

Northern Ireland Affairs Committee

Oral evidence: [Addressing the Legacy of Northern Ireland's Past: The UK Government's New Proposals](#), HC 284

Tuesday 7 June 2022

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[Watch the meeting](#)

Members present: Simon Hoare (Chair); Scott Benton; Mr Gregory Campbell; Stephen Farry; Mary Kelly Foy; Sir Robert Goodwill; Claire Hanna; Ian Paisley; Bob Stewart.

Joint Committee on Human Rights member also present: Joanna Cherry.

Questions 416 - 450

Witnesses

[II](#): Ian Jeffers, Commissioner, Commission for Victims and Survivors Northern Ireland; Sandra Peake, Chief Executive Officer, WAVE Trauma Centre; Peter Murtagh, Advocacy Support Manager, South East Fermanagh Foundation.



Examination of witnesses

Witnesses: Ian Jeffers, Sandra Peake and Peter Murtagh.

Q416 **Chair:** Could I welcome Ian Jeffers, the commissioner for the Commission for Victims and Survivors, Peter Murtagh, advocacy support manager of SEFF, the South East Fermanagh Foundation, and Sandra Peake, the CEO of WAVE Trauma Centre? The three of you are very welcome. On behalf of the Committee, thank you for the work that you do.

May I begin the questioning by asking you, effectively, the same question that we asked panel one? It is a bit of a Second Reading question in a way, because the Bill is progressing, but it is useful information, not least because we have the Minister before us tomorrow. Could you give us a flavour of the level of engagement and its adequacy as these proposals have evolved into the Bill?

Ian Jeffers: Perhaps I will start, recognising that this is week four of my appointment and I have engaged with the NIO on three occasions, one directly with the Minister. I would say that it was a broadcast style of a meeting and not a consultation, and it was obviously after the Bill was read.

Q417 **Chair:** To pause there, it was an information download from a Minister of the Crown to you, subsequent to the Bill's publication. Prior to the Bill's publication, had your organisation been engaged at all?

Ian Jeffers: The key thing is that we have a forum. These are representatives of victims and survivors. These are people with lived experience. They have met prior to the Bill going in with the Secretary of State and with the Northern Ireland Office, but they would put on record that they do not feel that it was a consultation in any way. It was a transfer of information and not a consultation. That is what I have heard from a number of victims, both our forum members and other victims I have met over the last number of weeks.

Sandra Peake: From the very start, we have been very concerned in relation to the level of engagement. It was not a consultation and at times information has been scarce and limited. We have met with officials. At times they were unable to give us very much information. We have been quite critical, because it would seem that more information was given to the *Daily Telegraph*. If victims and survivors wanted to know what was happening, they had to read the *Daily Telegraph* and go behind the paywall even of the *Daily Telegraph* to get it.

Chair: As a Conservative MP, I am tempted to say, "Welcome to my world", but that might be a little too flippant for the morning.



Sandra Peake: That goes to the fundamental problem of where victims and survivors are at. There has been a huge disrespect to those who paid the ultimate price for what happened throughout the years of violence. Today, they are very concerned. People talk to me today about fear. They are fearful of what is going to come. They are fearful that people will get an immunity and approach them. There is an intimacy of violence in Northern Ireland that is seldom understood. Sometimes the people who are the perpetrators are living in the next street or close by, or they see you at the church or at the shops, and they wink at you. They jeer at you. They let you know that they are still there. That is before any immunity comes.

I cannot emphasise enough that there is a fundamental issue here that is deeply unfair to victims and survivors. That concept of fear is very real for people today. That plays into how the Government treat them. If there is a lack of information, there is speculation and this is drip fed, that becomes very difficult and wholly unsatisfactory for victims and survivors today.

Q418 **Chair:** If I interpret correctly what you have just told us, it is safe to say that, in actual fact, the approach that the Government have adopted has been entirely counterproductive. If one had engaged openly, even if people had not quite liked what had come out of the end of the machine, they would have said, "At least we have been engaged in that process". Have fear and anxiety about the intention of the Government or the instincts of the Government on this been heightened or aroused in any way as a result of the modus operandi that the Government have adopted?

Sandra Peake: They have. Ultimately, there is the suggestion that an amnesty is coming. From this Bill, people read that the power lies with the perpetrator. It does not lie with the victim and survivor. It lies with the perpetrator. This is perpetrator friendly. This is perpetrator-focused. Ultimately, the perpetrator will win from this. It will not be the family, particularly not families that have been caught between the ending of the HET, the Historical Enquiries Team, and the Good Friday agreement.

I hear from a lot of those families that they were waiting. They were promised investigations and now, in effect, we are told that something very different will come that will not be an investigation. It will be a review. Somebody can walk in and, to the best of their knowledge, say what happened and nothing will happen to them. Northern Ireland has worked hard in relation to a peace process where the rule of law needs to be very clearly enshrined.

People keep asking what the difference is between a death in your constituency, Chair, and a death in Northern Ireland. We have deaths here in the street because of racial murders and we have deaths because of sectarian murder in Northern Ireland. Why do we have an inequity? Why are we treating murder differently? One lady whose son was stabbed very close to WAVE said, "I brought my children up to believe in the rule



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of law and now the rule of law is going to be overridden in relation to his death". There is something fundamentally wrong with that for our future. It is as much about yesterday, but it is what you are putting us into in the future. Victims and survivors are very concerned in relation to what that means for their own families.

Chair: Those are incredibly powerful points, Sandra. Thank you.

Peter Murtagh: Overall, we found that the engagement we had with the Northern Ireland Office and the Secretary of State was good. They responded well to our request for a meeting. As a group, we feel that we were listened to, to a point. We have had certain influence over certain changes that have been made since the original command paper, but there is a difference between good engagement and agreeing what is proposed.

I echo a lot of what Sandra said and the points she raised there. From representing the innocent victims and survivors, we wanted to listen to what was proposed and enter into discussions to try to influence things, but, overall, there has been a lack of clarity in relation to specifically intelligence and information that will be demanded by the ICRI, or the information and intelligence they will actually disclose to families.

Q419 **Chair:** Is there anything good in the Bill that any of you welcome?

Peter Murtagh: Previously, I know something we pushed hard on, in the 2018 consultation in relation to the Stormont House agreement, was that there was nothing on investigations in relation to serious injury and under the harmful conduct that is covered.

Ian Jeffers: There are elements, such as the memorialisation and the oral history, that are welcome to see, but they have been buried in the Bill and they are almost sweeteners in there. "If you do this, you get that". You will have heard now on record that historians, Queen's University and the University of Ulster have all said, with the hand of the Secretary of State over the top of this Bill, they would not go near that work. We remove the independence of those and, therefore, the credibility of them. The good work of those could be lost in the Bill.

Q420 **Chair:** You are alert to the point that we heard in session one, which is that the Secretary of State is part of HMG and, therefore, a state player in all of this. Without impugning the integrity of an individual Secretary of State, the requirement to demonstrate a degree of separation and independence could not be delivered by a serving Minister.

Ian Jeffers: That would be our read of it and there is that mistrust. There is no transparency in this process.

Q421 **Chair:** If one accepts the fact that there would have to be somebody who would either—I do not say this flippantly—tick the box or put a cross next to it, who would you welcome that sort of person being? Is it the retired High Court judge? Is it somebody who has been heavily involved in the



United Nations? Is it an international lawyer?

Ian Jeffers: I would be more concerned about the appointment process and how that appointment is made, because, again, it is not clear in the Bill. It could be an appointment from the Secretary of State. There needs to be an open and transparent recruitment process in there.

Q422 **Chair:** On that, as I referenced in my contribution on the Floor of the House, even if it was the Secretary of State's recommendation, would a positive endorsement of it by Parliament be helpful in providing additional bona fides, for want of a better term?

Ian Jeffers: I believe so. Again, if you look at Kenova, we had the endorsement of the chief constable for the appointment there, which adds a level of credibility.

Sandra Peake: There are fundamental issues around time and the speed at which this is coming. It was very important testimony you heard this morning from the human rights commissioner. When we look at what information is out there for victims and survivors, we put something out last week, but there is nothing that victims and survivors could lift from Government and say, "This is what the proposals are", in a similar document to the Good Friday agreement. When we signed for the Good Friday agreement, we knew what we were getting when you were able to read about it. There is very little information available to victims and survivors.

The timing feels as if it is ramstam and at speed, and that does not allow it to be unpicked or interrogated, or even for us to consider fully what the good points are from this Bill. Are there things that we can take? Are there things that we can work from? That is really a fundamental concern.

This is huge. For us, it was always around the last throw of the dice. It was always that legacy should be addressed appropriately and properly, and that we should free our next generation from carrying the injustice of the past by having a properly resourced and fully independent process. That is what we would want to see. Time is of an essence. Whatever can happen to allow greater time for something that is so fundamental to the lives of people in Northern Ireland, in GB, or wherever they are, who have been bereaved or injured, we need it to happen.

Peter Murtagh: One of the biggest issues that is not covered is accountability and that has never been addressed. As the Human Rights Commission suggested, the victims ultimately want justice and, if they do not want justice, they want some form of accountability for what happened to them. There is nothing within this that provides that for them. There is nothing suggested.

I would challenge what you have told by the NIO that, if someone is identified and it reaches the balance of probabilities, they will be identified and named in the report. The majority of victims we support



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know why their loved one was killed, they know the group that killed their loved one, they know where it happened and they know how it happened, but what they want to know is who is responsible and not only the main perpetrators, but also the terrorist godfathers who directed and co-ordinated those attacks. That, to us, cannot be delivered. There will be lots of legal challenges, we feel, in relation to people claiming that their life would be put in danger if they are named, so it will not deliver that accountability.

Q423 Chair: Let us be frank. If there was an easy solution to this, somebody in a Government would have alighted upon it by now, would they not? This has gone on for years and years and years. If you were not starting from here, would you take the point that we heard from the commissioner, which is that you could run two systems in parallel—first of all, the Kenova rule of law courts bit, as we understand it to be, and the truth, reconciliation and memorialisation agenda leg to this—and move away from amnesty, et cetera, in its entirety? Is that the sort of approach that you would like to see, as imperfect as possibly both of those things only ever can be, as no system can ever be of itself perfect?

Sandra Peake: From the experience of working quite extensively with Kenova from the start, trust and confidence from those families was very low at the very start. They did not believe that there would be proper investigations, that they would get information or that anyone would ever be held to account.

Over time, we have seen that they have got information they never had. I have sat with those families through RUC investigations, PSNI investigations and ombudsman investigations, and literally Kenova has uncovered information they have never had before. That process has been very important.

There are 31 files, as the commissioner for human rights said, within the system. Our Public Prosecution Service has been starved of resources. The fact that they are still sitting two years on is lamentable, but for the families the process is as important as the outcome. However, to get that process you must have a criminal justice route, because that is how Jon Boutcher and his team have had success in terms of providing information.

Imagine getting to the end of a process and saying, “Under evidential and new forensic A, B, C, but because of this new Bill that the Government have introduced Sandra Peake will walk free”. What will that do to a family? We have to consider at the end of the day what this will do to families. That should be our prime concern, because victims and survivors need to be at the centre of this and, quite simply, they have not been.

Peter Murtagh: It is not victim-led. It is the perpetrator who has all the power. The incentives for them engaging with the process are very limited, to say the least. With the change in the early release scheme



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that they can apply for automatic release, because they will be considered not a danger, ultimately they will be released as such. There is no power to revoke any immunity that is granted, so if they give a false account, but that immunity has already been granted, that will stay in place.

If you had someone who was involved in a terrorist campaign prior to 1998 and they came forward for immunity, yet they continued a campaign post-1998 and were convicted of an offence, that original crime would never be taken into account in relation to sentencing.

Some victims have reluctance to engage with the process, but the fact is that, once they come forward and ask for their case to be reviewed, it is reviewed. The investigation team then approaches a perpetrator. He asks for immunity and, therefore, for all intents and purposes they are facilitating immunity.

Ian Jeffers: Chair, to your original point in terms of whether we make do with what we have, as Sandra rightly said, it is about resourcing it. Victims have waited too long to get to that stage. There are the tools there, without a doubt. They are not perfect. We had the Stormont House agreement, recognising it did not get the full support, but, again, there were things there. The key thing with Stormont House and other things is that there was agreement from all the political parties, there was agreement from here, and there was agreement from Dublin. We do not have that in this Bill¹.

Q424 **Chair:** On that point, we have heard previously from the PSNI and from others that the Government can throw squillions of pounds at something, but it does not generate bums on seats. There is not the headroom of detective space within the police and there is not headroom within the legal court services to deal with as many cases as may need to be dealt with. It is a question of financial resource, but it is also of people. In that trade-off, is it more important to keep the chance of a legitimate prosecution alive or to deal with it in a different way? If the challenge is because we are short of police officers, barristers, court time, et cetera, this may take years and years and years more than it has already.

Ian Jeffers: Families are well aware that this is taking time. We are talking crimes 40 or 50 years ago. It is not an acceptable excuse to say we do not have the resources for this. There is nothing in the Bill that suggests that new information will flow. What compulsion is there for somebody who has sat on information for 20 or 30 years, and has got away with it, to come and give new information at this stage? It takes the investigatory powers, like Kenova, to bring this forward.

Q425 **Chair:** Just on that evidential and information point, could you give a word or two to the argument of the asymmetric nature of that? The

¹ The Ulster Unionist Party subsequently wrote to the Committee to point out that it had not agreed to the Stormont House proposals. See [link to their evidence](#)



police, army and others will have records. Again, they may not be perfect, but there will be records of who did what, who was where, who gave instructions, where the details went, et cetera. The terrorist groups had none because there was not that formalisation of a chain of command. That always gives the dissonance to this, surely.

Sandra Peake: That should not be viewed as a weakness. The reality from Kenova is that you can see that that is the best chance of information, because it was recorded at the time, it is within the system, it identifies who was interviewed and who was not, it identifies other lines of suspects and you look at new forensic advancements. That is often used to say, "Terrorists do not have records. Security forces will be held to account".

What I saw through Kenova was a number of things. First, families could see what was done at the time because it was being shared with them that so many people were lifted at the time, with so many house arrests and all of the various things. That gave them reassurance that there was an investigation at the time that they were not aware of because of their distress and the nature of the deaths.

Secondly, it allows a fresh opportunity to be reviewed. Our concern has been that, if you go with this process as it sits, this is Historical Enquiries Team lite, because at least, if the Historical Enquiries Team found something, they could refer it to the PSNI. In this case, that is not going to be the case. We must have a process that follows through and access to those records in the same way that Kenova has done is really important.

Going back to your query about not enough police officers, on the Kenova website the Chief Constable's Forum reviewed this and my understanding was that it said there were sufficient resources. It was how it was going to be done. That could be provided through a policing structure. Often it is said, "The structures and resources are not there", but from the Kenova experience I would say, yes, they are there and it is possible.

Q426 **Bob Stewart:** Something you said, Sandra, and something you said, Peter, twiggged something. Can I just get this right? There is a reluctance among some people who want to have redress of grievance to come forward because they are frightened. They are frightened that by coming forward they identify themselves and, therefore, people who might wish to do them harm would have an incentive to come again. Is that one of the problems that I think you hinted at, if not said explicitly? There are people like that and I totally get that. I do not know how we can get round that.

Sandra Peake: There is hesitancy. Say I was involved in your loved one's death and I am given an immunity. I approach you and say, "I was in your house 30 years ago when I took your husband away. I was involved in your loved one's case". Families are frightened that they are



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going to be approached by the very people who did the murders because they are going to have immunity.

The other thing they are frightened about, which we need to carefully consider, is that people will start on their literature and will start writing their books in relation to their days as the UVF commander or the commander for the IRA. People are very frightened about what is coming.

Q427 **Bob Stewart:** They get immunity, then they can spill the beans and then they make a lot of money out of it.

Sandra Peake: They are free to do so.

Q428 **Bob Stewart:** That is what you are implying. Is that right?

Peter Murtagh: No, I was implying that they could be facilitating immunity by going forward and engaging with the process, but, yes, if they have been granted immunity, there is the chance to continually justify retrospectively their acts of violence and glorification of violence.

Q429 **Bob Stewart:** Yes, I get that. It is really difficult, is it not?

Sandra Peake: It goes back to the heart of the intimacy of violence in Northern Ireland. People often are not living that far from those who were involved. I find it very difficult when families talk to me about continued intimidation and it is not something they can go to the police with. It is the wink. It is using their name.

Q430 **Bob Stewart:** You coerce by gesture, by body language, by walking across the street or following someone down the street, by knocking on the door and running away—all that stuff.

Peter Murtagh: We have a victim here who was seriously injured in an under-car booby trap in Fermanagh and someone was thankfully convicted. He got early release under the Good Friday agreement. Having lost a leg, he was ridiculed by that very person who committed it. He had to face that on a daily basis.

Q431 **Bob Stewart:** You see them every day in the same street.

Sandra Peake: I know recently flowers left at a site were desecrated, bouquets were thrown over bridges and there was vandalism of memorial sites at a roadside. That is today. One of the big fears is the continued presence of paramilitaries within our community. I am very mindful that, as a committee, you are looking at continued paramilitarism. In 2021, the Independent Reporting Commission said that paramilitaries continue to pose a risk to our society and that paramilitary remains a clear and present danger. That is today and now we want to give some of these guys and women an immunity.

Q432 **Bob Stewart:** My only other comment, Chair, and then I will shut up, is just to say that that marks the difference from the kind of society we have in the mainland here. We do not have that sort of thing and it is different in Northern Ireland. That coercion can still be there. We do not



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have that here and we have to understand it is different.

Peter Murtagh: We have one of the victims and he highlighted it to the Secretary of State two weeks ago. We are subject to a postcode lottery and we are the losers. If you bring this in, the murder of his father will not be investigated. He will never be delivered that justice.

Sandra Peake: Soldiers' families in England are still frightened of the IRA. They still exist in Manchester, London or wherever. It is not just in relation to people who live in Northern Ireland.

Chair: That is a good point.

Sandra Peake: People will voice the sense that they are still frightened, and that is families who live hundreds of miles away from where incidents occurred.

Bob Stewart: Thank you for highlighting that. I should have picked that up.

Q433 **Ian Paisley:** Sandra, you made the point about memoirs and this being weaponised almost. We already know of the Boston tapes project, where some of this material is gathered and could be used or exploited. I was approached a few weeks ago by a filmmaker, who has been asked to do the Jean McConville story, but from the terrorist's point of view. We know of the potential of a film that could be done about Mr Stewart's friend, Captain Nairac. Are there other things in the pipeline that you are hearing that these people just want to get out there and tell their story their way, and whitewash the troubled past of Northern Ireland?

Sandra Peake: The very sad reality is that for those families the dead have no power. There is no answer. Therefore, people can write what they want, and we have people's memories besmirched and people vilified. That is so wrong.

The big issue is that, if you give them immunity, you will get somebody's version of the truth. Will it be the whole truth? It will be their version of the truth and you are going to get that in print or get someone speaking about it. That is the very real fear for families.

Many families feel violated. The family of Jean McConville feel violated in relation to their mother's memory. The only people who should be talking about Jean McConville are her children, rightfully, and that continues to point to exploitation by people who are trying to make a resource and make money on that.

We need to protect our victims and survivors, and we need to ensure that they are looked after, but giving an immunity is not looking after them. Giving an immunity is putting the perpetrator in charge of them and in charge of the version of their truth that they will share.

Q434 **Mary Kelly Foy:** We have heard about the fears and the concerns that



people have, the flaws in the Bill and the lack of consultation with civil society, victims and survivors, despite the Secretary of State saying there has been widespread consultation. I know you, Ian, have asked the Government to stay in listening mode and to listen to these concerns. Do you think that these proposals can be effective at all in the absence of any engagement with the Irish Government and alongside their parallel legislation that they have?

Peter Murtagh: I would like to go back to the 2018 Stormont House consultation. We pushed the Irish Government through the Department of Foreign Affairs quite strongly to replicate an investigation unit that should be set up within the Republic of Ireland. They never committed to that. By putting forward these proposals unilaterally, the Government have almost given the Irish Government a way out, in that they say it is against their constitution in relation to this and, because it is not article 2 compliant, they will therefore not be able to engage with any process.

Op Kenova is going through this issue at the moment. If it is an investigation, as in a previous session was suggested, they will cooperate and have to provide information. For a review, as is currently written in their legislation, they do not.

We have no bespoke unit to go to or to engage with on behalf of victims and survivors. There are a lot of cross-border victims we are supporting in relation to advocacy and there are cross-border attacks. Either they were started within the jurisdiction of the Republic of Ireland and then the attack was carried out on the north side of the border, or there were actual atrocities carried out within the south itself. We struggle having one investigative body that we can engage with. To be honest, getting information out of them is very difficult.

Ian Jeffers: With Stormont House there were at least those people around the table, whereas there is not in this and, as Mr Paisley rightly said, there are somewhere between 500 and 700 murders around the border counties, where people have gone into the Republic and have evaded that. We do not have any process in there. Again, going back to Stormont House, it is imperfect potentially, but at least there could have been potential there to get that information or get information.

Sandra Peake: The best chance of success is when the Governments work together. There should be no inequity either side of the border. Under the Stormont House agreement they did that. Therefore, any proposal that comes forward should be both Governments working very clearly together in the interests of resolving the past.

Q435 **Mary Kelly Foy:** The way things are at the minute, effectively, the proposals are not going to work.

Peter Murtagh: Cross-border investigations are going to be very difficult, as it stands.

Q436 **Mr Campbell:** Welcome to our witnesses. There are two things I want to



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raise. There are different categories and people like talking about the term “categories of victim” because different people deal with the murder of a loved one in different ways. Some people live with it every single day and find it difficult to adjust to life. Other people will never forget it, but their lives have moved on.

For the latter category, people for whom life has just moved on and they will never forget the murder of their loved one, I do not know whether there are hundreds of several thousand of that type of person. If this goes through, what will their view be if suddenly, 30 or 40 years after they assumed a new chapter had been turned for them in their own lives, the person who committed the murder of their father, son, brother, sister or daughter pops up and meets what was called the low bar to get immunity for something that they had thought they had moved on from?

Ian Jeffers: The fact that victims and survivors are not central to the Bill says it all, to be truthful. There is a real risk of re-traumatising people here or starting something when somebody has managed to move forward. They do not, as you rightly say, forget their loved ones, but they have built their life around other things and to get that out again and rub salt in the wounds, there is a real risk of re-traumatisation.

Sandra Peake: It compounds injustice, because if you have somebody who is coming, and you have taken that decision to move forward, what information are they sharing? If that has been shared with you and you fundamentally disagree with it, you have no right to interrogate it. You have no right to question.

In 1999, a list was released of the disappeared, giving supposed valid reasons of why they were disappeared and the families had disputed those reasons, because they said that, if those reasons were correct, the bodies of those people would not have been hidden. It was a real injustice to them at that time that that continued to be carried forward as a type of justification for them to be abducted, murdered and secretly buried.

Therefore, if you are bringing something like that up now for other families and they have no right to interrogate it, they have no right to challenge it and they know fundamentally it is wrong, what do you do? You are landing that on top of them and they are powerless to do anything about it.

I am really concerned. Families do not want to pass the trauma of the past to the next generation, but we are doing it and we can see it in referrals. Normally, WAVE will get around 600 to 650 new referrals per year. In the last year we had over 1,200 referrals into WAVE. Why? The first reason is legacy. The second is deteriorating mental health because of Covid, when people were locked away in their own homes and their whole support mechanisms were removed. The third is the injured pension, because there was a new scheme to recognise injured people. Legacy is very much bubbling and it is there. We need to provide support



services for them, but transgenerational trauma issues are quite a substantial proportion of that work.

Peter Murtagh: In relation to the immunity panel, the person has to give the truth to the best of their knowledge. We consider it a subjective test in itself. There is no onus on the panel for them. They are not compelled to go and check that account; they can take that account as is. As further information comes in, they have to take that into consideration, but they do not proactively check out that account, so therefore the perpetrator as such will be taken at face value. That part of the process is very wrong.

Q437 **Mr Campbell:** I just have one last question for each of the panel. Mr Murtagh alluded to what I want to ask now about the Republic's Government. As Mr Jeffers said, there was somewhere between 500 and 700 cases where there was probably a cross-border instance and that was in terms of murders, so then serious injuries would be multiplied beyond that.

The Government's proposals follow a series of other proposals, but the Irish Republic's Government appear to me, anyway, to be extremely reluctant to open up in terms of what they plan to do about issues in terms of legacy. They seem to be very reluctant to assist, to help and to facilitate. What are each of your views about the Republic's attitude? They have criticised this proposal, which is fair enough. Everybody else has as well. That is all well and good, but what have they said they will do to you?

Peter Murtagh: To be honest, there has been no firm commitment. As I said before, for them this is almost a get-out clause because of their constitution and not being article 2 compliant. It takes away from them any commitment and they will not make any commitment. They never made it in 2018, despite pressure on them. Yes, the Independent Commission on Information Retrieval, the original body as part of the Stormont House agreement, was set up, but outside of that, investigative-wise, they never made any commitment whatsoever.

Ian Jeffers: That is the thing. If this Bill does go through, that does give them an opportunity to walk away from everything, whereas my approach in my first few weeks has been to try to open dialogue there and say, "Let us have a sensible and mature conversation about how we would deal with legacy".

Q438 **Mr Campbell:** You say that the Bill gives them the opportunity to walk away, but for the past 10 or 15 years, before the Bill ever saw the light of day, they did not exactly step up to the mark in terms of being proactive about trying to assist as well. Are you saying that this would just close the door for them and they would be able to say, "Not us, guv, sorry"?

Ian Jeffers: That would be my interpretation.



Sandra Peake: The Stormont House agreement was a joint British-Irish Government local Assembly initiative that should have produced something right across the board. That would have held, and would have had to have held, the Irish Government to account. We did push them on that in relation to murders in the south or people, indeed, who were taken from the north and murdered in the south.

There needs to be an accountability, whether it is north or south, that those cases should be properly and adequately investigated. However, this Bill will not do that if it is replicated in the south. In fact, it will just compound the injustice. We will argue that the best chance of this having success is a joint British-Irish Government initiative that deals with those issues, because it is really quite impossible in many cases to separate the north from the south, when you think of people abducted in the north, and that is where the investigation is, but murdered in the south.

There needs to be a pathway to work very clearly between both jurisdictions in investigative processes. Kenova is interesting in relation to the Operation Denton process that is on at the moment and that will give us the best insight into where we need to push resources going forward in the future.

Q439 **Chair:** I am conscious of time and I am going to ask for pithiness. Let me just ask a couple of very pithy ones. Clause 1 of the Bill, “other harmful conduct”, states “Troubles-related offences”. Are these adequately capturing the spectrum of conduct and offences that the Bill should cover? We have been having a debate—you will have heard it; it was on the Floor of the House earlier this morning—about perpetrators of sexual violence and whether they fall within the definitions. Do you want to say a couple of words on those observations or questions?

Ian Jeffers: The previous submission summed it up perfectly. There is not the clarity there that would allow you to actually distinguish between one offence and another.

Q440 **Chair:** Is it possible to define “other harmful conduct”?

Peter Murtagh: It is very wide reaching in relation to scope. One of the biggest concerns is that it could be used by certain sections to distort the narrative, in that they plague it with accusations in relation to actions of the security forces and produce evidence as such. It is also whether an investigative body would have the capacity and resources to deal with potentially what could be a large amount of people approaching them for investigations or reviews.

Sandra Peake: There is an underbelly of violence in Northern Ireland that has not come to the fore but is very much present, which happened under the cover of paramilitarism and has not been addressed. We had a recent appeal by the police not that long ago, in the last month, in relation to a young woman who was gang raped in Unity Flats in the 1970s. You can see more examples of where sexual violence and arms



have been used to harm and to cause very serious harm to people. A lot of that has not yet come to the fore.

Peter Murtagh: I do not think sexual attacks and sexual violence were used as a war of the terrorist campaign, but there are members of those organisations who intimidated victims and prevented them from entering the criminal justice system. There is no doubt that, where that happened, whether it was the actual perpetrator themselves or associated members of that organisation who carried out the intimidation, those will have to be investigated.

Ian Paisley: There are a couple of very specific cases where sexual violence was used by a perpetrator, which have been all about the press. One is very prominent.

Chair: Yes, they are quite well documented.

Q441 **Claire Hanna:** I was very struck by both of you using the phrase that the power lies with the perpetrators and not with victims. I was going to ask you about the reaction of those you represent to the proposal to grant amnesty and you have addressed that. I wanted to explore particularly whether the requirement for perpetrators to co-operate with the information recovery process makes the prospect of their immunity more acceptable.

I appreciate this is difficult and I do not want to sound provocative, but is there a scenario or is there best practice that people see elsewhere where some sort of conditionality is workable? I want to caveat that question by saying this ain't it, in terms of the very low bar and the fact that it does not address any of the potential for self-serving narratives, as we have discussed. If the conditionality was clearer and more agreed, is there a scenario or is there a model that victims do support, could be persuaded to support or that might work for victims?

Ian Jeffers: The challenge is still that amnesty, but victims have said to me they do want the truth. They want some information. Judith Gillespie shared with me last week that, in her role when she was within PSNI, she was involved with the mortar bomb attack in Newry Police Station. The mother there simply wants to know, "Did my son have his dinner?" If that sort of information could come out, then, yes, you could potentially deliver some comfort to victims and survivors as part of the process. Again, going back to the immunity side of things, I have not found anybody in favour of immunity on the victim and survivor side, whether it is RUC, UDR or wherever. Indeed, the commission did a population survey last year and 70% of the entire population said they were against supporting any statute of limitations, so not just those impacted by the troubles.

Sandra Peake: There is a big issue about what they can actually tell. If you were involved in a sectarian murder and you come and say, "I murdered Sandra because she was a Catholic" or "I murdered her



because she was a Protestant; that is it", what will that tell the mother, the sister or the daughter? There is a real concern in relation to what information they are going to get, and that is why I go back to the Operation Kenova model of criminal investigation and having full disclosure through that.

The other thing then is in relation to the scale of violence. Some people did not just perpetrate one death; they perpetrated many and a variety of things. In asking for that process, does that give them a blanket? They are responsible for five murders, but they confessed one lesser charge of driving something and that gives them their immunity and, therefore, they get away with all of them.

The other issue is in relation to corporate, because organisations will control what is told and there will be a corporate narrative that is told. It will be that corporate narrative that stands. I go back to the disappeared families and those accusations of what their loved ones did. After years of denying that they were murdered and after years of making the families believe they were still living, they put out spurious reasons, which was a further injustice to those families and that is what stood.

You have to really put yourself in the position of families. For years you have been told your mother or your father, as in Ballymurphy, was a gunman or gunwoman. You now have an inquest that has said they were innocent people. That is crucial. That is crucial for families. That is what we need to come back to. If we were relying on Widgery, Widgery would have been Bloody Sunday. There are so many examples of where we need to get this right for victims and survivors, and the speed of this is of deep concern. More time needs to be given to this, but also the fundamental principles of it must be looked at. It is simply wrong.

Q442 Claire Hanna: You have been really clear about how a superficial process just cannot achieve those outcomes in any way. We discussed how the commissioners are going to be appointed by the Secretary of State and just how extravagant the powers to the Secretary of State are going to be. Do you think that will affect confidence in this body? Are there ways that confidence in the commissioners and the appointments might be strengthened?

Sandra Peake: The clue is in the title "independent". If it is supposed to be independent, it should not be appointed by the Secretary of State and that is of deep concern, whether it is controlling oral history, controlling the narrative or controlling the appointments in the various strands. If we are true to independence, that is where it needs to rest.

Peter Murtagh: I agree, it needs to be total independence and, if it is not independent, the whole process will be undermined. The concerns are that it is devolving it to local government; that could be a big concern. Therefore, you probably have to look towards the judiciary or some international body to come in and make these appointments.



Ian Jeffers: Ultimately, victims and survivors have been saying to me that this is about providing greater certainty for certain service personnel and veterans serving in armed conflicts, and they say it is totally against them. Then having the hand of the Secretary of State on that whole appointment confirms that feeling that they have.

Q443 **Joanna Cherry:** Thank you so much for joining us this morning. Sandra, I was really struck by what you said there about the crucialness of truth for the surviving family members. You spoke there about relatives of the people who were murdered at Ballymurphy finally having an inquest after many years. These people were not gunmen; they were innocent civilians. Likewise, you pointed to the different state we would be in if we were still relying on the Widgery cover-up as opposed to the proper Bloody Sunday inquiry, which led to David Cameron's very powerful apology.

Against that background, I wanted to ask all three of you three questions, really, about this Bill and ask you what your response is to three aspects of the Bill. The first is the Bill's proposal to restrict any new or ongoing civil claims begun after 17 May this year. The second is the Bill's proposal to close any inquests into Troubles-related deaths that are not at an advanced stage. The third is the Bill's proposals to extend the current early release scheme for prisoners. I wanted to ask each of you what you thought about those three aspects of the Bill.

Peter Murtagh: In relation to inquests, they are due process and, to be honest, they should not be interfered with. The issue we have is that the majority of the cohort of victims and survivors bereaved as a result of the Troubles, innocent civilians and members of the security forces, never got a proper inquest. They got about a couple of hours. There might have been three done in a day within a court. They never got legal representation.

At the moment, the majority of outstanding inquests are in relation to state actions and, therefore, you have an unintended distortion of, again, the Troubles, because they receive widespread media coverage, whereas the innocent victims and survivors we represent do not have that opportunity. Many times we have been to the Attorney-General to try to get inquests reopened and at every application we have been unsuccessful.

In relation to civil cases, again, you can take individuals to court in relation to civil cases in relation to terrorists. There has been limited success, but you cannot take paramilitary organisations and terrorist groups to court in relation to civil actions.

Ian Jeffers: I have a couple of points. On the restriction on civil cases, the door was slammed. You put yourself in the victim's situation where on the day the Bill is read, effectively, that is it. Nothing new is coming about. That is wrong from that point of view, taking on board totally the views raised by Peter as well.



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Inquests do provide results. It has been potentially skewed and unfair, but an inquest and the process it goes through have provided families with the results. They have got the truth and got that side of things. They cannot be ignored. They are part of the machine, albeit flawed, but it is producing results from that point of view. The extension of the early release scheme is something that victims and survivors have, using the term loosely, accepted as part of the peace process. We have asked victims and survivors to give an awful lot here already. That is why the Bill that is so devoid of victims and survivors within it and their concerns is a real kick in the teeth to them.

Peter Murtagh: Sorry, the early release scheme is a point I did not cover. It just removes the motivation and incentive for perpetrators to engage. It is difficult enough knowing, as Ian said, in relation to victims at the moment, and, to be honest, some would not call being sentenced for two years justice, but they have had even that taken away.

Sandra Peake: I will start with the early release. That is a fundamental issue. It is what we have asked victims and survivors to give up, so that under the Good Friday agreement they saw shorter sentences. They saw two years. Yet I have sat with families who have had prosecutions and a conviction for two years, and there is something about that person being named that is about accountability. Someone has been named, and then they are on licence and that licence can be invoked. Under the Bill, early releases will not be on licence. They will be out. There is no power to invoke that and to recall them. This is just fundamentally unfair. Why is murder not treated as murder?

People will continually say, "My loved one's life has been devalued", and now the state not only has devalued their life; it has given a statutory framework nearly for victim blaming. "If only you would do this. If only you would give this. Victims are the problem". Yet, most victims and survivors are the most progressive people you will ever meet, because they do not want a repeat of violence. One of their fears is that, in effect, this allows a repeat of violence because there is no sanction.

If you think of paramilitaries operating today, what is to stop them continuing to murder if they know that you just have to wait for a period of time and then the Government will wipe the slate clean? In five years' time if this goes through, the person in America for Mr Paisley can come home, because in five years' time it is going to be irrelevant. There is so much that is wrong with this.

In relation to closing any inquests, I go back to Ballymurphy. We have seen the difference it makes for families. That is under our devolved Administration, so why is that being interfered with in relation to our judicial process? You look at justice being devolved and all of a sudden now we are trying to override the rule of law. I am not a lawyer and you will know much more about that than I will, but there is something fundamentally wrong about overriding.



Q444 **Joanna Cherry:** Even in Scotland, criminal justice is devolved, but this Bill is purporting to interfere with our criminal justice system, so I have a great deal of sympathy for you on that one, although it is perhaps not the biggest issue we are discussing this morning.

Sandra Peake: In relation to civil claims, you had families very distressed in relation to that door just being closed with very little notice. Really that is just the end of it. Where is their right to hold people to account? That is something in relation to making people powerless and, again, the fact that this is perpetrator friendly. The power is with the perpetrator.

Q445 **Joanna Cherry:** We heard from the previous panel that it was part of the Belfast/Good Friday agreement that the United Kingdom Government made a commitment to give the victims of human rights abuses in Northern Ireland direct access to the courts to seek a remedy for the breach of their human rights. Can you give us a feel for how aware ordinary citizens are of the fact that this Bill potentially breaches the Belfast/Good Friday agreement in that respect?

Sandra Peake: People who we work with are frightened. They are frightened of what is coming. It is raising all sorts of issues again, because you can see it in relation to referrals. The other side of it is that there is no clear information out to victims and survivors. There is nothing that is saying to victims and survivors, "This is what is being proposed". Various people will put out information, whether it is the commissioner's office, SEFF or us. That is the information people are relying on because there is nothing out from Government to say, "This is what we are proposing and these are the ramifications of it". That is wrong in relation to where things exist for victims and survivors.

People have fought hard for the Good Friday agreement and to ensure it works. Someone speculated on the back of "Derry Girls" recently that, if an amnesty had been proposed in the Good Friday agreement, quite literally, people might have thought differently about how they voted, but they voted in relation to the fact that there was due rule of law and it would be followed through.

Peter Murtagh: I have just been reminded. One of the biggest obstacles for us, for our victims and survivors, in taking civil action is the legal costs involved and not being able to fund them. A lot of them do not qualify for legal aid. If they have a disposable income of just under £10,000, that eliminates them from the process. Any application to obtain legal aid is very stringent in relation to the case you are bringing forward.

Q446 **Joanna Cherry:** You are saying what was there before had limited utility because many people could not afford it. That does not change the fact that the door has been slammed completely on it now. No one can have it now.



Peter Murtagh: To be honest, the majority of our cohort that we represent never had that option.

Ian Jeffers: You are asking how victims and survivors are feeling about this Bill. Forum members that we talk to just see it as another case of them being irrelevant. They see the Government effectively trying to draw a line under the Troubles and that is how they are feeling on this whole thing, as if what they have gone through and the sacrifices they have made are no longer relevant to them and people outside want to forget about them.

Peter Murtagh: One victim said to the Secretary of State they would prefer to give up the opportunity of getting further truth than be denied any opportunity of justice. They do not want to have taken away from the perpetrator that fear of a knock on the door, whereas it gives them complete freedom and release from what they have done.

Sandra Peake: That is really important, because it is about the removal of hope and people have had hope. It might not be realistic and they know that. I could not agree more with Pete. I always remember a lady in her 80s whose only son was killed saying, "The fact that the doorbell could ring at any time means that person will never know, right to my dying day, whether they will be held to account". This Bill removes hope and that is what most people are struggling with.

The other thing is inequity, going back to why we are treating murder differently in Northern Ireland in comparison to the streets of Edinburgh, Cardiff or London. You would not do that here, so why do that to the people of Northern Ireland or, indeed, to people in Birmingham in relation to the Birmingham bomb or Hyde Park?

Chair: That is an incredibly powerful and telling point. Do you think we have slightly sanitised it just by referring to the Troubles, which makes it sound like perpetual migraine or irritable bowel syndrome? We are talking about murder, mayhem, violence, fear and so on and so forth, and because we have just wrapped it up in this rather comfortable word of "the Troubles", which is terribly euphemistic, in actual fact we lose sight of that and then we lose sight of asking ourselves the question, "If this sort of way of dealing with these matters was being proposed for Dorset, Blackpool, Durham or Edinburgh"—

Ian Paisley: But this will apply here if a terrorist comes forward and says, "I was complicit in this action".

Chair: Yes, but if it was being proposed as a way of dealing with historical crimes across the mainland most people would just go, "What the hell? This is just bonkers".

Ian Paisley: They have pulled that over on you. It has happened. The Government have pulled that one. It does apply here.

Q447 **Chair:** Is that the problem, do we think, that we have just sanitised the



language?

Peter Murtagh: If you break down the individual cases and you go through the details of what happened, how horrific they were and how brutally, callously and clinically they were carried on, then you realise what it is all about. When you sit down with family after family after family, and you go through those accounts and go through the trauma they have been through and continue to go through, that is what the Troubles is about.

Sandra Peake: There is an assumption and maybe a fair question for you, Chair, from the Houses of Parliament that Northern Ireland is addressed. We have a Good Friday agreement and it is addressed.

Q448 **Chair:** Yes, absolutely. "We have that up and running. Fine. Draw a line. Move on".

Sandra Peake: Yes, absolutely, and yet we have not addressed the legacy of the past properly. We have allowed an ad hoc process to continue underresourced, with some families getting answers and other families not. That has been deeply unfair. Often we are not hearing the stories that Peter is talking about in relation to the brutality facing families or the fact that families have continued to be held under power and control by people who are continuing to exert that at the shops, at church or wherever.

That is something that is absolutely horrific in today's society and really, as a society, we want to move forward. I want a society where people are held to account for murder. That is only right, because the danger of that not being undertaken has severe consequences for us in the future, particularly when you read and when you are looking at paramilitary violence still continuing on our streets.

Chair: We may want to hear from you on our paramilitary inquiry.

Q449 **Stephen Farry:** Just very quickly, I will ask each of you to make a comment around the proposals on the oral history and on memorialisation, and in particular some of the step-in powers that the Secretary of State has and also the consultation with the FM and DFM. Do you think that is workable? The other issue is whether they are credible proposals, or are they simply just trying to put some veneer on what is otherwise a flawed Bill?

Chair: Thank you for pithiness there. Can our answerers imitate?

Ian Jeffers: They are critical elements from my point of view, but they are so wrapped up in this Bill they are going to get lost. There is no independence within that. It is going to be somebody's version of the truth, but it is not going to be the whole truth. It is set to fail within the structure of this Bill.

Q450 **Stephen Farry:** I know, Peter, SEFF has particular concerns around how this could be taken forward.



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Peter Murtagh: We welcome the factual report. Narrative is a difficult area because, when people go in trauma, it affects their recollection of events and it does not matter what facts you put in front of certain individuals. They will never accept that and that has to be brought in, but you always have to have that factual check to bring us back to actually what happened.

There is no mention of glorification of terrorism in the proposals. That is not dealt with. The glorification of terrorism and glorification of any acts that resulted in death is an issue that is in social media nearly every day. There should be no glorification.

Sandra Peake: What record of oral history will stand if we do not properly investigate? Under Ballymurphy it would have been that these were gunmen and gunwomen, so it goes back to the heart that investigation needs to happen. When we look at lost lives as a record, for instance, families will dispute that because they had no power to correct that and that becomes then the official record. It goes back fundamentally to the need for proper investigations that actually provide the information that is there, if we are to have an oral history that is reflective of what actually happened.

Chair: Can I on behalf of the Committee thank the three of you for your evidence this morning and for taking and answering our questions as fully and as meaningfully as you have? We are very grateful to you for that. Can I also thank Joanna Cherry for joining us as our guest? It is like a chat show host or something, is it not? It has been fascinating and next week we are going to do "This Is Your Life". No, we are not. Can I thank you very much indeed?