Malone House Group

INTRODUCTION

The Malone House Group is 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 three 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It has now been superceded by an, as yet, unspecific revised government policy on legacy legislation for NI which promises to narrow previously proposed arrangements (see 18 March 2020 statement by the Secretary of State). 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 concluded. 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 ECHR 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 extent, value and purpose of the many unsettled Article 2 (right to life) investigations at the European Court of Human Rights (ECtHR) and assess what they can still achieve. The opportunity for closure comes with the UK Government’s new proposals, prefigured by Brandon Lewis last March, difficult though they may be for some.

We have posed these questions to the Committee of Ministers of the Council of Europe (COE). That Committee decides how and when the ECtHR judgements are met. Along with a legal opinion from a London barrister on Article 2 over-interpretation our submission asks:

• 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 Northern Ireland with hundreds of deaths and bombings each year, really understood in the Committee of Ministers?

• Is Strasbourg’s reputation in jeopardy without such a dispassionate reassessment?

Our submission to Strasbourg was a first for a non-nationalist group in Northern Ireland. We have also submitted to the two Legacy inquiries of the Northern Ireland Affairs Committee at the House of Commons (but studiously not called to give evidence on either occasion) and presented a later submission to the Committee of Ministers of the COE on the flaws in the NIO’s Stormont House Agreement draft Bill and other ECHR articles.

- Article 2 legal opinion document DH-DD(2020)500 and SHA legal opinion document DH-DD(2020)705.

In late 2020, the Group met with the BBC, the NIO, the PSNI’s Legacy Investigation Branch (LIB) and Jon Boutcher of Kenova and, in 2021, is continuing this strategic work, starting with a meeting with the Secretary of State, Brandon Lewis MP, followed up by one with the Methodist Church.