



Relatives For Justice (Head Office)  
39 Glen Road  
Belfast  
BT11 8BB

T: 028 9062 7171  
E: info@relativesforjustice.com  
www.relativesforjustice.com

Relatives for Justice  
42/44 Irish Street  
Dungannon  
BT70 1DQ

T: 028 8775 1697  
E: dungannon@relativesforjustice.com  
Twitter @RelsForJustice

# UNIVERSAL PERIODIC REVIEW of the UN HUMAN RIGHTS COUNCIL

---

## 41<sup>st</sup> UPR WG

### Submission by NGO Relatives For Justice (RFJ)

*Established in 1991 by relatives of people killed in the conflict in the North of Ireland, Relatives For Justice (RFJ) is a human rights' framed victim support NGO that provides holistic support services to the bereaved and injured of all the actors of the conflict on an inclusive and non-judgemental basis. We also seek to examine and develop transitional justice and truth recovery mechanisms assisting with individual healing, contributing to positive societal change, and ensuring the effective promotion and protection of human rights, social justice and reconciliation in the context of an emerging participative post-conflict democracy. Therefore, our submission and analysis will be focused on topics pertaining to the legacy of the conflict in Ireland.*

March 2022



## **Introduction**

**1.** The latest report of the Working Group on the Universal Periodic Review published in 2017 raised legacy matters on several occasions (paragraphs 10, 29, 77, 105, 134.73 and 134.157). The update provided by the UK Government in 2018, however, failed to address this issue and only mentioned it in paragraph 4 as part of the questions that would be “updated” in 2019. The so-called update of the UK Government came in 2020 instead and offered a dishonest and misleading account over two paragraphs (134.156 and 134.157). Our submission will focus on responding to that account and highlighting the latest shift of the Government towards a *de facto* amnesty that would violate the rights of victims and survivors of the conflict as well as the rule of law.

## **Recommendations and their implementation**

**2.** Paragraph 134.157 of the 2020 update of the UK Government failed to clearly state its plans to depart from the Stormont House Agreement (SHA). Furthermore, the table of contents presented by the Government mentioned the 2018 consultation *Addressing the Legacy of the Past* while omitting the 17,000 responses it received, which were overwhelmingly favourable to the establishment of the mechanisms agreed in the SHA.<sup>i</sup> Yet, it seems that outcome did not fit the agenda of the NIO and UK Government. Analysis of the consultation responses also highlighted the need for the mechanisms proposed under the SHA to recognise and address the gendered impact of the conflict. RFJ and other organisations argued for gender to be fully integrated within the mechanisms, in line with UN Women, Peace and Security agenda.

**3.** On 18 March 2020, Secretary of State (SoS), Brandon Lewis, presented a Written Ministerial Statement to the House of Commons in London in which he set out the intentions of the UK Government to unilaterally withdraw from the SHA.<sup>ii</sup> This coincided with the introduction into Westminster on the same day of the Overseas Operations (Service Personnel and Veterans) Bill,<sup>iii</sup> which will limit the ability to prosecute British soldiers for war crimes, both abroad and in the North of Ireland, in clear breach of the Government's international obligations arising from human rights such as those enshrined in Article 3 and 5 of the Universal Declaration of Human Rights and their counterparts.

**4.** The shift towards the new unilateral approach, although highly criticised by international human rights bodies, was consolidated on 14<sup>th</sup> July 2021, when the SoS announced, in the form of a command paper<sup>iv</sup>, a *de facto* amnesty proposal for all conflict-related cases, which would also bring an end to all legacy inquests and civil actions related to the conflict in Ireland, as well as all investigations by the Police Ombudsman. The rationale set out in the 2020 update of the UK Government is, therefore, incomprehensible and rather suspicious. We believe the Government's omission of its plans was deliberate and it, thus, acted in bad faith.

**5.** It is noteworthy that the decision of the UK Government was unilateral. It is also hugely concerning that the UK Government have only engaged in minimal discussions with key stakeholders such as victims' groups and political parties since the devastating announcement of the U-turn.

**6.** Consequently, it is safe to say the key recommendations made by Australia regarding negotiations on transitional justice issues and the implementation of the SHA have not been

implemented but rather eroded by the UK Government.

**7.** The recommendation made by Switzerland in regards of the coronial system has been partially implemented. As stated in the 2020 update of the UK Government, a Legacy Inquest Unit was created in 2019 and some historical inquests have been heard – while others are under preliminary management currently – since the unit became operational in 2020. RFJ welcome the fact that the coronial system is currently being accessed and applied to by some victims in the absence of more appropriate investigative mechanisms. However, resources and information are still deliberately being withheld by various State agencies in this arena, thus preventing the coronial process from taking forward its caseload of outstanding cases. Over 1,000 civil cases currently reside with the courts regarding actions by all actors to the conflict. There are over 45 inquests waiting to be heard and around 36 awaiting progress – these inquests largely involve the State withholding information, even from coroners. Although deeply worrying, this comes as no surprise in light of the UK Government’s legacy plans. If implemented, these would close the coronial system for victims and survivors of the conflict altogether.

**8.** Apart from that, and in line with the Women, Peace and Security (WPS) agenda set out in UN Security Council Resolution 1325, and complemented by further resolutions 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2242 (2015), 2467 (2019) and 2493 (2019); RFJ have advocated for the integration of a gender lens into the SHA legislation and implementation proposals. Despite comments and recommendations by the Committee on the Elimination of Discrimination against Women (CEDAW) when the UK Government appeared before them in 2019, the inclusion of women in peace building, post conflict reconstruction and governance continues to be ignored.

## **Human rights issues of concern: new legacy proposals**

**9.** It is 24 years since the signing of the Good Friday Agreement, 8 since the signing of the SHA and 4 since the pointless consultation. Successive drafts of the proposed legislation have been produced during this time, yet they never progressed, due to deliberate delay and obfuscation by the NIO. Indeed, this Government's deliberate delay and prevarication have culminated in their real intention when it comes to dealing with the legacy of the conflict, that is, in a new proposal to avoid its legal obligations by protecting those within its armed forces, secret services and those within illegal organisations with whom they colluded. The Government made its first move in March 2020, in the early days of the global pandemic, announcing the unilateral decision to withdraw from the SHA. After long months of confusion, cynicism and uncertainty, the Government's plan to end conflict-related investigations and prosecutions was confirmed in July 2021 and consequently was most probably the single worst day for all victims during our peace process.

**10.** The legacy proposals set out in the Command Paper met with loud and clear opposition from all political parties in Stormont, the Irish Government, all victims and survivors' groups, as well as several international human rights bodies (UNHRC, UNCAT, CEDAW, Council of Europe) and non-governmental organisations such as Amnesty International. This is so because, if implemented, these plans would jeopardise the 1998 Belfast Agreement – and therefore the peace process; they would also undermine the rule of law and victims' rights to truth and justice.

**11.** The period known as the *Troubles* saw some of the most egregious crimes committed in Ireland, including those against the right to life enshrined in Article 6 of the ICCPR. Many of those crimes were committed or assisted by State actors; the vast majority were never investigated in compliance with international legal standards. According to the UN Human Rights Committee, the right to life creates the obligation on the State to investigate and, if appropriate, prosecute, which is implicit in the obligation to protect.<sup>v</sup> Consequently, not only is the UK Government in violation of its international legal obligations, but also it is trying to perpetuate this situation. The UN Human Rights Committee is clear in that sense: “Immunities and amnesties provided to perpetrators of intentional killings and to their superiors, and comparable measures leading to *de facto* or *de jure* impunity, are, as a rule, incompatible with the duty to respect and ensure the right to life, and to provide victims with an effective remedy.”<sup>vi</sup>

**12.** For victims and the bereaved, the continuous and deliberate delay in finding out the truth of what happened and getting some sort of justice and public acknowledgement – to which they are entitled by law – has exacerbated their trauma. Their severe suffering is in most cases interfering with their private, social, professional and family life, and many describe it as mental anguish comparable to that of psychological torture. The correlation between the absence of knowledge as to what happened to a loved one and the severe mental anguish has already been established by international human rights bodies when resolving issues of forced disappearances by affirming that the next-of-kin of disappeared persons must also be considered as victims of, *inter alia*, ill-treatment. For instance, the UN Human Rights Committee found that the mother of a young woman who was forcibly

disappeared in Uruguay was a victim of psychological torture provided in Article 7 of the ICCPR – prohibition of torture or cruel, inhuman or degrading treatment – due to not having information about what had happened to her daughter and as a consequence of the deliberate failure to properly investigate by the State.<sup>vii</sup> Although in the cases RFJ work with the relatives know that their loved one was murdered, the severe and continuous distress and anguish caused by the lack of information about the incident and the identities of those in authority responsible for overseeing the death could be comparable to that of the relatives of disappeared persons. The level of severity of the harm caused to the victims of the conflict by virtually denying or purposefully delaying legally compliant investigations into their loved ones' murder or otherwise unlawful killing is substantial and indisputable. The British Government is complicit in this severe suffering added to the original trauma of too many bereaved of the conflict. Its general policy regarding the legacy of the past – mostly in cases where State agents were or could have been involved – is highlighted by wilful ignorance and unlawful delay. This has now been reinforced by the Government's new proposal for a *de facto* amnesty.

**13.** The United Kingdom stands indicted as a rogue state in violation of its legal obligations to those worst affected by the conflict, abandoning democratic rule of law norms and standards, conventions and treaties, and due process in order to avoid culpability and accountability for its actions and role in the conflict. This rogue behaviour is denying rights to citizens who live in Britain and in Ireland, to citizens who are affected by the actions of the State and of non-state actors, to those who live with the effects of the most serious violations known. These proposals must be resisted by all interested in the rule of law, in human rights and in peace. Therefore, we respectfully request that the Working Group joins the

democratic voices of opposition to the UK Government's legacy plans. The legal requirements are clear. The required mechanisms are agreed by all relevant parties apart from the UK. Legally compliant implementation of the SHA and its mechanisms is the only option going forward.



- 
- <sup>i</sup> NIO, *Addressing The Legacy Of Northern Ireland's Past: Analysis of the consultation responses* (July 2019) available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814805/Addressing\\_the\\_Legacy\\_of\\_the\\_Past\\_-\\_Analysis\\_of\\_the\\_consultation\\_responses.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814805/Addressing_the_Legacy_of_the_Past_-_Analysis_of_the_consultation_responses.pdf) (accessed March 2022).
- <sup>ii</sup> Written Ministerial Statement 'Addressing Northern Ireland Legacy Issues' (18/03/2020) available at <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2020-03-18/HLWS163/> (accessed March 2022).
- <sup>iii</sup> Overseas Operations (Service Personnel and Veterans) Bill (HC Bill 117) available at [https://publications.parliament.uk/pa/bills/cbill/58-01/0117/cbill\\_2019-20210117\\_en\\_1.htm](https://publications.parliament.uk/pa/bills/cbill/58-01/0117/cbill_2019-20210117_en_1.htm) (accessed March 2022).
- <sup>iv</sup> Command paper 'Addressing the Legacy of Northern Ireland's Past' (14/07/2021) available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002140/CP\\_498\\_Address\\_the\\_Legacy\\_of\\_Northern\\_Ireland\\_s\\_Past.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002140/CP_498_Address_the_Legacy_of_Northern_Ireland_s_Past.pdf) (accessed March 2022).
- <sup>v</sup> General comment on article 6 of the International Covenant on Civil and Political Rights, No. 36 (2018), UN Doc. CCPR/C/GC/36 (30 October 2018).
- <sup>vi</sup> *Ibis*, para 27.
- <sup>vii</sup> Case *María del Carmen Almeida de Quinteros et al. v. Uruguay*, Communication No. 107/1981, UN Doc. CCPR/C/OP/2 at 138 (1990) para 14. The European Court of Human Rights and the Inter-American Court of Human Rights have reached similar conclusions in some other cases too. See, for instance, ECtHR Case *Kurt v. Turkey*, Appl. No. 15/1997/799/1002, ECtHR (25 May 1998) para 134; ECtHR Case *Çiçek v. Turkey* (Application no. 25704/94) ECtHR (05/09/2001) paras 172-174; and IACHR Case *Velásquez Rodríguez v. Honduras*, Inter-American Court of Human Rights (Judgment of 29/07/1988) para 176.