



General Assembly

Distr.: General
31 August 2021

English only

Human Rights Council

Forty-eighth session

13 September–1 October 2021

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by International Federation for Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2021]

* Issued as received, in the language(s) of submission only.



UK proposals for blanket impunity for Northern Ireland conflict: Follow up of the Special Rapporteur (SR) on the promotion of truth, justice, reparation and guarantees of non-recurrence, regarding visit to the United Kingdom of Great Britain and Northern Ireland (UK)
A/HRC/48/60/Add.2

1. The Committee on the Administration of Justice (CAJ) is an independent human rights NGO with cross community membership in Northern Ireland and beyond. It was established in 1981, campaigns on a broad range of human rights issues and is a UK member of the International Federation for Human Rights (FIDH).¹

2. CAJ engaged with the then Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence Pablo de Grieff on his official visit to the United Kingdom of Great Britain and Northern Ireland in 2016 regarding the legacy of the Northern Ireland conflict, and more recently issued a written response to follow up questionnaire the Special Rapporteur Fabian Salvioli.²

3. On the 14 July 2021 the UK published a policy paper “Addressing the legacy of Northern Ireland’s past”³ and gave a statement to the UK Parliament, which unilaterally departed from the provisions of the 2014 (UK-Ireland) Stormont House Agreement (SHA), agreed between the British and Irish Governments and parties in the power-sharing Northern Ireland Executive.

4. Instead, the UK has now proposed introducing legislation into the UK Parliament in its forthcoming autumn session that would include a statute-bar on investigating conflict related incidents and end judicial activity across a spectrum of criminal cases and current and future civil cases and coronial inquests, along with a broad unconditional and unqualified amnesty for conflict related offences. The UK would establish a new legacy body, to ‘recover information’ in relation to conflict deaths and serious injuries, but the policy paper restricts its powers to a desktop review of papers and information volunteered through statements.

5. We strongly welcome and endorse the joint statement on the 10 August 2021 by the SR Mr. Fabián Salvioli alongside Mr. Morris Tidball-Binz, Special Rapporteur on extrajudicial, summary or arbitrary executions, expressing “serious concern about the UK Government’s plan to ban all prosecutions, impede investigations, and preclude victims’ civil claims in connection with “the Troubles” in Northern Ireland, which would effectively institute a de-facto amnesty and blanket impunity for the grave human rights violations committed during that period.” We fully concur with the Special Rapporteurs that the UK proposals will thwart victims’ right to truth and to an effective remedy and place the UK “in flagrant violation of its international obligations”.⁴

6. We would urge the Human Rights Council to echo the concerns expressed by the Special Rapporteurs that the UK proposals would breach their international human rights obligations. We would urge that the proposals are withdrawn and that the UK honor its previous commitments and legislate for the Stormont House Agreement in a manner consistent with its international human rights obligations. We would urge that the Human Rights Council remain seized of the matter.

¹ Since 2014, CAJ has operated as the NGO partner in the ‘Model (SHA legacy) Bill Team’ alongside academics from the School of Law, Queen’s University Belfast; this work has a dedicated website: <https://www.dealingwiththepastni.com/>.

² <https://caj.org.uk/2021/02/02/model-bill-team-response-to-the-special-rapporteur-on-the-promotion-of-truth/>.

³ <https://www.gov.uk/government/publications/addressing-the-legacy-of-northern-irelands-past>.

⁴ https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27371&LangID=E&utm_source=miragenews&utm_medium=miragenews&utm_campaign=news.

Further background

7. Further to the peace process the 1998 (UK-Ireland) Belfast or Good Friday Agreement (GFA) was ratified by referendum in Northern Ireland and Ireland and incorporated as a bilateral treaty. The Agreement contained conflict resolution provisions including early prisoner release, demilitarization, decommissioning and policing and justice reform. There was no transitional justice mechanism, but also no amnesty and the GFA obliges the incorporation of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) into Northern Ireland law, with direct access to the courts and remedies for victims of ECHR violations.⁵

8. At that time the justice and investigative mechanisms in Northern Ireland were not capable of delivering independent and effective investigations into conflict-related deaths to the standards required under the ECHR. This was affirmed in a series of rulings in cases, taken by CAJ and others to the European Court of Human Rights (ECHR), which were delivered between 2001-2004. In response, the UK agreed a remedial ‘package of measures’ with the Council of Europe’s Committee of Ministers, involving significant reforms to justice and policing oversight institutions.

9. The ‘package of measures’ in practice faced numerous obstacles including limitations and obstruction from state agencies. Supervision of the ECHR judgements remains open⁶ and in 2014 the British and Irish Governments and parties to the power sharing Northern Ireland Executive (established under the GFA) agreed a fresh approach in the Stormont House Agreement. This provided for the replacement of the package of measures with new legacy institutions focusing largely on truth recovery but also keeping open a justice route. These were:

- Historical Investigations Unit (HIU): an independent body with full police-like powers to investigate unresolved conflict-related deaths and produce Family Reports, providing both a possible route to justice and truth recovery.
- Independent Commission on Information Retrieval (ICIR): independent internationally immune body to receive protected information in confidence and pass to families, on which British and Irish Governments agreed a treaty.
- Oral History Archive.
- Implementation and Reconciliation Group, working on themes and patterns.
- The continuation of Coronial Legacy Inquests as a separate process (a civil inquisitorial process establishing how the deceased died without deciding the question of criminal or civil liability).

10. The Human Rights Committee, in its Concluding Observations on the UK in 2015 (CCPR/C/GBR/CO/7) welcomed the 2014 SHA, and called on the UK “as a matter of particular urgency” to ensure “that independent, impartial, prompt and effective investigations, including those proposed under the Stormont House Agreement, are conducted to ensure a full, transparent and credible account of the circumstances surrounding events in Northern Ireland with a view to identifying, prosecuting and punishing perpetrators of human rights violations, in particular the right to life, and providing appropriate remedies for victims;”⁷

11. The Committee selected this issue as part of its urgent follow up procedure, noting a year later the lack of progress by the UK. The Council of Europe has also called for the implementation of the SHA investigative mechanisms in a human rights complaint manner, and expressed profound concerns at the delay in doing so. The UK prevaricated over

⁵ <https://www.gov.uk/government/publications/the-belfast-agreement>.

⁶ The Committee of Ministers issued its most recent Interim Resolution in these cases in December 2020: https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a097b6.

⁷ CCPR/C/GBR/CO/7 [7] ‘Accountability for conflict-related violations in Northern Ireland’ <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsg%2FOK3H8qae8NhIDi53MecJ8Es8JxwwaL1HQ8hgVMkgor%2Ba2BnDTW%2FHC6BIyM8TPJNF%2F6qe%2Bcdb0NBnXp%2BA57rBA17cvjmBwuivD2gq5FYej>.

implementation of the SHA. In 2018 the UK ultimately conducted a public consultation (showing widespread support for the SHA, and opposition to an amnesty).⁸ Following this the UK made repeated commitments to the Council of Europe and domestically to implement the SHA, including in the (UK-Ireland) New Decade, New Approach deal that restored the power-sharing Northern Ireland government in January 2020, which committed to legislating for the SHA within 100 days.⁹

12. However, in March 2020 in a Ministerial Statement to the UK Parliament the UK unilaterally departed from the SHA and announced it was pursuing an alternative approach of ‘desktop review’ after which cases would be permanently closed. The announcement was intentionally made on the same day the UK introduced its ‘Overseas Operations’ bill, providing impunity for past human rights violations in international wars. The departure from the SHA was presented in terms of providing similar protections for UK military veterans in NI. This occurred in a context whereby the residual ‘package of measures’ had led to a handful of prosecutions of soldiers.

13. No further detail was set out by the UK until the July 2021 policy which set out an intention not just to introduce sweeping amnesty, but also legislating to end all meaningful investigations and legal proceedings, including:

- a) Ending all prosecutions for conflict related offences, including stopping ongoing cases already before the courts.
- b) Ending all police investigations for conflict related offences.
- c) Ending all Police Ombudsman Investigations into legacy deaths.
- d) Ending all conflict related coronial inquests.
- e) Ending the power of affected families to take civil proceedings.

14. In addition to the SR concerns there has been a widespread rejection of the UK proposals from human rights and victims NGOs, the Irish government and all parties in the Northern Ireland Executive – with parties unanimously passing a motion in the legislature (Northern Ireland Assembly) expressing a rejection of the UK proposals which it stated “do not serve the interests, wishes or needs of victims and survivors nor the requirements of truth, justice, accountability, acknowledgement and reconciliation”¹⁰

Committee on the Administration of Justice (CAJ), NGO(s) without consultative status, also share the views expressed in this statement.

⁸ See pages 12 and 21: Addressing the Legacy of the Past, Analysis of the Consultation Responses: <https://www.gov.uk/government/news/government-publishes-summary-of-responses-to-legacy-consultation>.

⁹ For further detail see: <https://caj.org.uk/2021/02/02/model-bill-team-response-to-the-special-rapporteur-on-the-promotion-of-truth/>.

¹⁰ <https://www.bbc.co.uk/news/uk-northern-ireland-57892882>.