- Inquiries remain discretion of government

(4) Independent Commission for Information Retrieval (ICIR)

- To be led by an international person of high calibre
- Voluntary process for victims and survivors to seek information – before, during or after review by HIU
- Commission will liaise with relevant organisations to seek information
- Opportunity for individuals, current and former paramilitaries, members of political parties, NGOs, and current and former state employees to provide information
 - ▣ Provides **limited immunity** for statements - information provided could not be used in civil or criminal court, but prosecution still be possible based on evidence obtained through other means
 - ▣ Commission will ask questions and cross-check testimony against records
 - ▣ Statements can be anonymous and through an intermediary
 - ▣ If a victim has requested it, will provide victims with a private report

(5) ICIR Themes Unit

- To investigate the causes and patterns of violence, and reveal broader level of accountability
- ICIR Themes Unit would use extant HET files, new HIU files, plus public records and interviews it conducts independently
- Themes will be identified from Unit's analysis or recommendations from Implementation and Reconciliation Group
- Examples: collusion, 'ethnic cleansing' in borders and interface areas, 'shoot-to-kill' policy, targeting off duty security force personnel, Ireland's support for IRA, intra-community violence by paramilitaries, use of lethal force, detention without trial, mistreatment of detainees and prisoners, disappeared, financing and arms for paramilitaries
- Will publish a collective report on all themes, and maybe additional reports
- Report will reflect on the degree of cooperation with this process by governments and paramilitary organisations

(6) Narratives and Archives

- Pledges to facilitate the collection of individual narratives of the conflict
- Creation of an independent archive for conflict-related oral histories, documents and other relevant materials from individuals of all backgrounds
- Narratives will not be corroborated or fact-checked
- Individual choice of when narratives will become publicly available
- Intended that the archive will be available online for scholars and the public

Steps to Implement the Proposals

- Create Implementation and Reconciliation Group within six months – politicians from parties in Executive, plus representatives of victims, NGOs and other parties
 - ▣ Monitor implementation and effectiveness
 - ▣ Advisory role
 - ▣ Historical Timeline Group – chronology of the Troubles by academics
 - ▣ Request themes to be studied by the ICIR
- Proposals are not self-enacting – require legislation
- Need for substantial financial and other resources

For Further Information

- Louise works with colleagues at QUB (Kieran McEvoy, Luke Moffett and Gordon Anthony) on the 'Amnesties, Prosecutions and the Public Interest in the Northern Ireland Transition' project
- Information on this project, together with blogs and reports are available at <http://blogs.qub.ac.uk/amnesties/>