



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

Tuesday 21 June 2022

Ordered by the House of Commons to be published on 21 June 2022.

[Watch the meeting](#)

Members present: Simon Hoare (Chair); Mr Gregory Campbell; Stephen Farry; Sir Robert Goodwill; Bob Stewart.

Questions 577 - 597

Witnesses

II: Naomi Long MLA, Minister of Justice, Northern Ireland Department of Justice; Maura Campbell, Head of Criminal Justice Policy & Legislation Division, Northern Ireland Department of Justice.



Examination of witnesses

Witness: Naomi Long and Maura Campbell.

Chair: Good morning, Minister.

Naomi Long: Good morning.

Chair: I hope you are well.

Naomi Long: I am indeed, thank you.

Q577 **Chair:** I am very glad to hear that and thank you so much for taking the time to join us this morning. Let me kick off the questioning if I may. It is the question that we have started each session of our legacy inquiry with. We are just trying to establish the level, range and seriousness of engagement between the NIO and you, Minister, in your Department with regard to these current legacy proposals that are before the Westminster Parliament.

Naomi Long: First of all, with your permission, I would like to make a few opening remarks, if that would be possible, just to introduce our position on this. I would also like to introduce my colleague, one of my officials, Maura Campbell, who is joining me at this session.

I want to thank you for the opportunity to give evidence to the Committee on the legacy and reconciliation Bill. The Committee's work is particularly important given the limited amount of time being made available for scrutiny of the Bill. As Justice Minister, I therefore welcome the opportunity to set out my concerns about it.

There will no longer be a Historical Investigations Unit, so my Department does not have responsibility for implementing any of the proposed new institutions. Our interest lies primarily in understanding the potential impacts for justice agencies. I am also mindful of my role as Minister of Justice in upholding and promoting the rule of law.

Dealing with the legacy of the past is a complex, sensitive and emotive issue. In my view, the speed with which the Bill is being pushed through Parliament risks not only creating bad law, but further undermining confidence in the whole process. Adequate time for scrutiny is all the more important given the lack of consultation and engagement so far—a point noted by the Council of Ministers.

The honourable Members Gavin Robinson and Colum Eastwood noted during the Second Reading debate that all of the Northern Ireland parties are united in their opposition to these proposals. Most of us had previously signed up to the Stormont House agreement. While it was not perfect, it was a reasonable compromise agreed by the Northern Ireland parties and the UK and Irish Governments. Indeed, the UK Government



HOUSE OF COMMONS

committed again in New Decade, New Approach to implement the Stormont House agreement. However, this Bill is a significant departure from that agreement.

These proposals are fundamentally flawed and an irresponsible interference with the justice system. They do not meet the needs of victims or their families. They risk undermining confidence in the rule of law and fall short of the requirements of articles 2 and 3. There are many points on which we need further clarity, but I do not see how the proposals can achieve the stated outcomes or how they will be workable.

It was noted by a few members during second reading, including Julian Smith, Colum Eastwood and my colleague Stephen Farry, that the proposals will shut down access to justice through civil cases, inquests and investigations being carried out by the PSNI and the Police Ombudsman. As Justice Minister, I cannot support such a move. It risks undermining public confidence in the justice system and represents an improper interference with the rule of law in Northern Ireland. It is not only wrong in principle; there are many practical implications for justice partners and victims in arbitrarily pulling down the shutters on a certain date.

There are many cases in progress, but the Bill proposes to stop the vast majority in their tracks. This is a huge let-down for victims and survivors who have already been waiting many years for answers, and it puts waste to the time and effort that have already been invested in these cases thus far. Some families will not even get the promised investigation or inquest started after waiting in a queue over which they have no control and being told in good faith that their case was scheduled for a certain date.

How can we expect victims to start the process again with a new body when it is not clear they will get an article 2-compliant investigation in those circumstances? If victims do not have faith that this new process can provide them with the truth or rectification they seek about how and why their family member died, the risk is that they will not engage and any prospect of reconciliation in that context will be doomed. In truth, while reconciliation is in the Bill title and the name of the new body, given the lack of buy-in by victims and local parties, it is hard to see this as anything other than a branding exercise in order to resist future successful legal challenge.

It remains unclear how these proposals comply with the ECHR. The Committee has already heard from the Northern Ireland Human Rights Commission on that issue. The legislation talks about reviews, but a review is not the same thing as an article 2-compliant investigation. The Secretary of State talked about conducting thorough investigations in his speech, but we need clarity on that fundamental point or else we risk the perception of a two-tier approach. We also need a way of identifying themes and patterns rather than continuing to have a piecemeal



HOUSE OF COMMONS

approach. That element of the Stormont House agreement has been entirely stripped away.

There is also the issue of independence, which again has been raised by others. We have moved from the ICIR envisaged in the Stormont House agreement, having members appointed by the UK and Irish Governments and the Executive, and a director of an HIU appointed by the First and Deputy First Ministers acting jointly and in consultation with the Minister of Justice, to a model whereby the commissioners are appointed directly by the Secretary of State. The Secretary of State will oversee the new body and have the power to wind it up. He also has the power to refer cases back to the ICIR if article 2 issues are involved.

Chair: Minister, I am sorry to interrupt. We have a huge number of questions for you and time is pressing. Could I just ask you to draw your introductory remarks to their conclusion?

Naomi Long: I will indeed. We need clarity on how that will work and how the Secretary of State will determine if a case involves article 2 issues or not. The independence of the body is critical if international obligations and credibility with victims and survivors are to be secured. As you will appreciate, I remain unconvinced that these proposals are workable, especially when it comes to the issues of immunity, which we will no doubt be able to explore further in the questions.

Finally, legacy arrangements need to be based on trust and have the needs of victims and survivors at their core in order to have widespread support. That is not the case with these flawed proposals, and I do not see how they can further a reconciliation.

Q578 **Chair:** Thank you for that. Let us turn to the article 2 compliance issue, which I am sure we all agree is of the utmost importance. I have little or no doubt that you have asked your officials for advice, guidance, suggestions, et cetera, as to how the Bill—you intimated you do not currently believe it to be article 2 compliant—could be made to be so. Have you shared those thoughts with the NIO? If so, what is the response of the Department?

Naomi Long: From our perspective, as I said in my opening remarks, we remain unclear as to the intent of the investigations, the extent of the investigations and whether they will be capable of being article 2 compliant given the structures that are proposed. The Northern Ireland Human Rights Commission has agreed with our assessment in that regard.

Q579 **Chair:** I appreciate that, but the direction of travel is clear from the Government. The Government command a large majority in the House of Commons and not in the House of Lords, so one has to expect an awful lot of butchering, amendment, and so on and so forth. Have you submitted an official critique of the Bill to the NIO to say, "This is where we think it's not article 2 compliant and this is what needs to be done in



order to make it so”?

Setting aside whether you support where the Government want to land this, in terms of the “how”, i.e. how you make it article 2 compliant if indeed it is not, is that a submission you have made? If so, what has been the response to that submission?

Naomi Long: No, that is not a submission that we have made because it is not our job to design this scheme. It is a Government scheme; it is not a DoJ scheme. We have raised the question of article 2 compliance and sought clarity from the NIO in that regard, which it has been unable to provide.

Q580 **Chair:** Is that something you might be tempted to do?

Naomi Long: No.

Q581 **Chair:** Thank you for that. The UK Government announced multi-party talks last summer to find “an agreed collective way forward on Northern Ireland legacy issues”. Why were those talks unsuccessful?

Naomi Long: Because they did not happen.

Chair: They did not happen at all.

Naomi Long: They did not happen, no. There were two announcements of intensive engagement with local parties, one at the point where this was announced in the Queen’s Speech and a second when the command paper was published. There were meetings with each party; there was a round of meetings at each time.

Beyond that, there was no intensive engagement whatsoever. When we met with the NIO and chased meetings with the NIO as a party in that regard, we were informed that intensive negotiations had been going on, but they certainly were not going on with us or the other parties. They seemed to be going on with other community and civic-based interests, but those talks never materialised and have yet to materialise.

In respect of the engagement that the Department I am here representing has had with Government about the content of the Bill and their proposals, we have had no input to the current set of proposals being put forward by the NIO or previous versions of this. Officials have attended a working group, which was set up by the NIO in a listening capacity, at various stages. Their role was confined to offering views on the operational feasibility of proposals. It was frequently the case that we did not obtain any clarity on the queries that we raised.

The group had not met for some time and was only reconvened on 19 May. We only became aware of the latest proposals on the morning the Bill was published. We are now seeking clarity on a range issues, including article 2 compliance, and are trying to ensure that we have a means to raise issues and understand the implications of the Bill for the



justice system. At this point, answers to those queries have not been forthcoming.

Q582 **Chair:** Thank you, Minister. In your remarks, you described Stormont House as a compromise; I am tempted to say most things in politics are. Is Stormont House dead, on a life support machine or still available to be delivered? In that interest of compromise, what compromises would you be looking for from the Government in order to make their current proposals acceptable to a wider constituency of interest in Northern Ireland than they currently seem to command?

Naomi Long: The Stormont House agreement remains the only agreement that has been reached by all or most of the parties and the two Governments. It still remains, as such, the only inclusive agreement that we have in terms of legacy. Its imperfections were something that we expected to be dealt with in a further consultation, which we had anticipated as a result of NDNA. Instead, the Government abandoned it.

You are asking me whether it is on life support or dead, but I am afraid that is a question you can only put to the Government. As far as I am concerned, it would still be a viable way forward if the Government were to commit to bringing it forward. In terms of whether the current legislation can be improved, it would be difficult to say that something could not be improved. However, if you are asking whether it can be made adequate and fit for purpose, I would have to say that tinkering around the edges with amendments and minor changes to the text would not make it adequate or fit for purpose.

Q583 **Bob Stewart:** Good morning, Minister. It is very nice of you to join us. Thank you.

You have already outlined your worries about the proposals and hinted as to what you would expect to see to improve it. Could I ask you to be precise and say what exactly the Bill is required to do to satisfy your objections?

Naomi Long: The Bill is an egregious interference with the Northern Ireland justice system. As such, the Bill should be withdrawn and the Government should revert to the Stormont House agreement, as was agreed by all parties¹. I am not sure that there is a simple solution in terms of being able to amend or change this Bill, in that the purpose of this Bill is to deliver a form of amnesty, something that none of the Northern Ireland parties has agreed should be part and parcel of any legacy process and something that none of the victims have agreed should be part and parcel of any legacy process. In that regard, it is fundamentally flawed.

I have mentioned elements that have been stripped out of the Stormont House agreement that were important in terms of thematic

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](#).



considerations. Reinserting them into this Bill would not solve its fundamental flaw, which is that it seeks to limit people's access to justice. That is fundamentally wrong.

Bob Stewart: Thank you very much. In short, fundamentally, you think the Bill is dead and should be withdrawn.

Naomi Long: That would be my view in terms of the impact it is going to have on the justice system and confidence in the justice system. It will do far more harm than good.

Stephen Farry: Good morning, Naomi. Long time, no see.

Chair: I think you could refer to her as either "Leader" or "Minister". I am not quite sure we should have the familiarity of Christian name terms.

Q584 **Stephen Farry:** Absolutely. Thank you very much, Chair, for your guidance on that one. Can I ask the Justice Minister for her views on what the implications of this legislation will be for the criminal justice system in Northern Ireland, and indeed the wider devolved justice piece, if it goes forward as currently constituted?

Naomi Long: The ramifications of this are potentially very serious. First and foremost, this is a direct interference with the decision-making processes and the due process of the Northern Ireland justice system. This is direction being given by Government Ministers to the Public Prosecution Service, the judiciary, the Coroners Service and the PSNI in terms of what they can investigate, to what degree, whether or not prosecutions should be able to be taken and how inquests that are underway should happen. That is an interference beyond which I would not go. As the devolved Minister responsible for those agencies in the justice system, I have protected their independence with vigour. We now have significant overreach from the Northern Ireland Office into devolved matters because it will require directing them.

It will have multiple impacts. First of all, it will raise issues of confidence in terms of the public. No one will be under any illusions as to the hard work that has had to be invested since the devolution of justice and the Good Friday agreement to build trust and confidence in the institutions and ensure buy-in across the community. That has been a challenge and continues to be a challenge that any Justice Minister would have to take seriously. When you then have the modern-day reformed justice system, our new police service in the PSNI and all of those new structures having this kind of interference placed upon them, that will necessarily undermine confidence in people who will then simply see them as a puppet of the UK Government and not capable of holding the UK Government to account when they break the law. That will undermine confidence and trust not just in the Government, but also in the justice system.



It also begs the question as to the purpose of the devolution of justice if the Justice Minister can be overridden in terms of directions to the justice agencies and the Justice Minister essentially ends up as a puppet in a regime directed by the NIO. That is a very uncomfortable space to expect any future Justice Minister to inhabit and it raises the question of why anyone would seek to do so. The ramifications of this are quite significant.

Of course, there will be practical challenges because we have serious questions as a Department about the operability of some of the proposals that are in this Bill. We will need to work through some of the complications of that in slower time with the Northern Ireland Office. Obviously, that will potentially be subject to change as the Bill goes through the processes in Westminster. This significant blow to confidence in the justice system, and particularly the perception of lack of independence of the various independent bodies that make up the justice system in Northern Ireland, is hugely significant.

Q585 Stephen Farry: Just to follow that up, Chair, it was understood from the time of Stormont House that the UK Government would take forward in essence a hybrid Bill to cover both UK functions and the majority of functions, which were Assembly-level functions, and the Assembly would pass a legislative consent motion in that context. I take it that there has been no talk whatsoever of LCM in relation to this Bill. In the absence of that, would you regard this as a breach of the Sewel convention?

Naomi Long: The Secretary of State has raised the issue of the need for an LCM in order to be able to enact this legislation in line with the conventions that exist. However, an LCM has not been sought and members will obviously be conscious of the difficulties that there would be.

First of all, I would not be willing to take a recommendation to Executive that an LCM should be put before the Assembly and passed. Secondly, given the view of the political parties in Northern Ireland, even if I were to do so, the Executive would be unlikely to agree that such a positive motion be put to the floor of the Assembly. Whether a memorandum were laid explaining why we did not do so or whether an LCM by some miracle made it to the floor of the House, it would not be passed by the Assembly, so I see no prospect whatsoever of an LCM being agreed on those matters that touch on the devolved sphere.

Given that the Government know that that is the case, I can only presume that they intend to breach the Sewel convention, which again is a fairly serious matter given that there is a Justice Minister in place. This is not a situation in which we have no Ministers and Government are trying to manage a difficult situation in the absence of Ministers. We have Ministers, even though we do not have an Executive, and to breach the Sewel convention in that context is a very serious breach indeed.

Q586 Stephen Farry: Finally, just arising from your role as Minister, can you



tell us something about your work in collaboration with your Irish counterpart around some of these legacy issues and what is happening in that regard?

Naomi Long: Certainly in relation to legacy inquests, requests for information are made on a fairly regular basis, for instance, through the Department of Justice, the Department of the Taoiseach, the Department of Foreign Affairs and so on. I am not aware at this stage of any requests being refused on jurisdictional grounds.

The Republic also moved forward and put in place the Criminal Justice (International Co-Operation) Act 2019, which, as you will recall, is one of the outworkings of the Stormont House agreement and was what they had committed to bring forward. That Act now provides a formal statutory footing for those requests to be taken forward.

The process was used for the first time in respect of the Kingsmill inquests, where the statutory provisions were used to the full extent, including a hearing in the High Court in Dublin. That indicates that the Irish Government have moved forward on their commitments under Stormont House, in the full expectation, particularly after the NDNA agreement, that the UK Government was about to do the same, but they are obviously now aware that that is no longer the case. However, they are continuing to operate the Criminal Justice (International Co-Operation) Act to facilitate cross-jurisdictional requests for information.

Q587 **Mr Campbell:** Good morning, Minister. Nice to see you again. It is not very often we have a Minister in front of the Committee who talks about their own position possibly being inhabited by a puppet in the future, but there you go; there is a first time for everything. I wanted to ask you about the issue of immunity. I do not know whether you heard the previous session we had. It has also been alluded to by others that, for example, in terms of the independent commission, it is envisaged that it would establish a degree that quite a few people have said is a very low bar for people, who presumably were guilty of very serious offences in the past, to come forward and have to declare what their part was in whatever incident they were involved in. What is your view of that level that appears to be set in order for someone to gain immunity if the Bill were to become law in its current format?

Naomi Long: As you will be aware, limited immunity has been offered in the past around things like the giving up of weapons and so on. That has been a very discreet piece of work in terms of not collecting DNA and other evidence from those weapons, but it has not extended to wider immunity for the individuals. If other evidence points to their involvement in a crime, they can still be prosecuted. As many others have pointed out, this is a much broader form of immunity that is being offered here. In effect, it is an amnesty. The bar for being granted immunity is set very low, so it is open to abuse and risks undermining the credibility of the entire process.



I am not convinced that the proposals set out in this Bill are workable when it comes to immunity. There is no evidence to show that people would come forward or how the veracity of any statement that they gave could be established because, obviously, in the case of a live trial, judgments will be made about the credibility of witnesses, but this will not be in a trial setting. It is impossible to make that judgment without the wider evidence piece being in place. It is not even clear how prosecution could work in the presumably rare event that somebody was not granted immunity because it has essentially been said that there will be no further prosecutions, so it is hard to see how there is any kind of jeopardy for somebody who is not granted immunity. There has to be a question around the admissibility of evidence, in terms of information put forward by somebody, in those circumstances where it is simply their word and nothing more.

We also need some clarity in terms of how this would sit with other comparable crime. Let us look at a hypothetical scenario in which there are two bank robberies, one conducted by paramilitary organisations in the furtherance of their interests and another by ordinary criminals. One of them could seek immunity from prosecution on the basis that this is a terrorist-related offence; the other would not be able to do so. The disparity and inequality in that system would be incredibly challenging.

There are major issues in terms of the granting of immunity both in terms of the disparity that it would create within the criminal justice system and specifically on the very low bar that has been set where someone would essentially come forward and make a statement. It says that the veracity of that would be tested, but it does not explain how. That is going to be very challenging to do, short of a full investigation, of course.

Q588 Mr Campbell: I will just take for a second your scenario that you painted there about two similar bank robberies or any other two similar types of criminal activity. Is it your view that the person or persons in the group of criminals who engage in activities that are similar to those carried out by paramilitaries would have a case that they could not avail of the same degree of immunity as their paramilitary counterparts?

Naomi Long: It would certainly make for an interesting court case because, first of all, they would have to disclose that they were involved in such an offence. Once they reached the point of charge, for example, they may well take a case to say that they are being prosecuted for a case in circumstances in which, if their motivation had been different, they would be entitled to immunity. It would be an interesting legal debate as to whether or not there was equality, even though, were a court to find that that were still permissible, the issue would be about the undermining of the credibility of the justice system, where it was seen to behave differentially between two individuals and essentially give those who had paramilitary connections an advantage in the justice system over other criminals.



HOUSE OF COMMONS

That is contrary to the kind of process that we would want to have in which paramilitarism would almost be an aggravating factor in many cases and we would be trying to dissuade people from getting involved in terrorist and paramilitary activities. There are major issues in terms of how people would perceive a justice system that made that kind of differentiation.

Q589 **Chair:** Just to clarify, Minister, you have concerns that, were the Troubles to resume, ordinary crimes being committed today could effectively be post-dated, as it were.

Naomi Long: No, my concern would be with historic crimes that have happened in the same period of time as those that are covered by this legislation. Were somebody to be discovered, we would then be in that situation.

Q590 **Chair:** If I were a betting man, I would run out and put a fiver on your answer to this in Ladbrokes, but I am going to ask you just for the record, if I may. Other bookmakers are available. The Government have argued that their immunity scheme can be justified "as a proportionate means of achieving and facilitating truth recovery and reconciliation in Northern Ireland, taking into account current ECtHR case law in relation to amnesties". You would not agree with that, would you?

Naomi Long: There are a number of things that I would just want to say on that point. Many others have pointed out already that there is no support for immunity, and I would suggest that immunity is not compatible with the ECHR, nor does it meet the requirements of articles 2 and 3. The Council of Europe, as you will be aware, is also considering the Bill's compatibility with the ECHR currently. The legislation talks about reviews, but a review is not the same as a full article 2-compliant investigation, so there is an issue there.

I suspect this particular point around immunity being proportionate is why the word "reconciliation" has been inserted into the ICIR and the title of the Bill. European case law—and I suspect this is what the Government are pointing towards—has indicated that, where there is a reconciliatory purpose, some form of immunity may be legal. The case that I would argue is that this does not have any reconciliation purpose if you look at the Bill. The word may be included, but reconciliation is not being furthered because it does not engage victims in terms of finding agreement and it does not engage political parties locally in terms of finding consensus.

If this were to be a consensus position and people in Northern Ireland believed that this was the right way forward, you could argue that this may be a proportionate measure to further reconciliation. This is not the context in which this Bill is being taken forward, and that is crucial. I do not see the reconciliation element of this as overriding the need for article 2-compliant investigations, and I do not see it as compliant with the ECHR in respect of proportionality.



Q591 **Chair:** You gave us your views on the vitality of Stormont House a little while ago. That should be the launchpad, as it were. The Government's contention is that Stormont House is dead. I know you do not agree with that as an assessment, but who do the Government think killed it? Was it the Government themselves?

Naomi Long: Were I to judge, I would look for the knife in the Government's hand and certainly not any of the hands of the local parties. This has been a very protracted process, so I will concede that time has taken its toll on the Stormont House agreement. There was no simplicity in the Stormont House agreement. It was a series of complex and interlocking bodies that were going to deliver what we hoped would be a comprehensive outcome. It was not inexpensive either; we acknowledge that that was the case. However, it knitted together all of the threads that families, victims, local political parties and the two Governments had done in a way that certainly would have allowed us to reach the end of the investigation of murders within a 10-year period of commencement. There may have been some additional work to be done around other crimes.

The Government did not ever really give the Stormont House agreement any chance of survival. It was almost suffocated at birth because they did not proceed with the legislation as agreed on multiple occasions and then finally failed to advance it after promising to do so within 100 days in the New Decade, New Approach agreement. If it is dead, the culprit is clearly Government.

Q592 **Chair:** You have put the knife or the murder weapon in the hands of HMG. Forgive me if I have missed it, which is perfectly possible because there is such a lot of stuff going on at the moment, but have any of the main parties in Northern Ireland issued any form of joint statement or communique reaffirming their support for and commitment to the delivery of Stormont House in order to have something viable to juxtapose against the Government's current proposals?

Naomi Long: There was a debate in the Assembly in which four of the five parties recommitted to Stormont House. The Ulster Unionists have gone slightly cold on Stormont House, not because they believe that it is wrong in and of itself, but because they believe that not investigating cases in which there were crimes others than murders left it defective². That was certainly the consensus in the debate in the Assembly. Realistically, we all agreed that there were elements of Stormont House that needed work. The limitations to events that resulted in murder or whatever it might be were not insignificant, but that was something that we were to work through as we implemented Stormont House. Unfortunately, we never got the opportunity to do that.

Q593 **Bob Stewart:** Minister, I am going to ask three questions. Rather like

² 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](#).



the Chair, if I were a betting man, I would think I knew the answer to at least two out of three of them. First, what do you think about the Bill's proposal to restrict new or ongoing civil actions if they were begun after 17 May this year?

Naomi Long: That is, again, an unacceptable interference with devolved justice. It risks undermining confidence in the rule of law in the justice system. Many of your witnesses will have highlighted the valuable role of both civil actions and inquests, which are covered largely by the same terms, and how they have played a role in helping victims secure information about the deaths of their loved one.

Setting an arbitrary cut-off date for these cases has wasted resources that were invested to date but is also effectively a retrospective element of this legislation. The legislation essentially ruled out any further civil cases at introduction, giving absolutely no warning to anyone who was engaged in a civil case or about to lay papers. That is an unhelpful way to go about doing business and build confidence.

Q594 **Bob Stewart:** What is your answer to the Bill's proposal to close any inquest into a Troubles-related death that is not at an advanced state?

Naomi Long: There are a couple of things that I would say. First of all, defining what an advanced stage of an inquest is can be quite complex because inquests will often open and then not sit for a very long period of time, but there can be significant investigation ongoing behind the scenes. There is also the issue I raised earlier about families' expectations of being in a queue for an inquest and expecting that a date had been set for the first hearing of that inquest and that that would be stripped away.

We also need to bear in mind that the inquest system has been able to provide the closure that many families wanted. For example, having an inquest in the case of most of the Ballymurphy families in which they have been able to clear their families' names and the smears on their reputations has been hugely powerful. I would not want any of the members of the Committee to underestimate how impactful that has been in terms of those families having respect for the Northern Ireland justice system or the relief that it brought to families to finally hear the truth that their family member who had been killed had been doing nothing wrong. Hearing that from the coroner was a hugely powerful moment for people.

The inquest system has worked quite well. Again, it is not inexpensive, it is not a simple system, but it has brought some relief for many families. To have that opportunity withdrawn in this way is going to compound the sense of grievance that many of the families who were awaiting inquest will already have because there has not been sufficient or adequate investigation of those cases in previous times.

Q595 **Bob Stewart:** That is clear; you are not particularly in favour of closing



them down. Finally, what is your response to the proposals to extend the current early release scheme for prisoners?

Naomi Long: My understanding in terms of that process is that it would be for those who would be convicted of a crime. Of course, the difficulty is that people will be given immunity under this scheme, so it is very hard to see. I always anticipated that early release would apply to anyone who was currently convicted of historic offences in that they would serve their two years and would then be freed on licence, as would have happened had they been convicted at the time when the offence occurred. That is a reasonable and rational extension. It does not make sense, however, in the context of this Bill, because this Bill is essentially ruling out the potential of any prosecutions. Although it does not say that there will be no prosecutions, it effectively brings all of the viable routes to prosecution to an end. Therefore, there would be nobody with any reasonable prospect of being convicted once this legislation had been enacted.

In principle, anyone convicted of terrorist or other offences in relation to the Troubles, particularly for those pre-2004 or pre-1998 crimes, should be able to avail of the same conditions around early release as would have been the case had they been convicted during that period. That is a matter of treating people equally under the law and it would only be fair.

Q596 **Stephen Farry:** This is hopefully the final set of questions. I appreciate that it is slightly outside the justice brief, but as part of the wider package, Minister, can you give us your thoughts in relation to the oral history project and the memorialisation project, including in particular the role of the Secretary of State in that regard?

Naomi Long: There are a couple of issues. Obviously, the provisions of memorialisation would not be a justice lead and would be the responsibility of other Executive Ministers, particularly the Department for Communities and the First and Deputy First Ministers. I would obviously have an interest in how the proposals on memorialisation and oral history would operate, particularly in relation to the policing family, and potentially also to prison service. Much good work in that area is being carried out by the RUC George Cross Foundation; that could provide some very useful learning. I would also want to see the perspectives of police officers, prison officers and their families included and safeguards in place to ensure that memorialisation initiatives are fair, inclusive and balanced.

In terms of the issue of the Secretary of State, it is important that there is independence in all of this. The fundamental flaw at the heart of these proposals is that the UK Government are acting, if you like, as though they are observers of the Troubles rather than participants. That raises major questions in terms of the perceptions of the wider justice family and those who were the victims of the security services in some cases.



HOUSE OF COMMONS

If it is going to have the cross-community buy-in and support, it is important that there has to be independence to build that trust and confidence. Any memorialisation process also requires thorough and proper consultation and engagement with all stakeholders. I would find it hard to see how the Secretary of State, given the role of the UK Government during the Troubles, would be able to fulfil that impartiality requirement in a helpful way.

Q597 Chair: Minister, this is one final question from me with regards to the commissioners. I am going to ask you to take a leap here, which I know you will not want to do, but go with me on this one, if you will. In order to try to command confidence and support, from where should the commissioners be drawn?

Naomi Long: It is obviously not for me to decide that. I could not speak for all members of the Executive, nor would I purport to. The difficulty is that devolved Ministers, in operating these proposals, would not wish to have any involvement in the commissioners. The parties that are engaged in the Executive and in ministerial posts have been clear that they oppose these proposals. Therefore, I doubt very much that we would want to be engaged in that proposal and process.

There may be a role for Government to consider in terms of whether or not there may be an opportunity to engage international bodies to look at appointing commissioners, whether that be the UN or another international body. However, questions still hang around article 2 and 3 compliance. It would potentially deal with the independence issue, but I would imagine that, for the most part, international bodies of significant reputation would want to be reassured around article 2 and 3 compliance before they would engage in this process, as would the parties in the Assembly.

It is difficult to see where anyone outside of Government, frankly, would be willing to engage in providing commissioners in the current situation with the lack of clarity around that point. There is an argument that international commissioners would be seen as more independent, but we all know that that itself can be fraught because one person's "independent" is not always seen as somebody else's, even on the international stage.

Chair: Minister, thank you for that, and thank you once again for taking the time to join us this morning and for sharing your thoughts and analysis of the Bill. It is appreciated. Thank you to your official, Ms Campbell, for joining us as well.