HOUSE OF COMMONS

Northern Ireland Affairs Committee

Oral evidence: Addressing the Legacy of Northern Ireland's past: The UK Government's New Proposals , HC 284

Wednesday 15 June 2022

Ordered by the House of Commons to be published on 15 June 2022.

Watch the meeting

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

Questions 497 - 544

Witnesses

II: Daniel Holder, Deputy Director (CAJ) and member of the Model Bill Team, Committee on the Administration of Justice (CAJ); Dr Anna Bryson, School of Law and member of the Model Bill Team, Queen's University Belfast; Jeffrey Dudgeon, Convenor, Malone House Group; Dr Austen Morgan, Malone House Group.

Written evidence from witnesses:

–Jeffrey Dudgeon, Convenor, Malone House Group – LEG0042

Examination of witnesses

Witnesses: Daniel Holder, Dr Anna Bryson, Jeffrey Dudgeon and Dr Austen Morgan.

Q497 **Chair:** Good morning all and thank you for joining us this morning. Let me kick off this panel series of questions with exactly the same question I asked in our earlier session. Could you say a word or two, please, with regards to engagement that has been had with the organisations and the NIO in the evolution of the Bill? Then, could you cherry pick—I suppose rotten cherry pick, if you want to view it in that way—the best thing in the Bill, which most recommends it to you, if anything? Which thing gives you most concern, again if anything?

Dr Bryson: Do you want me to deal with engagement as well as what I see as good and bad in the Bill?

Chair: I would like you to deal with both those points as succinctly as you could. Yes, please.

Dr Bryson: As you know, I am a member of the Model Bill team, so we would have had quite extensive engagement, going back to 2014 and thereafter, around the Stormont House Agreement and troubleshooting problems thereafter. We have had limited engagement around these most recent proposals. I spoke to party leaders, at the invitation of the NIO, I guess a year ago, but we have had very little engagement in the run-up to this, so it came to us—the command paper certainly came to us—as something of a shock. It seemed to be an about turn from where we had been with Fresh Start.

If I could move then to what I see as— I suppose that, having had sight of our report, you will be aware that, in our view, these proposals are unlawful, and in breach of the Belfast/Good Friday agreement. Indeed, by giving a British Minister the capacity to reach far, wide and deep into the justice landscape, closing down access to civil actions, inquests, Troubles-related prosecutions, police complaints and so forth, we feel also that it is an assault on the hard-won devolution of policing and justice.

Succinctly, if I can, the area that I am most interested in and that I have watched most closely is the evolving proposals on oral history and memorialisation. It strikes me that these are now front and centre of this latest iteration of these proposals. What concerns me most deeply about that - as someone who could not speak enough about the value of giving people a chance to tell their story and the good work that could be done—I have been working in this area for 20 years and more— I feel that, in a deeply cynical way, oral history and memorialisation is being instrumentalised as legal cover for a de facto amnesty and for routes to impunity.

You see that in the memorandum on compliance with the European Convention on Human Rights. Oral history and memorialisation is highlighted there in conjunction with discussion about the space that there might be, in extreme circumstances, for tolerance of an amnesty where it is necessary to facilitate reconciliation. The opposite is the case here. It is going to denigrate and do untold damage, I feel, to post-conflict oral history work. It does exactly the opposite and I feel that it is a deeply cynical attempt to instrumentalise oral history and memorialisation, suggesting that it is necessary to close down all these other routes to truth, justice and accountability in order to unlock the potential for reconciliation. That is simply not true.

Q498 **Chair:** I can see how you arrived at that, but is that necessarily a fair analysis, given that the concept of a collective of oral history and memorialisation has long been a part of the jigsaw of making up a picture of a solution to this ongoing issue? This is not a recently thought of add-on to provide a legal fig leaf, is it, really, in honesty?

Dr Bryson: The proposals around oral history have been there from the *Healing Through Remembering* report in 2006, through Eames-Bradley, through Haass-O'Sullivan. You are quite right. They have probably been the area around which there has been most positivity and consensus, if you like.

The point I am making is that it is insidious to suggest that, in order to facilitate this work and enable it to develop, it is necessary to close down other routes to truth, justice and accountability. To me, that is entirely false. Also, it is to denigrate the good work that has been done. It is not just that this idea has been around.

Q499 **Chair:** Who has intimated that to you? That is not a conjunction that I am aware of.

Dr Bryson: Do you mean in terms of it providing legal cover?

Q500 **Chair:** No, that you have to do one in order to have the other. That is not an argument that I have heard deployed.

Dr Bryson: Then why is it necessary? Why is it front and centre of these proposals?

Q501 **Chair:** With respect, you have just told the Committee that it is your assessment. It may very well be your assessment. I am asking for the evidential basis upon which you make the assessment, which is that you cannot have one without the other. You cannot have immunity/amnesty if you want to have an oral history and a memorialisation. I am asking you who has said that, if you want one, you have to have the other. They are two different workstreams.

Dr Bryson: Do you mean to say, "Why not just disaggregate the proposals?"

Q502 **Chair:** No, I am asking you upon which evidence you predicated your

assertion.

Dr Bryson: I suppose it is my sense now from talking to groups. I did two days of training just a month ago with victims and survivors groups.

Q503 **Chair:** You appear to be suggesting to the Committee—my apologies if I have either misheard you or misunderstood you—that the authors of the Bill, in this instance the NIO, but with others feeding into it, have left you with the impression that their offer was that, if you want one, memorialisation and oral history, you had to have the other. Those were two sides of the same coin. I am asking you who has said that and when. I have seen, heard or read no evidence of that conjunction of the offer being made. They are two effective workstreams.

Dr Bryson: I suppose that I am reading into the proposals and the link that is explicitly made between reconciliation and the work on oral history and memorialisation a sense that it is this work on oral history and memorialisation that gives flesh and meat to the reconciliatory intent of this.

Q504 **Chair:** That—and I do not use this in a pejorative sense of the term—is your spin on it. That is your interpretation. There is no evidential basis for the assertion.

Dr Bryson: I work closely with oral historians, as the Northern Ireland representative of the UK Oral History Society, with the Oral History Network of Ireland. I presented on these proposals just a few months ago with historians in the south of France. I have presented on them to a seminar at Oxford and this sense is not just my sense that these are deeply problematic proposals.

Q505 **Chair:** I get that and nobody, least of all I, is trying to in any way

[1] Follow up from witness 21/06/22: *In Dr Bryson's view, the fact that a government Minister hasn't explicitly spelled out the interdependence of the proposals on oral history and memorialisation on the one hand and the closing down of existing routes to truth, justice and accountability and the introduction of a scheme for immunity on the other does not rule this out. It is her considered view, having closely studied the evolving proposals on oral history and memorialisation, that it is not an accident that the NIO since 2021 has suggested that the oral history proposals are 'potentially the most important part' of the legacy proposals (see oral evidence from Chris Flatt, Strategy Director at the Northern Ireland Office, to Northern Ireland Affairs Committee, 'Addressing the Legacy of Northern Ireland's Past: The UK Government's New Proposals', HC 827, 25 October 2021, Q348). Neither, in her view, is it an accident that the proposals on oral history and memorialisation feature strongly in the recent memorandum on this Legacy Bill's compliance with the ECHR. Legally, the space for some measure of immunity being found lawful (in exceptional circumstances) under the ECHR would most likely include reference to a significant effort to achieve broader societal reconciliation. It would appear that the driver for amplifying the significance of the proposals on oral history and memorialisation is not a genuine effort to facilitate reconciliation but rather a cynical attempt to provide legal cover for the primary motivation of securing impunity for veterans.*

undermine your commitment to this, your understanding of it and your depth and breadth of experience. It will exceed probably all of us collectively around this horseshoe by many times. That is the link that you and others within the arena have made, but Ministers have not promulgated that, have they?

Dr Bryson: I cannot think of a Minister who has said it to date.[1]

Daniel Holder: Thanks to the Committee. In terms of the process of legislation, to start with that, as far as we are aware there has been no meaningful engagement with anyone outside Government on this particular legislation. Having meetings while you keep your Bill secret and do not show it to anyone is not consultation. As far as we are aware, no one else saw this Bill.

Let us remember, of course, that one of the key products of the Belfast Agreement to try to prevent some of the practices that occurred in the past was the establishment of an independent expert institution, precisely to advise Government as to whether legislation was human rights compliant, in the form of the Northern Ireland Human Rights Commission. It was not even given this Bill before it was introduced into Parliament. It has now made its assessment that the Bill is unlawful, which should be enough to stop Government in their tracks, but they seem to be ploughing on anyway.

In terms of the earlier stages, the Stormont House Agreement, obviously there was considerable public consultation and engagement. Subsequently, as you may know, following Government's departure from that, the process was far less transparent, to the extent that the Equality Commission had to investigate the Northern Ireland Office, on the back of complaints we and others made, and made an investigation ruling that they had breached their duties flowing from the equality duties that were also in the Belfast Agreement around transparency on assessments and things like that. They have made a ruling on that. That ruling is still live, but the NIO seems to have pressed ahead regardless.

In terms of the process of legislation, it has left us and a lot of victims very demoralised and demotivated, although that is largely also to do with the content of the Bill. When we go through the Bill in detail, and we have all had experience of Stormont House legislation on this one, it is almost as if someone has gone through the legislation and painstakingly picked out all the safeguards for victims that were built into the Stormont House Agreement legislation and dismantled them piece by piece in this current legislation.

It is pretty clear to us that the clear purpose of this Bill is to stop all proper, meaningful and effective investigations. That is at a time where, despite all the obstruction, the existing mechanisms are delivering, as never before, considerable amounts of information recovery and historical clarification. All that will now be stopped and will be replaced by a body,

in the ICRIR, that has far more limited powers, lacks independence and neither intends to nor can deliver effective investigations.

The threshold for immunity is extremely low, but also this mechanism is entirely time-limited. It is pretty clear that there will be a de facto amnesty, regardless of whether an individual has been granted an immunity, within five years or as soon as the work of the ICRIR is wrapped up. Nobody will be able to investigate any Troubles-related incident after that point.

From our perspective as well, it is important to point out that we do not feel there is no alternative. Of course there are alternatives to this. The Stormont House Agreement legislation was at a very advanced stage. It was properly consulted on. It was repeatedly committed to by the UK before the international community and domestically. It has as broad a consensus and buy-in politically and from victims as you are going to get. It is not everyone, yes, but it is as broad a consensus as you are going to get. Government simply have declined to implement it, refused to implement it. It is not that it did not work. It is that it simply has not been legislated for, despite all the commitments.

Another alternative, at least in the interim, is at least to let the existing mechanisms run their course. Outside of the command paper at least, no one else pretends that the main product of the current mechanisms was prosecutions. Of course it left open the option of the possibility of a justice outcome, which is very important to many victims, as did the Stormont House Agreement. Its main focus is on information recovery, but on information recovery with teeth that this new mechanism will not be able to provide.

This year, we have had hundreds and hundreds of pages from the Police Ombudsman in relation to historical clarification and information recovery. We have had inquest verdicts. Kenova, as you will know, has amassed over 50,000 pages of evidence by having proper police and investigative powers. We also have civil cases that can help with information. Having talked to lawyers, I am unaware of a single civil case that has not actually been valid and successful.

The agenda is clearly to close all this down. Our overarching concern is that the harm created by this Bill will be felt well beyond our borders. Aside from the reputational damage at home about what is clearly an abandonment of the rule of law, the real risk is that, if a country like the UK does this, there will be authoritarian regimes around the planet that will wish to copy this.

From our perspective, the Bill is not fixable. There is nothing good about it. It cannot be simply amended. We would urge that it is looked at again. Also, we would urge that great care is taken with the rhetoric around the Bill. We have been deeply alarmed by the recent attacks, on the legal profession and on human rights lawyers in statements about the Bill. This is something that happens in undemocratic regimes. It should not happen

here. These include statements made by the Secretary of State. That is of great concern. We really need to go back to what was negotiated and agreed by the parties and have a proper process of effective investigations for victims.

Q506 **Chair:** I would certainly concur with you that it is a delicate balance within our unwritten constitution that the rule of law, the independence of the judiciary and the practice of politics need to be treated very carefully. Merely resorting to the populist dogma of "lefty activists", "activist lawyers" and all the rest of it is not a helpful or indeed grown-up way of practising statecraft. If there is nothing else I have agreed with you on this morning, Mr Holder—and there is some I have—it is certainly on that point. I am grateful to you for making it.

Jeffrey Dudgeon: Malone House Group came into being as a result of the Stormont House agreement, because we foresaw such terrible dangers and flaws in that agreement. We are only too pleased that it has disappeared from sight. The Bill it produced was 200 pages. This is 96 pages, so we are 50% better in that respect.

Chair: It is better for the environment if nothing else.

Jeffrey Dudgeon: It is all done electronically nowadays. We are concerned— We were consulted somewhat by the Northern Ireland Office. It is not easy. They do not always come forward. Their purpose in life is not consultation. Their purpose in life, at the end of the day, is to make decisions, to make policy and to legislate on that policy. They have done that, most recently in this Bill.

I would be a little concerned that, from the July 2021 command paper, which was an end to all criminal investigations, civil suits, inquests and so on, a change came about. We are not too sure why that came about, but it did come about. It added the immunity aspect to the whole operation. We are less than enthused about that for various reasons, which maybe Austen Morgan will go into.

We feel that it is a considerable improvement. It has particular flaws in relation to the ICRIR end of things. There are human rights flaws in that and I think that Chris Albiston referred to them: article 2, article 2 substantive, as opposed to procedural, the right to life, articles 8 and 10, the right to a fair trial, the right to preserve a reputation. Those are not sufficiently catered for in the legislation, so we have our concerns on that. Overall, it is a considerable improvement.

We are worried about memorialisation. It is hinted at in the legislation that the academic community is less than balanced. It has been our experience in Stormont House that that is the case. We have had very little engagement with the legal academic community—none to speak of bar one. We worry that, if you rely on particular academic bodies and UK research institutes, you could end up with an unbalanced view. For that reason, we would be concerned about that, but I do recognise that it is

hinted at in the Bill about balance. We would want something to do with anti-sectarianism, not just reconciliation, which is a bit too sweet a word in many ways, because Northern Ireland is far from reconciled, as you know. If anything, it is less than ever.

Q507 **Chair:** Can I repeat my cri de coeur? There are four of you. We have a lot of information to go through. This is a hugely detailed, historic, passion-inducing, advocacy-generating case, but could I ask for short answers, so we can cover the territory that we wish to? Dr Morgan, the weighty hand of short answers is resting upon your shoulder.

Dr Morgan: Chair, you asked two questions. One was engagement. I am not a member of the executive branch of Government. I am not a member of the legislative branch of Government. I am not a member of the judicial branch of Government. As a member of civil society, I have had respectful interaction with the Northern Ireland Office in the last 18 months. I have little to say. It does not take very long. They have given me plenty of time.

Turning to the Bill, the best parts and not the best parts, the best part is that the chief commissioner will include a retired senior judge. I can think of one. I do not know if he or she is in play. The worst part of the Bill is that the chief commissioner is tasked with producing reviews and reports, essentially, for family members. If that is like the old Historical Enquiries Team of the police, that will be constructive and good work. If these reviews and reports start moving in the direction of Lord Saville, we will have endless mini-Savilles, driven by self-selecting family members. While the commission is only going to take applications for five years, the commission will mission creep into decades. That is my fear.

Chair: You can now sell a course in how to answer a detailed question pithily, Dr Morgan. Mr Campbell will be the first commissioner of your services—not for him, but for others.

Q508 **Stephen Farry:** Most of my questions have already been addressed, but I have a quick follow-up to some of the things that were said, maybe starting with Mr Dudgeon and Dr Morgan. There seems to be a pattern, and we heard it in the previous session, that those who seem less concerned about the Bill or more open to it are also talking about being more positive in terms of the level of engagement with the Northern Ireland Office. I am not sure if that is a coincidence, or if there is something more to it than that.

Could I maybe ask both of you to elaborate a little bit more in terms of that consultation and when it took place? Did it include specifically the issues in relation to the Bill, or was it of a more general nature? Secondly, maybe tell us a little bit more about the Malone House Group, in terms of who you are and who your members are.

Chair: The description of the group is set out in the papers.

Stephen Farry: Yes. It is very brief and so it would be in the public

interest if we heard a little bit more in that regard. What has been your engagement directly with victim stakeholders in Northern Ireland?

Jeffrey Dudgeon: The Malone House Group is an NGO. We are recognised at Strasbourg, so in that sense we have a certain standing. We have eight on our panel of experts: me and Austen Morgan, Arthur Aughey, Neil Faris, a solicitor, Kate Hoey, Cillian McGrattan, William Matchett and Bill Smith, all people of significant reputation in society. That is not to mean that we get access to the media. We have not been invited by BBC or UTV in five years.

Stephen Farry: That is a fair point, yes, carry on.

Jeffrey Dudgeon: We have engaged with what is a consultation. Do you get told the innermost secrets of what the NIO is thinking, of all the different drafts it puts together? No, you do not expect that. We have been talking to them. They have talked to us. We have heard things, but we certainly have not been involved in the construction. In the Stormont House agreement I think that there was involvement by civil society groups in the construction of the text. No, we have not been involved in that.

Stephen Farry: Is there anything that you want to add to that, Dr Morgan, in terms of the constitution?

Dr Morgan: Jeffrey mentioned that we did not understand why there was a change from March of last year and the command paper in July last year to the Bill. We guess that the Northern Ireland Office was not attracted by the proposition that it would be better to be hanged for a sheep than a lamb. The reaction to the Bill has been exactly the same as if it had come forward with a thorough amnesty Bill. That is why I say that it would have been better to be hanged for the sheep than the lamb.

Q509 **Stephen Farry:** On the point you made around academics, could you try to elaborate a little bit more in terms of what you are suggesting? My understanding is that academics usually work through institutions as such. You seem to be casting aspersions that academics generally have not approached this in a sense of pure objectivity and that other academics—I am not sure exactly who you are alluding to—would bring more balance to this. Could you maybe elaborate on exactly what you mean by that a bit more, if that was indeed your intention?

Dr Morgan: I am happy to answer that. I live in London. I work in England and Wales. I have intermittent contact with Northern Ireland. My perception on the writing side of my profession and career is that the legal academics in Northern Ireland form a single view. There is unanimity and there is certainly no freedom of speech. There is no interaction. I have probably been invited twice by the two universities in Northern Ireland, in over 20 years, to talk about the Belfast agreement and its development.

Q510 **Chair:** Dr Morgan, would you not think that Jim Allister, Queen's Counsel,

might have something different to say.

Mr Campbell: He is also an MLA. I think that Dr Morgan was talking about unelected people.

Chair: I take that, but I was focusing more on the legal qualification.

Dr Morgan: I am not going to discuss the practitioners as solicitors or barristers in Northern Ireland, because they have intensive professional duties, just as I have, and, by and large, they follow them. I am talking about legal academics, who are different people, though in Northern Ireland they, uniquely, train the people who go on to become professional lawyers and judges. That is not the position over here. Legal academics in England and Wales do not have the power and influence that legal academics in Northern Ireland do. I am very critical of the way that they have dealt with legacy.

Q511 **Chair:** With the greatest of respect, that is utter nonsense.

Dr Morgan: No, it is not. It is not.

Q512 **Chair:** So nobody who has political views, who is teaching law in a law school in England or Wales today, or in any of our universities, in any way teaches people who go on to then practise at the Bar or sit on the Bench.

Dr Morgan: People who want to be lawyers and later judges have a more diverse range of institutions in the public sector and the private sector. I am contrasting that with Northern Ireland, which has two universities. Those two universities have a monopoly on the creation of those professions and the judiciary. It is striking. It is more striking that there is no freedom of speech within those two legal faculties.

Q513 **Chair:** Students from Northern Ireland are not obliged to attend either of those universities. They are, I believe, allowed to attend universities in Wales, Scotland, England or, indeed, anywhere else.

Dr Morgan: Yes, indeed. It is taking us off the main topic, but there are interesting demographics there about who stays in Northern Ireland, who leaves Northern Ireland, whether they go back, whether they stay in the rest of the United Kingdom. That is shaping the social and cultural life of Northern Ireland.

Q514 **Chair:** I wanted to establish one thing, I suppose following on from Dr Farry's question: a doctor of what, Dr Morgan?

Dr Morgan: I too am a doctor of philosophy before I was a lawyer.

Jeffrey Dudgeon: The one time we got invited to Queen's University was through Professor Brice Dickson, the former Northern Ireland human rights commissioner. Oddly and significantly, he takes a different view on article 2, for example, to most of the other legal practitioners or legacy practitioners, and recognises that the Bill or the possibility of an amnesty Bill could survive the test at Strasbourg.

Q515 **Stephen Farry:** There is a final point that I want to clarify. You are, essentially, a group of academics that take a particular view and analysis of the issue. To what extent has that been informed by any engagement with stakeholders in Northern Ireland, or is it essentially a desktop analysis of your own?

Jeffrey Dudgeon: I have my introduction. We must have met 25 groups in the last two years of different types—off hand, Presbyterian church, Methodist church, Padraig Yeates' Truth Recovery Process. We have asked to meet various victims groups and have had no reply.

Q516 **Stephen Farry:** To be clear, those bodies you have met are other stakeholders in civil society, but they are not victims groups per se. You may have tried, but your evidence today is not informed by direct engagement with victims groups, for whatever reason.

Jeffrey Dudgeon: What is a victims group? They are self-selecting in large part. There are 3,500 dead people in Northern Ireland. I would say that maybe 1,000 have connections to victims groups; 2,500 have, for whatever reason, gone quiet on the whole issue.

Dr Morgan: I have a connection, which I ought to declare. I am part of a legal team that has taken a case on behalf of Dennis Hutchings, the late veteran who died during his criminal prosecution in Northern Ireland. We have taken a case to Strasbourg, through his next of kin, and in fact we took a case in London when he was alive. The point we are making there is that the veterans in GB were treated with an Act of Parliament a year ago, but the veterans in Northern Ireland were excluded from that legislation. That is, frankly, discriminatory treatment on the part of the UK state towards one of its former service personnel.

Chair: Dr Morgan, I am grateful to you for the declaration. It would have been a courtesy if that had been made at the top of the meeting and certainly been made clear to our clerks beforehand. Had it been? No. Could I ask for a bit more respect for this Committee, please, on any future occasion?

Q517 **Ian Paisley:** I did not know today was a McCarthy-esque trial on people's qualifications and who they associate with. I am tempted to start with, "Are you or have you ever been a member of this, that or the other?", but I will not; I will go to questions.

Dr Bryson, I will not ask you what your doctorate is in. Immunity is a very elastic term. As a lawyer, as a teacher of law, as an expert in this field, do you think that the Bill would allow for immunity for sexual offences to be claimed and taken?

Dr Bryson: I am going to have to answer the question that you said you were not going to ask me, which was what my doctorate is in. I am a historian by training, who has, over the years, migrated.

Ian Paisley: There is no better profession. I am a historian myself.

Chair: Ditto. Mr Paisley, if you and I can agree on nothing else, we agree on that.

Dr Bryson: You do not want a historical treatise on sexual offences, so I am going to defer to Daniel on that particular point of law.

Daniel Holder: Our interpretation of the Bill as it stands is that it does not exclude sexual offences. They are included in the potential amnesty/immunities scheme, which, as you will know, is pretty much unheard of in international practice—torture as well.

We are aware of the argument that has been made by another Member of Parliament that they are not Troubles-related offences and therefore they would not be included, but that, in itself, is problematic, to deny that sexual violence was part of the Troubles, as it very clearly was.

Ian Paisley: We have a very clear example of a victim in Northern Ireland—I will not name her—who has already gone to court on these issues. It is very clear that what you are saying is the case. Sexual violence has been used.

Chair: Can we pause there? Could you provide us with a note on that? It is such an important issue. Both the Secretary of State and the Minister of State on the Floor of the House took a different view in the Second Reading debate and stated very clearly that sexual offences were exempt from the Bill. Too many witnesses are taking a view to the contrary, which is an uncomfortable position to be in. If you could provide a note on that, citing in some detail what your concerns are, I think that the Committee would find that helpful.

Q518 **Ian Paisley:** I want to come to you, Mr Dudgeon, on this issue. It is important. You generally say that there are things that you can support in this Bill. We are now going through a period where we will have the opportunity to amend it and improve it, if at all possible, from my view. On this issue of immunity from sexual offences, torture or other things that may open up during the examination, do you believe that those should be deliberately excluded from the Bill on the face of the Bill? Would that be a way of improving it?

Jeffrey Dudgeon: The overseas operations Bill included, late on, I think, sexual offences and war crimes or torture. As I understand it, and it is sometimes hard to read it, if a sexual offence is non-Troubles-related, that is still prosecutable. What a Troubles-related sexual offence is then becomes the issue. In most cases, the ones we would be thinking of would be where people used their authority in paramilitary groups to commit crime against individuals. That would then be subject to potential amnesty, if it was serious harm. If it was regarded as serious harm, mental and so on, or even death, yes, it would be subject to amnesty.[2]

[2] Follow up from witness 19/06/22: *If [a Troubles sexual offence] was not regarded as serious, no immunity need be sought as it would in effect be amnestied.*

Q519 **Ian Paisley:** It would be subject to amnesty, yes. Do you think that a person whose crime may be on the borderline of whether it was Troubles-related or not would be able to get a good enough legal argument or legal expert to pull it over the line for them? That is the nature of the legal eagles that we have.

Jeffrey Dudgeon: It depends. How does a person end up in front of the commissioner? There are two ways that you can end up there. You can volunteer. The other way is if the reports and reviews that are done produce evidence to indicate that a crime has been committed and that you committed that crime. In those cases, yes, anyone would be subject to the same processes, but those processes do seem to be somewhat thin, once you are regarded as a potential criminal, subject to possible immunity, and, again, depending on whether you tell the truth. Then you end up with a zero jail term anyway, so it is all somewhat symbolic.

Q520 **Ian Paisley:** While I have the floor, could I go down a slightly different line? Dr Morgan and maybe Dr Bryson this time, what more could the Republic of Ireland could do to address the issues of the, we heard, 700 unsolved crimes committed around the border region of Northern Ireland. We have heard this morning that there is not a partnership when there should be.

Dr Morgan: It is extremely interesting that, for the first time almost since the Northern Ireland Office was created, it has not interacted with the Irish Government on the genesis of this Bill and the roof has not fallen in. It may be important to point that out. That will be embarrassing to the Irish Government, because they believe they have influence pushing further towards codetermination on Northern Ireland policy.

I want to refer to one document that NIAC uncovered a number of years ago. On 23 December 1999, Bertie Ahern wrote to Tony Blair in No. 10. There, Bertie Ahern asked the British Government to, essentially, grant an amnesty in Northern Ireland. He was talking about republicans, but it would have gone around the houses in terms of its reach. The letter was written on 23 December and Bertie Ahern ends by saying, "If you and your Government can agree what we now propose for implementation before Christmas". Christmas is 25 December. That letter was demanding instant action of an amnesty nature to be sold to the IRA as part of the secret continuing negotiation of the peace process. That letter is in the archives of this Committee and I am sure that it can be dug out.[3]

Q521 **Ian Paisley:** Dr Bryson, on this issue, the Republic of Ireland does not need anything to happen in Northern Ireland. It could go ahead and do something on its own, if it wanted, to address issues of injustice in its own state. You have heard my original question. Could the Republic of Ireland do more in terms of this partnership arrangement?

---

[3] Follow-up from witness 16/06/22: *I have attached the Ahern letter of 23 December 1999 (2 pp), which was disclosed in the Downey case and further disclosed by NIAC. (Link).*

Dr Bryson: We took the view in the Model Bill Team that a reasonable argument could be made, for example, for an equivalent of the HIU in the Republic of Ireland, addressing the concerns that you have raised. I feel that the likelihood of enabling that to happen is not facilitated by this Bill. If it is indeed found to be unlawful, it will be unconstitutional, so the Irish Government will not be able to touch this. I feel that the way in which this Bill has shaped up has really diminished the possibility of that happening. I suppose that I am agreeing with you that more could be done, but this Bill diminishes the chances of that happening. I know, Daniel, on the ICRIR in particular, you have looked in detail at what was facilitated in terms of the Stormont House agreement.

Q522 **Ian Paisley:** I do not want to go back to the Stormont House agreement. I take the view that it is in a Sadducee's grave which, historically, we know means that there is no resurrection. That is the belief. I do not think that it is coming back. It is an interesting historical thing for us to look at, but I do not think that it is taking us anywhere.

I get the point that the Republic of Ireland can turn round and say, "Because Britain has done this, this causes us issues", but the Republic of Ireland could do its own thing here, for all the right reasons, irrespective of what Britain does. Is that not right?

Dr Bryson: Realistically, given the state of Anglo-Irish relations at the moment - and this Legacy Bill has really contributed to the deterioration of that, in reality, that is not likely to happen. It is a normative point as to whether you think that it ought to happen. I am just speaking to the political realities and the outworkings of this particular Bill. In particular, as I say, if it is deemed to be unlawful by their government lawyers, they will not be able to engage.

Q523 **Ian Paisley:** That is unlawful because we do not think that it is going to comply with article 2 rights.

Dr Bryson: In particular, but not exclusively, yes.

Q524 **Mr Campbell:** On the commission for reconciliation and recovery, I suppose I have a brief question. I always try to be brief. As things are currently envisaged in the Bill, do you think that closure can come as a result of the actions of those who will be on the commission as we currently know it? Dr Morgan is going to give a short answer.

Dr Morgan: The short answer is no. The reason I picked that answer is what we call lawfare. There is a group of people called the legacy litigators. They are half academics, half law firms. I can send a list of the legacy litigators, which they have publicised to indicate their presence, in order to lobby the Northern Ireland Office. Essentially, the state succeeded in establishing peace in and after 1998. Republican violence was brought to an end in 2005, but the propaganda war, as Chris Albiston refers to it, was not brought to an end.

Essentially, we have our criminal justice system, used by legacy litigators to continue the Troubles through legal means, not using violence. That has had a very corrupting effect on the criminal justice system. It is my concern that the criminal justice system should be no further corrupted.

There is a possibility of more of the same if we have the independent commission. There will be attempts to challenge its decisions. There will be attempts to go to courts outside the United Kingdom to challenge its decisions. There will be lobbying exercises in the European Union. More and more of this will happen until there are counter-forces, which will seek to get a good criminal justice system functioning in Northern Ireland, dealing with the present and the future.

Simultaneously, we have intellectuals, ideologists and academics who will start contributing to the writing of the history of the Troubles, because all we have had is the rewriting of the Troubles in a very monotone, narrow-minded way—that, of all those people who died, it was all the fault of the Brits and state institutions. 90% of the 3,700 people who were killed were killed by paramilitaries in Northern Ireland. Every one of those deaths was unlawful. 10% of the deaths are the responsibility of the state. Not every one of those deaths was unlawful.

We have not had in the last 25 years a proper going through of the Troubles, for reasons I can explain. We have had a complete shift away from the real perpetrators of murder to the state agents who were tasked with stopping it. That is why we have had, since 2015, a parade of aged, ill and, indeed, dying soldiers in the courts in Northern Ireland on prosecutions that never had any prospect and have got nowhere. My colleagues at the end of the table are down to one solider currently in the dock. That is where that has got to.[4]

Chair: Sorry, we are straying away from the Bill.

Q525 **Mr Campbell:** Dr Morgan said no, anyway, for bringing closure. Mr Dudgeon, are you in the no lobby on closure?

Jeffrey Dudgeon: The 1920s have not been closed yet. I have been involved— I have written a book on Roger Casement. I have been involved in the issues around the Cork massacre of Protestants in 1921 and there is far from agreement on that, let alone closure. I have been contacted by families in both cases. You do not get closure. They do not forget and they may or may not forgive, but they can go quiet on the

[4] *Follow-up from witness 16/06/22: I have two points on this.*

I am attaching the letter of June 2021, to which I was referring. I used the term 'legacy litigators' when the people concerned used 'legacy practitioners'.(Link)

I should add separately that the reference to 'corruption' is to para 11 of our submission, when I was referring to a legislative and judicial process from February 1997. It should not be understood as related solely or uniquely to the legacy litigators.

whole thing. It is that that I would recommend. In most cases, it is an easier way of coping and living on.

On the question of amnesties, because they are a form of closure, and statecraft, our submission lists nearly a dozen amnesties, both in the Irish Free State and in Northern Ireland, since 1969, where amnesties in one form or another have gone through, been accepted and have not been criticised by the Irish Government. The Labour Government, in many cases, have proposed and implemented them. It is a perfectly legitimate form of statecraft to bring about amnesties.

As I mentioned earlier, things are getting bitter in Northern Ireland and they are getting bitterer. When the Troubles were at their height, people were polite to one another, for various reasons, but, now the Troubles are no longer, people are not as frightened. They are getting nastier and nastier. That is a fact.

Q526 **Mr Campbell:** Mr Holder, are you in the non-closure camp?

Daniel Holder: Yes. I know, Chair, that you share this. I must say that I am again concerned about the demonisation of human rights lawyers and human rights defenders. That is an extremely dangerous thing to be doing.

Turning to Mr Campbell's question, no, I do not think that it will bring closure. One reason it will not bring closure is that the body, as it is set up, will not be able to conduct Article 2-compliant investigations. It will not be truth recovery with teeth and, therefore, the open wounds will continue. It will not provide closure for that reason. We know that the body has already been assessed, not just by the Human Rights Commission but in terms of the Command Paper by both the Council of Europe and UN experts, as incompatible with the ECHR and the UK's other human rights obligations.

From the Bill, it looks clear to us that the issue of police powers has just been bolted on to almost give the impression that a proper investigation will be conducted. If you contrast this legislation, for example, with the Stormont House legislation, there were step by step provisions and safeguards put in as to how the criminal investigations that the then HIU would have conducted would have been Article 2 compliant, and hence would have ended the need and the duty for any further investigation or inquiry, save when some form of compelling new evidence comes up that would have given closure.

The focus in this is on reviews and not investigation. The extent to which the new body can even use police powers if someone has been granted immunity is not clear. There are all those thresholds of criminal offences. No, we do not believe that it will provide closure. It does not have the right powers to conduct effective investigations and that leaves us pretty much in that unsatisfactory situation, where there is no closure,

investigations are not completed and we are back into a situation of families needing to reopen and re-examine that.

Dr Bryson: Many victims want information about what happened to their loved ones. As to what constitutes closure, it is very hard. For some people, there can never be closure. The sad reality, as Daniel alluded to, is that that information has come to light through truth recovery with legal teeth. It is unlikely that the kind of information that victims and survivors want and deserve, to achieve, if not closure, at least a measure of comfort, is not going to come forth through this mechanism.

Far from delivering closure, even as this Bill makes its way through Parliament, you are seeing the re-traumatisation of people. You heard last week from Sandra Peake, who said that they have had an increase in referrals for support, not least in relation to nervousness and fears around what this Bill is proposing. Far from delivering closure, it is further re-traumatising people.

I know that you asked specifically about the ICRIR, but I feel that it is cold comfort to say to victims and survivors, "I am very sorry. Business is closed for your family's inquest, but you can have a museum of the Troubles and"—not to denigrate it in any way—"an opportunity to tell your story instead". That is my feeling.

Q527 **Chair:** In fairness to Ministers, there has been a migration of the narrative on this issue of closure, has there not? To start with, if you go back to the WMS of March 2020, it was far more definitive: "This will deliver closure". It has dropped: for some it may; for others it will not. For some closure is unobtainable. I think that Ministers have moved away from thinking that one can legislate for "closure".

I do not want to protract this discussion with Dr Morgan. Dr Morgan, I hope it will just require either a yes or a no answer. If I misheard you, please tell me. You were not suggesting that citizens of Northern Ireland should only be able to source legal remedy within the court system of Northern Ireland, were you?

Dr Morgan: No.

Chair: That is helpful.

Q528 **Bob Stewart:** It is very nice to see you all. Thank you for coming. We have to be quick; we are running out of time, big time. Mr Dudgeon and Mr Holder, this is a question to you, talking about the ICRIR. Fundamentally, the question is whether there are sufficient incentives for people to co-operate with the ICRIR.

Jeffrey Dudgeon: As I have said, some people might volunteer themselves. The incentive must have been already in the system. The reports may finger them in some way that they feel that it would be useful for their own safety to go into that system. It would then depend

on the reports and whether they have discovered prosecutable-type evidence in their inquiries.

If you think about it, Kenova, for example, was five years of investigation, £40 million and no prosecutions that have succeeded, as far as I am aware, to date. Jon Boutcher says that the likelihood of prosecutions succeeding is infinitesimally small. In that sense, the current systems are not bringing forward significant numbers of people and the cost is growing as we speak.

Our view would be that the system might never be used significantly, but that remains to be seen. The best way to bring about closure and information is the documents. I understand that the NIO is enhancing the Public Record Office in Kew; it has its digitisation project. Jon Boutcher has talked about 50,000 pages going into the PPS, which rather explains why they are slow at coming up with the answer, to be honest.

It is those documents that can tell people and inform people. They are very important and that is what we would like to see more of being made available, suitably redacted. For the protection of people's lives they have to remove any hint of names of people who said things, informed on things or were thought to be guilty within the paperwork. Whatever happens, you are going to get redacted papers. Even for the Roger Casement papers I mentioned from 100 years ago, I cannot get at them all from the Public Record Office, because informants' names are mentioned.

Q529 **Bob Stewart:** We are talking about individuals coming forward of course, rather than papers.

Daniel Holder: There are two angles to this of course. There are victims for a start, whether they will come forward, and other persons with information, including suspects. In terms of victims, it is difficult to see what the incentive is. They will be coming before a body that has very limited powers. They may well have been in the queue, for want of a better word, for a much more effective remedy and had that pulled away from them, which is very disheartening. That would include things like Kenova, which has proper powers and is not, of course, about just prosecutions. It will produce published reports.

Q530 **Bob Stewart:** You are tending to say that, no, there are not sufficient incentives.

Daniel Holder: For victims, it is going to be quite difficult. You have a mechanism whose very lawfulness is questioned. Even the Government's ECHR memorandum says that the ICRIR complies with most of its ECHR duties. That is debatable, but of course you have to comply with all of the law, not just most of it.

Q531 **Bob Stewart:** What better incentives could we have? How could we improve that and take away the reluctance?

Daniel Holder: The way to do this is through having an investigative mechanism with teeth and proper police powers. Then you can recover information and provide it to families in family reports, in a way that involves maximum possible disclosure. That was one of the commitments in the Stormont House Agreement legislation—that family reports would be as comprehensive as possible.

There is no indication whatsoever as to what information, if any, of significance will be included in family reports under this new proposed mechanism. Families will not even know, possibly, whether someone involved in a crime relating to their case was granted some form of immunity. In relation to the process, it is not clear whether families will even be told.

There is very little incentive for perpetrators to come forward, in the sense that they are very unlikely to be caught anyway, given that any effective investigation is being shut down. In fact, after the ICRIR closes its doors, all investigations per se will cease. In some senses, if perpetrators just sit this out, they know that they are highly unlikely ever to be prosecuted, because you cannot have a prosecution that is not preceded by an investigation.

Q532 **Claire Hanna:** Mr Holder, first can I echo your remarks about the denigration of academics and others contributing to public discourse on this and other issues? It is worrying and is in place of a positive contribution in many cases. Can you expand on the model Bill team's assertion that the ICRIR does not have the powers to conduct investigations?

Daniel Holder: To reflect on what I was saying earlier, it looks very much like the police powers that are essential to those types of investigations have just been bolted on this Bill. There is no intention within the structure of the Bill for proper criminal investigations to be covered. If there was, the Bill would be structured in a very different way. It would be structured like the Stormont House Agreement Bill was structured, with those safeguards, with the statements that had to be made, in terms of what steps would be taken to ensure Article 2 compliance, with the oversight of the Policing Board.

The Bill is also very clear that the body will conduct reviews and not investigations. In terms of what the difference is, that is a model very much used by the HET and it was to be used by the HIU, where reviews are really a review of the papers and possibly some other evidence that has been volunteered to the body, but nothing that actually has the teeth of being able to interrogate evidence and investigative stages where police and other powers can kick in. This body is only to do reviews.

There is the issue as to whether the police powers, if they are going to be used at all, can be used in relation to someone who has had a grant of immunity, particularly if it is general immunity, but also specific immunity. Thresholds need to be met to investigate criminal offences. If

those thresholds are not met because no one can be prosecuted because of immunity, that is also a problem.

Along with that, the Secretary of State is—and I point in particular to a piece he put up on the Conservative Home blog—essentially openly implying that police powers will not be used, at least in relation to veterans. He is saying that veterans will not be subject to the due process of arrest and questioning. That is not the language he used; I think that he said "hauled in for questioning". That is inappropriate language, but it is, essentially, implying that police powers will not be used. The word "hounding" is also used, which, again, is a reference to the use of police powers.

I do not think that Operation Kenova or the HET—any of these bodies—ever actually dragged people out of their beds at any point. People were seen by appointment, usually through legal representatives. You are getting a very clear indication, not just from anyone, but from the person who appoints all the commissioners, controls the budget of the new mechanism and has huge other ways of influencing and swaying the mechanism, that these powers will not be used.

Finally, to return to a point I made earlier, it is not clear what the output of this particular mechanism is going to be. In order to be Article 2 compliant, you need to have particular powers to make particular findings on particular issues. That has been a very heavily contested area. The Ombudsman and her predecessor have succeeded in doing that in a number of their reports. In this particular case, it is not clear what information will actually be given to families at the end of this process. It is still subject to what you could call a national security plus veto that, had it been in place for a number of the investigative reports that have already been produced, which have led to quite considerable historical clarification and truth recovery, would have meant their pages were so heavily redacted as to not be comprehensible.

Q533 **Claire Hanna:** We heard last week from the human rights commissioner that the Bill is incompatible with the ECHR. I think you have indicated that you agree that it is not compatible with the ECHR. Do you think it could be amended to achieve compatibility, either in that context or to address the issues you have outlined about the powers to conduct effective investigations?

Daniel Holder: No. You would have to change practically everything in the Bill to make it work. It is irredeemable.

Q534 **Claire Hanna:** Thank you very much for clarifying that. Do you agree with the Government's argument that ECHR case law could allow for an amnesty in the name of furthering reconciliation?

Daniel Holder: Not in this case, because that is not what is going on here. It is very clear that the purpose of this Bill is about shutting down investigations. You would have to live in a parallel universe to think that

this Bill is going to lead to some sort of reconciliation. All the main victims groups and all the political parties oppose this. That is what reconciliation means in terms of an amnesty test within the ECHR. It does not mean reconciliation within different parts of the Conservative Party, which this may well progress. That is not what reconciliation means in this context.

The limited exemptions that the ECHR has allowed in relation to amnesties have been in the context where there has been effective investigations. That is what this Bill entirely closes down. It does not hit any of the buttons of what would be a permissible immunity scheme or a permissible amnesty under the ECHR.

Jeffrey Dudgeon: To take up some of those points, you have to recognise the context. The Troubles we are dealing with started, we are told, in 1966. We have had 3,500 inquests up to date. We are starting to reopen inquests. By and large, this is what the 40 or 50 that are still on the books are about. We have had unlimited investigations to date, which are certainly article 2 compliant. The Committee of Ministers at Strasbourg agreed with HET. They concluded that it was an acceptable way to deal with reinvestigation, truth recovery or whatever you want in those terms. Strasbourg is a much more varied beast than we are given to believe.

Article 2 compliance is a bit of a dogma. I would argue that article 8 compliance and article 10 compliance are problems. Article 2, right to life itself, as opposed to the procedural right, is a problem, but we are never told or asked about those aspects. Article 2 is constantly under review.

We are reliant on one case, this Marguš Croatian case, which is extremely complicated I know. It was an army commander who was involved in war crimes in Croatia, who the court finally said should not get an amnesty and that maybe amnesties are a bad thing. Other judgments have said that amnesties are tolerable and acceptable. We have argued with our representatives to the Council of Europe that it is time for proposing a review of article 2 and amnesties generally at Strasbourg, because the whole thing is a bit of a mess. I know that it is maybe a secondary issue currently with Strasbourg.

Q535 **Claire Hanna:** Do you concur with the Government's assessment that it is compatible with the ECHR if it is furthering reconciliation?

Jeffrey Dudgeon: That is one aspect they use. Yes, you can argue. To be honest, I am not a lawyer, but I can see a sufficient number of statements that indicate that it is compatible with article 2, or that article 2 is a many-faceted entity in that respect. Of course, it is procedural. It is not in the convention itself. We are talking about the procedure for an effective investigation of a death.

As I said, we have had thousands of inquests. We have had umpteen inquiries. There is a limit to how far you can go and it is time maybe to say that we have reached the limit. If the 3,000 murders happened in

Bedford or Bermondsey, even Jon Boutcher told me personally that they would not be reinvestigated unless new evidence surfaced on the review.

Q536 **Stephen Farry:** To focus in particular on the oral history aspect and memorialisation, what are your views on the proposals? Also, in particular to Anna, how does it compare to what was set out in Stormont House?

Dr Bryson: As you will be aware, Mr Farry, with regard to Stormont House, we had concerns around the proposal at that point to park the oral history archive in the Public Record Office of Northern Ireland. We felt that it was not sufficiently independent and that putting it under the direction and control of a career civil servant was not ideal. It is dismaying to see that the fix, if you like, for that now is to put it under the direction and control of the Secretary of State for Northern Ireland.

Right across these proposals, you see the Secretary of State appointing designated persons who he decides have the necessary buy-in from across communities and so forth. They will develop a memorialisation strategy and then the Secretary of State will decide which aspects of that to take forward.

All of that flies in the face of the crucially important need for independence. To have any hope of buy-in, cross-community support and so on, this work needs to be put on an entirely independent footing. In that sense, as they stand, they are deeply problematic.

Then I see, within the Bill, a worrying read-across to the ICRIR. If we move beyond the oral history work to the broader historical research on patterns and themes and so on, the terms of reference must require researchers to take account of ICRIR reports in carrying out the research. There is an organic link back to the ICRIR. Given the concerns that we have heard today about the limited and partial evidence likely to accrue in those reviews, I worry about that as well.

In that sense, my fear is that it could do, as I said at the outset, do damage to the credibility. It saddens me because there is so much good work, as I said, that could be done around looking at gender, urban and rural experiences, intergenerational trauma—all that important work that needs to be done. I think that, unfortunately, this is going to take us in backwards steps, rather than facilitating and enabling that to happen.

Q537 **Chair:** Dr Bryson, you may want to give a comment to this. Mr Holder may prefer to. Other witnesses can, of course. You have raised the point about the Secretary of State's appointments, which have been raised as well. It puts a lot of power in the hands of the Secretary of State. The Secretary of State is a representative of Her Majesty's Government, part of the Executive and some of this stuff is looking at the actions of the Government. One can create an argument about marking one's own homework.

Somebody has to appoint these. It is a Northern Ireland Bill. It is the Secretary of State who is going to be ultimately responsible for it. Would

there be merit in having a process of parliamentary approval to ratify proposed Secretary of State appointments as giving that democratic legitimate imprimatur to it?

Dr Bryson: I am not sure that that would address the concerns, certainly not from my point of view. You need to have clear and transparent criteria, to appoint people with the necessary expertise in accordance with those, and then to have checks and balances on them. Others may take a different view, but I am not sure from my point of view that subjecting it to parliamentary approval would allay the fears around political interference in this.[5]

Q538 **Chair:** Another way of dealing with it is almost, I think, what they might do in the States—a pre-appointment session before this Committee.

Daniel Holder: Where we had reached in previous discussions on this was that the ideal solution would be an independent and international panel to make appointments. That would really take it away from all actors.

Q539 **Chair:** Has that ever been done elsewhere?

Daniel Holder: Yes. If you look at transitional justice mechanisms in different places, you can sometimes have UN institutions and others involved in making appointments. We put that question directly to Pablo de Greiff, who was the former special rapporteur on truth and justice. There are precedents for that. In Stormont House, there was an array of office holders who were to feed into the appointment, as well as oversight from the Policing Board to give it a much broader buy-in.

Chair: A note on what those precedents are would be helpful.

Q540 **Stephen Farry:** To pick up on your thing, Chair, at one stage, Dr Bryson, there was talk about perhaps using something like the Arts and Humanities Research Council as some sort of intermediary body. Does that still have merit, or is that also limited?

Dr Bryson: That was something we mooted a while ago. I set out a five-phase plan as to how I thought working through one of the UK research councils might be possible. That was done with the work on World War I. It was through the Arts and Humanities Research Council that academics were appointed to take forward work.

---

[5] Follow-up from witness 21/06/22: *In the first instance it would be necessary to establish the required expertise of the designated persons (to include oral history, historical research, archiving, trauma, gender studies and memorialisation). Appointments should be made in accordance with clear and transparent criteria by an independent panel including representatives of the British and Irish governments and of distinguished learned societies in Britain and Ireland (e.g. British Academy and Royal Irish Academy) and a figure of international standing (e.g. the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence).*

I take exception to the slur that was cast earlier on the UK research councils. I know, sitting on the peer review council, just how rigorous the process is by which people are appointed and projects are approved, funded and, indeed, monitored as they develop. That certainly is the type of model that you could look at. It needs to be quite flexible and a hub and spokes model, so it works with and through the wide range of bodies and organisations that are engaged in work in this broad area.

That could be looked at, but in a different context. At the moment, as I have suggested, there are so many deep flaws with the way in which these proposals are nestled within the broader set of proposals. There are certainly ways of doing this properly. There certainly are.

Q541 **Stephen Farry:** In some senses, we are discussing who is going to drive the car, but the car has actually floored itself on first principles.

Dr Bryson: Yes, certainly. Buy a new vehicle and we could certainly subject it to the necessary tests.

Stephen Farry: Get the MOT done.

Dr Bryson: Yes.

Jeffrey Dudgeon: We have long felt that historical commissions are a useful way forward, be they official or semi-official. Like all bodies, who appoints the individuals is tricky. Then again, how do you find independent bodies? Who is independent? I would say that the UN rapporteurs are, by and large, captured, and have only one view on these aspects of things.

Q542 **Chair:** By whom have they been captured?

Jeffrey Dudgeon: They have been captured by people with a radical outlook.

Q543 **Chair:** Is that people who just disagree with you, Mr Dudgeon?

Jeffrey Dudgeon: No. I would be only too happy if they disagreed with me. They ignore me, by and large. I have written articles complaining about various UN rapporteurs and the human rights commissioner of the Council of Europe.

Q544 **Stephen Farry:** Is no one capable of acting professionally, in your opinion, and looking at things on an evidence basis? Does everyone have an agenda?

Jeffrey Dudgeon: I could recommend 50 or 100 names, but they would not get a chance.

Chair: I am conscious of the time. Can I thank our witnesses very much indeed for their evidence?