



Dealing with the Legacy of the Past

The Alternative to the Stormont House Agreement

Does the Stormont House Agreement (SHA) ***FIT THE BILL*** for Victims and Survivors of Terrorism in Northern Ireland?

If not

What is the Alternative?

May 2021

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Company No: NI43494



A project supported by the European Union's PEACE IV Programme, managed by the Special EU Programmes Body (SEUPB)



Funded by the Victims & Survivors Service through the Victims & Survivors Programme administered on behalf of the First Minister and Deputy First Minister

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Executive Summary

On 18 March 2020, the Secretary of State for Northern Ireland, Brandon Lewis MP, made a statement signalling a **new approach** to addressing the legacy of the past in Northern Ireland which was most welcomed by Ulster Human Rights Watch.

The present document seeks to expose the **serious deficiencies** of the proposed arrangements as per the Stormont House Agreement (SHA) with a view to presenting the **alternative** that should be implemented to effectively and efficiently address the legacy of the past in line with the Secretary of State's statement.

While claiming to be victim-centred, the major failure of the Stormont House Agreement was that it did not provide a definition of 'victim'. Victims of crime, who in relation to the Troubles are victims of terrorism, must be dissociated from perpetrators of acts of terrorism. Therefore, the **definition of victim of terrorism** should constitute the basis of any new arrangements for dealing with the legacy of the past.

An analysis of the functioning of the Stormont House Agreement's suggested bodies reveals **key issues of concern and weaknesses**. It would appear that these bodies, instead of serving the interests of victims of terrorism and society at large would be used against former members of the police and the armed forces and benefit those who were engaged in terrorism and their sympathisers.

An **alternative** is required to address the legacy of the past that will bring about a satisfactory resolution within the context of a democratic society. It should be based on **fundamental principles** that uphold human rights for all interested parties: victims of terrorism, police officers and army personnel. Investigating bodies such as the Police Ombudsman for Northern Ireland and the Legacy Investigation Branch should be made **compliant with human rights requirements**. An archive for victims of terrorism stories and testimonies should be created in the Public Record Office of Northern Ireland to be made available to the public and a Committee for Peace, Freedom and Reconciliation should be created to develop policies and educational programmes **to combat terrorism and radicalisation** and promote peace, freedom and reconciliation.

The alternative should also involve the **Republic of Ireland** in setting up **investigating and information recovery bodies** that would mirror those existing in Northern Ireland. These bodies would investigate historical cases and criminal activities that may have been committed by members of the Garda Síochána. They would also **review numerous extradition requests** made by the United Kingdom but never honoured by the Republic of Ireland and cooperate with the authorities in Northern Ireland for the resolution of historical cases. The Republic of Ireland would also make its **archive available** for consultation in relation to historical cases, as they are in Northern Ireland.

This comprehensive approach to dealing with the legacy of the past has the potential to deliver a **final settlement** and **durable peace**.

An analysis of the Stormont House Agreement reveals that the proposals do not address the definition of victim and avoid making references to terrorism, the proposed new bodies are complex and burdensome; and they may result in undesirable and disappointing results for victims of terrorism. For these reasons, an alternative for addressing the legacy of the past is necessary, based on fundamental principles and dealing with the key issues, in order to produce a positive outcome for victims of terrorism and society at large. The purpose of this document is to highlight the deficiencies and lacunas of the Stormont House Agreement proposals and in particular (I) the absence of a definition of victim, (II) the key issues of concern about the four proposed new bodies and their weaknesses, with a view to submitting (III) the alternative for addressing the legacy of the past in Northern Ireland and the Republic of Ireland.

I. The Absence of a Definition of Victim

The definition of victim in the context of the terrorist campaign known as the Troubles is a key issue that was not addressed in the Stormont House Agreement. Victims of crime must be dissociated from perpetrators in order to ensure that the mechanisms put in place for dealing with the legacy of the past deliver for the victims of crime and do not benefit perpetrators.

A major lacuna of the Stormont House Agreement is that it does not make any distinction between victims of terrorism and perpetrators of acts of terrorism due to the 'Troubles', which is a euphemism used to designate the campaign of Terrorism. The Stormont House Agreement was approved in 2014 before the enforcement of the Justice Act (Northern Ireland) 2015, which provides a definition of crime that should now constitute the basis of any new arrangement for successfully dealing with the past in Northern Ireland. Those who were involved in an act of terrorism should not benefit from any new arrangements under the guise that they should be considered victims on a par with innocent victims of terrorism.

It must be stressed that the Victims and Survivors (Northern Ireland) Order 2006 does not provide a definition of victims and survivors but only an interpretation¹. This wide interpretation of victims and survivors applies to perpetrators of acts of terrorism as well as to innocent victims of acts of terrorism. Innocent victims of terrorism, who constitute the largest category of victims of the 'Troubles', cannot and must not be confused with perpetrators of acts of terrorism. The majority of cases of murder or physical/psychological injuries or both resulted from acts of terrorism perpetrated during the terrorist campaign against civilians, politicians, judges, police officers and soldiers or were caused by the security forces engaged in the fight against terrorism. For this reason, a clear and unambiguous definition of victim of terrorism is required so as to develop arrangements for dealing with the past that are victims of terrorism-centred and deliver for their needs.

¹ Article 3 of the Victims and Survivors (Northern Ireland) Order 2006 bears as a title: **'Interpretation: "victim and survivor"'**.

The definition of victim of terrorism provided by the UHRW² is in line with the United Nations Human Rights Council Framework principles for securing the human rights of victims of terrorism³ and the legislation and guidance provided by the European Union in relation to victims of terrorism⁴. Indeed, the definition of victim of crime, provided in Section 29 of the Justice Act (Northern Ireland) 2015 and Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012⁵, includes victims of terrorism.

Police officers and soldiers protected individuals and society at large against terrorist attacks and were on the front line in confronting terrorists during the Troubles. They are by law answerable for their actions in the exercise of their functions, having the duty to maintain law and order and protecting persons and property against terrorism. As a result, they may be drawn into investigations, carried out many years later when they are retired, that may result in prosecutions and court proceedings. These investigations and legal proceedings, which are not always justified, may have a very detrimental effect on their health and private and family life and as a result make them indirect victims of terrorism. Therefore, arrangements for dealing with the past must provide for their needs so as to guarantee fair investigating processes, which protect their fundamental rights, giving them the financial, legal, and health and wellbeing support they require.

² Ulster Human Rights Watch Advocacy Service Information Booklet, Truth and Justice for Victims and Survivors of Terrorism, 2018:

“‘victim of terrorism’ means:

1. A natural person who was killed as the direct result of a terrorist act and was never engaged in any form of terrorist activity and the close relative or a dependent of such a person;
2. A natural person who has suffered physically and/or psychologically as the direct result of a terrorist act and was never engaged in any form of terrorist activity and the close relative or a dependent of such a person;
3. A natural person who was killed or has suffered physically or psychologically as a result of finding him/herself in proximity to a terrorist act being committed or who has been wrongly associated with the perpetration of such an act;
4. A natural person who has suffered physically and psychologically as a result of bringing assistance to a victim of a terrorist act.”

³ United Nations Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HR/20/14), 4 June 2021.

⁴ EU Handbook on Victims of Terrorism 2021, https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/victims-rights_en

⁵ The Directive provides in Article 2 under the title ‘Definitions’ a definition of a ‘victim of crime’ which reads as follows:

“(a) ‘victim’ means:

- (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person’s death;
- (iii) ‘family members’ means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim.”

II. Key Issues of Concern about the Proposed New Bodies and their Weaknesses

The key issues of concern and weaknesses of each of the four bodies will be stated for the Historical Investigations Unit (HIU), the Independent Commission on Information Retrieval (ICIR), the Oral History Archive (OHA) and the Implementation and Reconciliation Group (IRG).

1. Key Issues of Concern about the Proposed HIU

The key issues of concern about the Historical Investigations Unit are as follows:

- The HIU will be contrary to British justice because it deals not only with criminal investigations, but also with: firstly, reports which will identify perpetrators even where a prosecution cannot be brought; secondly, criticism involving identification of police officers and others in connection with any death; and thirdly, investigations into alleged 'non-criminal police misconduct', again identifying the officers concerned even if they have long since been retired.
- It is contrary to the principles of British justice for anyone to be identified in any report with a verdict of guilt unless the guilt is proven in court beyond reasonable doubt.
- The discrepancy in accessing information, between victims of terrorism on one hand, who constitute the most important category of victims, and terrorists on the other, has been totally overlooked in the Stormont House Agreement. Innocent victims of terrorism have to rely on law enforcement agencies to gather information on terrorists, who make them inaccessible, destroy evidence and do not keep records. On the contrary, terrorists and their families can request access to records kept by law enforcement agencies that have the duty to produce these records and to make them available. This fundamental inequality between innocent victims of terrorism and terrorists has resulted in an imbalanced implementation towards police officers and soldiers of the State procedural obligation to carry out an effective investigation under Article 2 of the European Convention on Human Rights. This pattern will be significantly aggravated under the proposed HIU.
- The focus is likely to be on the police rather than the terrorists because the HIU will have access to all police and other security force records, enabling it to criticise the actions of police and security forces, while there will be a complete absence of terrorist records.
- All the misconduct investigations will focus on the police. There will be no investigation of any other professional body involved in dealing with the Troubles.
- Police officers who have long since retired may be hauled into investigations by the HIU, causing great stress and trauma.
- Misconduct investigations will cause an unjustified and disproportionate interference in the right to private and family life of police officers in breach of Article 8 of the European Convention on Human Rights.
- The HIU will not provide any support for police officers whose actions are investigated, nor for their families.

- Misconduct investigations brought against retired police officers are likely to result in breaches of the right to a fair trial, including the violation of the presumption of innocence, protected under Article 6 of the European Convention on Human Rights.
- The HIU will not investigate all cases. Those where an HET Report has been issued will not be investigated, save in exceptional cases, at the discretion of HIU.
- All families whose loved one(s) died between 11 April 1998 and 31 March 2004 should have the option to have their cases investigated by the HIU.
- The proposed HIU will generate false expectations as to the possibility of reaching a better outcome, since the rules that will regulate the HIU will be substantially the same as those that currently apply to the PSNI and PONI.
- It is unlikely that many cases can be brought to court for successful prosecution.
- The HIU will be unfair and degrading for police officers, who may be investigated twice by the same body (criminal and misconduct investigations) while terrorists will only be investigated once for criminal activity(ies).
- The proposal is confusing because not all investigations will be transferred by the PSNI (LIB) and PONI to the HIU.
- There is also confusion because serious injury cases will not be dealt with by the HIU but by the PSNI and PONI.
- The HIU will have no impact whatsoever on the Coroners Service, which will continue to operate independently.
- The disclosure mechanism is complex and may be used to undermine the State and security forces.
- Annual reports will be produced by the HIU over which victims of terrorism would have no control. These reports are likely to focus on the police and security forces because of the HIU's access to their records, while terrorists will escape such scrutiny.
- After five years, a report on patterns and themes will be sent directly by the HIU to the IRG and not made available to the public.
- The cost of setting up this new body will be prohibitive.
- It is likely to take several years before the HIU can become fully operational and yet the Government proposes that its work should be completed within five years. All this will discourage victims of terrorism.

2. Key Issues of Concern About the Proposed ICIR

The key issues of concern about the Independent Commission on Information Retrieval are as follows:

- It will be a purely voluntary process for terrorists to confess to their crimes – it is unlikely that many will confess.
- The ICIR will control all confessions and other information divulged to it – victims will not be entitled to direct access to any of the information.
- Information will be released only at the discretion of the ICIR and could never be certified to the same standard of evidence that would be expected in the criminal justice system.
- There will be no possibility for the families to check the veracity of the information received, as was the case with the Independent Commission for the Location of Victims Remains (ICLVR).

- Information released to the families will be limited and not in any event admissible in court.
- The names of those responsible for murder or any other crime will not be disclosed.
- Information may be withheld by the Secretary of State if releasing it would prejudice national security interests.
- It is likely that the limited and unsatisfactory amount of information released by ICIR to families will leave them disappointed and frustrated.
- Families will be barred from access to the courts to seek remedy against the ICIR. There will be no legal remedies available in relation to the information released, such as judicial review proceedings or legal actions on the basis of the GDPR or FOI legislation.
- Annual reports will be produced by the ICIR over which victims of terrorism would have no control.
- After five years a report on patterns and themes will be sent directly by the ICIR to the IRG and not made available to the public.

3. Key Issues of Concern about the Proposed OHA

The key issues of concern about the Oral History Archive are as follows:

- The Northern Ireland Department will not be able to give any directions to the Deputy Keeper in relation to the OHA.
- The Steering Group with members appointed by the Deputy Keeper (PRONI) will provide advice on organising the archive.
- It is likely that terrorists and their sympathisers will flood the OHA with accounts glorifying their exploits, vilifying the police and security forces and causing harm and distress to victims of terrorism, including names of people and accounts of incidents that may not be true or accurate.
- There will be no legal action in defamation possible against the Deputy Keeper (PRONI) in relation to the OHA.
- Families will not be able to check the veracity of the information received.
- The OHA will lead to revisionism of the history of the Troubles in breach of Article 17 of the European Convention on Human Rights.
- Annual reports will be produced by the OHA over which victims of terrorism would have no control.
- After five years, a report on patterns and themes will be sent directly by the OHA to the IRG and not made available to the public.

4. Key Issues of Concern about the Proposed IRG

The key issues of concern about Implementation and Reconciliation Group are as follows:

- The members of the IRG will be appointed by politicians, including one of them appointed by the Government of Ireland.
- Over a period of five years there will be around 20 annual reports produced by HIU, ICIR, OHA and the Coroners Service and sent directly to the IRG, which will be used to progressively develop patterns and themes.

- At the end of each year the IRG will produce an annual report that will be released to the UK and ROI Governments and the First Minister and deputy First Minister but not made public.
- At the end of five years HIU, ICIR, OHA and the Coroners Service will each produce a report on patterns and themes that will not be made available to the public.
- The IRG will commission an academic group to produce a final report but the academics will be limited to considering these reports and certain specified supplementary material. The academics will be barred from considering any material or evidence relating to the whole scope of the troubles.
- Unless the academics are genuinely independent, the final report may well be an attempt to justify terrorism and to re-write the history of Northern Ireland in breach of Article 17 of the European Convention on Human Rights.

The Stormont House Agreement proposals are highly contentious and would not comply with human rights requirements. They have been constantly opposed by the majority of victims in Northern Ireland who are the innocent victims of a terrorist campaign. An alternative for addressing the legacy of the past is therefore vital.

III. The Alternative for Addressing the Legacy of the Past

The alternative is based on (1) fundamental principles that will be implemented by a simplified (2) Historical Investigations Unit (HIU) dealing with criminal investigations only and (3) the Police Ombudsman for Northern Ireland (PONI) dealing with legacy criminal investigations related to police that will be supported by ancillary services such as (4) the Legacy of the Past Record (LPR) and (5) the Committee for Peace, Freedom and Reconciliation (CPFR). The alternative also involves the implementation of (6) institutions for dealing with the past in the Republic of Ireland.

1. Fundamental Principles

The fundamental principles on which the alternative is based on are as follows:

1. Principles of British justice.
2. Principle of adequate support for victims of terrorism.
3. Principle of the right to life for everyone (Art. 2 ECHR).
4. Principle of the right to an independent and impartial investigation when deprivation of life has occurred (Art. 2 ECHR).
5. Principle of the right to a fair trial by an independent and impartial tribunal (Art. 6 ECHR).
6. Principle of the right to an effective remedy (Art. 13 ECHR).
7. Principle of the right to private and family life (Art. 8 ECHR).
8. Principle of the prohibition of abuse of rights (Art. 17 ECHR).
9. Principle of the prohibition of discrimination against victims of crime (Art. 14 ECHR).
10. Principle of the acknowledgement of the sufferings of victims and survivors.
11. Principle of education and prevention by the testimonies of victims of terrorism.

2. HIU to Deal with Criminal Investigations Only

The reviewed Historical Investigations Unit will deal with criminal investigations only as follows:

- The HIU will take over the entirety of the caseload that is presently with the Legacy Investigation Branch (LIB), while PONI and the Coroners Service will be kept separated.
- The HIU should have the power to investigate any historical case (between 1966 and 1998) where there appears to be new evidence of any crime or new lines of inquiry appearing in relation to any crime.
- The HIU should also deal with the review and investigation of injury cases.
- Families whose loved ones died between 11 April 1998 and 31 March 2004 should also have the option to have their cases investigated by the HIU or not.
- The rules, procedures and processes of the HIU must be reviewed and improved, taking into consideration the fundamental principles and along the lines of what has already been done by the Legacy Investigation Branch which produced the Family Guidance Document, the Family Engagement Strategy and the Conflict of Interest Police Document⁶ with a view to complying with the Her Majesty's Inspectorate of Constabulary (HMIC) reports produced in 2013 and 2015⁷.
- The HIU should be accessible to victims of terrorism, and efficient in carrying out reviews and investigations.
- The HIU will be able to refer cases to PONI where possible criminal activities on behalf of the police have occurred.
- The HIU rules and procedures will ensure that appropriate support is provided to any former member of the army or police whose actions may be investigated.
- The HIU rules and procedures will provide for fair and impartial investigations in accordance with Article 6 of the European Convention on Human Rights.
- The HIU will ensure that the right to private and family life of former members of the army and police will be protected in compliance with Article 8 of the European Convention on Human Rights.
- The procedures and guidelines for prosecution of former member of army and police will be reviewed to prevent prosecutions that would not offer any prospect of success⁸.
- The State procedural obligation to carry out an effective investigation under Article 2 of the European Convention on Human Rights will be fairly implemented towards former members of the army and police.
- The procedure for disclosure of security information will be simplified while ensuring that national security is protected at all times.
- Funding should be provided for the HIU to be operational as quickly as possible.

⁶ Police Service of Northern Ireland, Legacy Investigation Branch, Family Guidance Document; Family Engagement Strategy; Conflict of Interest Policy Document, February 2020.

⁷ Inspection of the Police Service of Northern Ireland Historical Enquiries Team, HMIC 2013, www.hmic.gov.uk ISBN:978-1-78246-163-0; A Follow-up Inspection of the Police Service of Northern Ireland Historical Enquiries Team, HMIC2015, ISBN: 978-1-78246-816, www.justiceinspectrates.gov.uk/hmic

⁸ The trial against Soldier A and Soldier C in the case of the killing of Joe McCann collapsed because the Public Prosecution Service (PPS) did not have the evidence to bring about a successful prosecution against them (4 May 2021).

- The cost of setting up such a body should not be prohibitive.
- An annual report on the work carried out by the HIU should be released to the public.

3. PONI to Deal with Legacy Criminal Investigations Related to Police

The Police Ombudsman for Northern Ireland will deal with criminal investigations only as follows:

- The police should be entitled to have legacy cases investigated by PONI, which was established to investigate allegations of crimes that may have been committed by police officers during the Troubles, but to the exclusion of the investigation of police misconduct which only applies to serving police officers.
- PONI will continue to deal with death and injury cases that occurred during the Troubles.
- PONI rules, procedures and processes will have to be thoroughly reviewed, taking into consideration judgements rendered by the courts in Belfast as a result of judicial review proceedings, going beyond the recent review carried out by the Police Ombudsman under Section 61(4) of the Police (Northern Ireland) Act 1998⁹.
- PONI rules and procedures must ensure that appropriate support is provided to any former member of the police whose actions are under investigation.
- PONI rules and procedures for the investigation of crimes alleged to have been committed by police officers during the Troubles must be made to be compliant with Article 6 of the European Convention on Human Rights.
- PONI would also need to ensure that the right to private and family life of police officers is protected in compliance with Article 8 of the European Convention on Human Rights.
- The procedure for disclosure of security information must be simplified while ensuring that national security is protected at all times.
- Statements will only be published by the Police Ombudsman to comment on his/her own actions, decisions and determinations and the reasons for his/her decisions and determinations in accordance with Section 62 of the Police (Northern Ireland) Act 1998.
- Funding should be provided for PONI, which could be immediately operational and undertake the investigation of important cases that have been delayed for many years.
- The cost for adjusting PONI rules and procedures will be relatively limited.

4. Legacy of the Past Record (LPR)

The Legacy of the Past Record will operate as follows:

- True personal stories and experiences of victims of terrorism about what happened during the Troubles should be allowed to be entrusted to PRONI by way of written narrative and/or audio-visual recordings.
- It is currently possible to deliver and entrust the keeping of such documents and audio-visual recordings at PRONI.

⁹ Police Ombudsman for Northern Ireland, Review under Section 61(4) of the Police (Northern Ireland) Act 1998, 6 November 2020.

- PRONI could create an archive, dedicated to receiving stories and experiences about the Troubles, that will be managed according to rules and guidelines developed for that purpose under the Public Record Act (NI) 1923.
- Stories and experiences could be received by PRONI from organisations serving victims of terrorism or by victims themselves.
- No specific legislation would be introduced to protect the Deputy Keeper from legal action, such as legal action in defamation.
- The Legacy of the Past Record would not be used as a means to rewrite the history of the troubles and will comply with Article 17 of the European Convention on Human Rights.

5. Committee for Peace, Freedom and Reconciliation (CPFR)

The Committee for Peace, Freedom and Reconciliation will ensure that:

- The lessons from the past are learnt in order to prevent terrorism and the radicalisation of younger generations.
- Policies and educational programmes to combat terrorism and radicalisation and promote peace and freedom will be developed and implemented in compliance with Article 17 of the European Convention on Human Rights.
- Policies will be implemented at every level of government to prevent terrorism and radicalisation.
- Education programmes will be used in schools, universities and elsewhere to prevent a repeat of the past with future generations.
- A programme would be developed to progress towards reconciliation between the different sections of the community in Northern Ireland.

6. Institutions for dealing with the past in the Republic of Ireland (ROI)

The Republic of Ireland (ROI) has been closely associated with the preparation of the proposals for dealing with the past in Northern Ireland. With a view to cooperating with the proposed Stormont House Agreement institutions and legacy inquests in Northern Ireland, the ROI has made limited commitments such as:

- The use of the 2000 European Union Convention on Mutual Assistance in Criminal Matters to respond to requests for assistance that have been given effect by the Criminal Justice (Mutual Assistance) Act 2008.
- The establishment of a cooperation agreement between An Garda Síochána and the HIU for information exchange in criminal and non-criminal matters.
- The disclosure of information consistent with its constitutional obligations.
- New legislation to give effect to the international agreement between the UK and the ROI to provide for the establishment of the ICIR.
- New legislation to facilitate cooperation by An Garda Síochána with Coroner's inquests in Northern Ireland.

- New legislation to provide for the protection from defamation and other proceedings for persons making oral contributions to the Oral History Archive. As already mentioned UHRW is opposed to such protection being introduced, as it will enable terrorists and their sympathisers to produce accounts glorifying their exploits, vilifying the police and security forces and causing harm and distress to victims of terrorism.

However, apart from these minor legislative changes that have to do with the functioning of the proposed institutions set up in Northern Ireland for dealing with the past, the ROI has failed, so far, to set up equivalent institutions mirroring those that exist in Northern Ireland for addressing the legacy of the past.

It is therefore submitted that the following institutions should be implemented by the Republic of Ireland for addressing the legacy of the past:

- Creation of an equivalent of the Historical Investigation Unit following the model provided by the Legacy Investigation Branch (LIB) for investigating criminal offences and particularly terrorist offences, including murders and serious injuries, that occurred during the Troubles.
- The Garda Síochána Ombudsman Commission (GSOC) should apply similar legislation to that which applies to the Police Ombudsman for Northern Ireland in order to investigate allegations of crimes committed by the Gardaí during the Troubles.
- The Coroners' Service in the ROI should be prepared to carry out inquests into historical cases when required.
- During the Troubles there were many requests for the extradition of terrorist suspects that were never honoured by the Republic of Ireland, and therefore the role of the Republic in their failure to extradite must be thoroughly investigated by an independent body.
- There should be an independent body set up for the purpose of shedding light on the level of cooperation between the ROI and the United Kingdom during the Troubles and the measures that were taken to prevent people living in the ROI from using it as a base to carry out terrorist activities in Northern Ireland.
- The ROI Government should ensure that all court files concerning the past are safe, secure and made available to the public as they are in the Public Record Office of Northern Ireland (PRONI).

Conclusion

The Stormont House Agreement (SHA) proposals for dealing with the past are outdated and would not serve the interests of victims of terrorism, who represent the largest category of victims during the Troubles.

The SHA proposals do not provide a definition of victims and do not comply with or are highly likely to result in serious violations of human rights and the undermining of the rule of law and democracy. The outcome of these proposals would most likely be a justification of terrorism that would prevent any progress toward reconciliation in Northern Ireland and on the contrary further divide society by antagonising sections of the community against each other.

On 31st January 2020 the Secretary of State for Northern Ireland made Regulations and later issued Guidance for the implementation of the Troubles Permanent Disablement Payment Scheme (TPDPS) for individuals who are victims of the Troubles through no fault of their own. This legislation is based on a definition of victim that excludes perpetrators of acts of terrorism and is designed to serve the interests of victims of terrorism. Any new proposal for dealing with the past should be grounded on the equally sure foundation of the definition of victim of crime that includes victims of terrorism and excludes perpetrators. The arrangements for dealing with the past should be victims of terrorism-centred and deliver for them.

The proposed alternative to the Stormont House Agreement, however, will ensure that the needs of victims of terrorism are met, comply with fundamental principles and the human rights requirements, and promote reconciliation within the context of a democratic society while preventing radicalisation and a return to terrorism. The implementation of the alternative would demand further commitments from the Republic of Ireland to set up mechanisms for dealing with the legacy of the past that would mirror those developed in Northern Ireland. Comprehensive mechanisms for dealing with all aspects of the legacy of the past on both sides of the border will enable the resolution of key issues in view of delivering a final settlement and durable peace.

The Stormont House Agreement does not FIT THE BILL for Victims of Terrorism in Northern Ireland

- TRUTH COMPROMISED 
- JUSTICE DENIED 
- ACKNOWLEDGMENT DECLINED 
- BIAISED IMPLEMENTATION OF ARTICLE 2 ECHR 
- BREACH OF ARTICLE 6 ECHR 
- BREACH OF ARTICLE 8 ECHR 
- BREACH OF ARTICLE 17 ECHR 
- REVISIONISM/REWRITING OF HISTORY 
- JUSTIFICATION OF TERRORISM 
- DEFAMATION OF INNOCENT VICTIMS 
- WITCH-HUNT OF SECURITY FORCES 
- EXCLUSION OF HET CASES/INJURIES 
- IMPRACTICAL STRUCTURE/EXORBITANT COSTS 
- COMPENSATION NOT ADDRESSED 
- ROI NOT ACCOUNTABLE 
- NO POTENTIAL FOR RECONCILIATION 

The Alternative FITS THE BILL for Victims of Terrorism in Northern Ireland

- TRUTH
- JUSTICE
- ACKNOWLEDGMENT
- FAIR IMPLEMENTATION OF ARTICLE 2 ECHR
- COMPLIANT WITH ARTICLE 6 ECHR
- COMPLIANT WITH ARTICLE 8 ECHR
- COMPLIANT WITH ARTICLE 17 ECHR
- HISTORY OF NI TERRORISM WRITTEN AND TOLD
- TERRORISM EXPOSED AND DENOUNCED
- SUPPORT FOR INNOCENT VICTIMS
- RECOGNITION OF SECURITY FORCES IN FIGHTING TERRORISM
- INCLUSION OF ALL HET CASES INCLUDING INJURIES
- PRACTICAL AND COST-EFFECTIVE STRUCTURES
- COMPENSATION ADDRESSED
- ROI ACCOUNTABILITY SECURED
- POTENTIAL FOR RECONCILIATION

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Charity Registration: NIC 101384

Company No: NI43494



A project supported by the European Union's PEACE IV Programme, managed by the Special EU Programmes Body (SEUPB)



Funded by the Victims & Survivors Service through the Victims & Survivors Programme administered on behalf of the First Minister and Deputy First Minister