

I am convenor and some might say organiser of the Malone House Group, a Belfast-based, non-governmental organisation (NGO) dealing with Legacy issues arising from the Northern Ireland conflict. Its object is to find the best means to address the Past while preventing a re-occurrence of violence between the two communities in Northern Ireland.

We came into being after a ‘Legacy Legislation’ conference held on 3 March 2018 at that venue in Barnett’s Demesne. The proceedings of the conference were published later that year in book form under the title *Legacy: What to do about the Past in Northern Ireland*. It was launched in the House of Commons in July 2018 by Kate Hoey MP.

Over the last two years, since the conference, many articles and opinions, both individually and as a group, have been published. In pursuit of our objectives, we have also held regular meetings with government officials, both in Northern Ireland and London, and submitted responses to the consultation of the Northern Ireland Office on its 2018 draft Legacy Bill and to the inquiries of the Northern Ireland Affairs Committee at the House of Commons. We have also held discussions with British parliamentarians and the Republic’s Department for Foreign Affairs as well as spoken at consultation meetings on the NIO’s draft Legacy Bill.

The Group grew to some extent out of, and because of, the Haass talks on Flags, Parades and the Past of 2013. The unagreed Haass Report became in many ways the source document for the Stormont House Agreement (SHA) of December 2014. It in turn became a foundation for the NIO’s silently expanded draft Legacy Bill of 2018.

It has now been superceded by an, as yet, unspecific revised government policy on legacy legislation for NI which promises to narrow previously proposed arrangements (see 18 March statement by the Secretary of State, Brandon Lewis). Cost is plainly an issue for the Government, one accentuated by the current Covid crisis and its colossal bill. Separate but related legislation, the Overseas Operations (Service Personnel and Veterans) Bill, has also been tabled in Parliament but not yet discussed. It will limit liability for military personnel only outside the UK.

We share a deep concern over the one-sided broadcast media and academic output around addressing the Past in Northern Ireland. Our views differ considerably from those expressed by other NGOs and the law departments at QUB and UU however they are not as well publicised (nor are they funded).

It is important to note that, despite statements to the contrary, SHA was not agreed by all the major parties, any more than the Haass report was. We have assiduously opposed its implementation in the form proposed, not least on human rights grounds, with its potential for destroying reputations without fair procedures. In particular we are opposed to the creation of a parallel police force of the past, the Historical Investigations Unit, with its suggested powers to investigate non-crimes such as ‘historic police misconduct’.

Malone House is united in the view that the past should not become our future which it is in danger of doing. This common sense position is reflected in much public opinion and expressed by many senior figures in Northern Ireland from all sides of the community.

We feel that the Council of Europe at Strasbourg should review the value and purpose of the many unsettled Article 2 (right to life) investigations at the European Court of Human Rights and assess what they can still achieve. The opportunity for closure comes with the UK Government’s new proposals, difficult though they may be for some.

We have just posed these questions along with a legal opinion from a London barrister, Austen Morgan, on Article 2 interpretation, in a submission to the Council’s Committee of Ministers for its meeting in June:

* Is the continuance of legacy lawfare cases dividing communities rather than reconciling them?
* Are the cases one-sided, with no non-state actors under investigation?
* Can further investigation be effective given the passage of time?
* Is further investigation hugely disproportionate in costs for minimal outcome or added value?
* Would such process in any way be helpful in every other conflicted European country not least in the Balkans?
* Would a dogmatic, doctrinaire imposition of Article 2 lead Strasbourg into investigation of Soviet-era crimes and policy, or further back?
* Should not regard to cost be reasonably taken into account in any proportionate examination – bearing in mind the entirely disproportionate expenditure envisaged in Northern Ireland with legacy enquiry costs in in the region of £2 billion and rising?
* Is the context of the times, in particular in the 1970s and 1980s in NI, really understood in the Committee of Ministers?
* Is Strasbourg’s reputation in jeopardy without such a dispassionate reassessment?

This submission to Strasbourg is a first for a non-nationalist group in Northern Ireland. We have also just submitted to the latest Legacy inquiry of the Northern Ireland Affairs Committee at the House of Commons.

Jeffrey Dudgeon

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