

Justice for Northern Ireland Veterans Original
Consultation on Legacy Proposals 2020
Northern Ireland Affairs Committee

This paper has been prepared by **Justice for Northern Ireland Veterans Original** group and is issued on behalf of and endorsed by the main veteran campaign groups, **Rolling Thunder for Soldier F UK, Million Veterans March, UK Veterans One Voice and Justice for British Armed Forces** in response to the invitation by the Northern Ireland Affairs Committee (NIAC) on 29 April 2020. JFNIVO group and other veteran campaign groups have a combined following of over 1,000,000 armed forces veterans and are pressure groups with one aim, to lobby Parliament to stop the historical investigations against veterans of Northern Ireland who were previously investigated by the RUC and the SIB. JFNIVO group and other veteran campaign groups have been lobbying government and conducted large scale peaceful demonstrations attended by many thousands of veterans, their family, friends and many supporters over the past 5 year.

Summary

Justice for Northern Ireland Veterans Original (JFNIVO) group welcomes the new Government initiative on the basis of the published information and looks forward to seeing greater detail of the proposals.

- JFNIVO stands by its previous submissions to NIAC and submission to the NIO in relation to the 2018 SHA proposals.
- JFNIVO welcome the more realistic approach to legacy issues which is implied by the announcements and urge the Government to avoid creating expectations which may be undeliverable.
- JFNIVO welcome the proposals to establish lawful and practical criteria for launching new investigations or re-investigations in relation to historical incidents where a death has occurred.
- JFNIVO welcomes the government intention to review the retrospective use of Article 2 to reopen investigations into state killing that have previously been investigated and found to have no case to answer.
- JFNIVO welcome on behalf of our veterans, who having served in the military then went on to have distinguished careers as police officers in the Royal Ulster Constabulary, George Cross, (RUCGC) and the Police Service of

Northern Ireland (PSNI), the disappearance of the unlawful and improper proposals regarding so-called 'non-criminal police misconduct'.

- JFNIVO welcome the discussion which is now taking place on the extremely important issue of 'context' and 'memory'.
- JFNIVO welcome the emphasis on the needs of true victims of terrorism and urge the Government to recognise the wide variety of types of victim and types of need.
- JFNIVO believe that the revamped functions which have been proposed for the Historical Investigations Unit be made the responsibility of an expanded and upgraded version of the PSNI's Legacy Investigation Branch with appropriate independent oversight and complaints mechanisms.

Introduction;

In June 2018 JFNIVO made a written submission to NIAC on the then Northern Ireland Office (NIO) draft legislation by which it was proposed to implement the Stormont House Agreement (SHA). In August 2018 the group made a formal written response to the NIO's invitation to engage in the consultation process prior to further development of the legislative proposals.

It is clear that JFNIVO group had very grave reservation about the introduction of many element of the proposed SHA proposals. Our grave concerns have not been diminished and we remain implacable opposed to the proposals outlined in the draft Stormont House Bill.

With the comments made by the Prime Minister in the last Queens speech and the introduction of the legacy aspirations proposed by the New Decade New Approach there is some small indication that the views of those that have given so much in keeping Northern Ireland safe from the onslaught of terrorism may actually be listened to. It is clear to us that the narrative of those that were responsible for the most appalling human rights abuses through their political and so called human rights NGO proxies appear to have an undue influence on the NIO regime and the Northern Ireland Criminal Justice System.

The new government appears to want to deal with the Legacy of the past in a different way than original proposed in the draft SHA proposals. In view of current discussions on national legislation regarding the criminal liability of military veterans it now seems clear that it may be possible in law to give a more appropriate level of emphasis to context and memory; and we believe that this should be at the fore front when considering legacy issues in Northern Ireland.

Whether the Government's proposed approach will meet the needs of victims, survivors and their families;

JFNIVO have a very clear view of what and who should be defined as a victim and a survivor and we do not view those who perpetrated acts of terrorism or these that aided, counselled, or procured acts of terrorism as being classed as victims or survivors.

Since the implementation of the Good Friday Agreement (GFA) there has been a perceived imbalance and focus on those that JFNIVO would identify as those that perpetrated acts of violence and supported acts of violence and human rights abuses. This has been achieved through the so called human rights proxies of the republican movement where no expense has been spared in ensuring that their “victims and survivors” narrative is the only narrative that the present system favours.

It is clear to us that the Victims Commissioner is not impartial in her duties and does not enjoy the support of the wider victims and survivors groups as outlined in the statement of the umbrella group Innocent Victims United (IVU) of 24th April 2020; and would suggest that the Victims’ Commissioner does not enjoy the unqualified support of a significant constituency within the victim lobby including retired police and military veterans across the United Kingdom. We also feel that the Victims pension has suffered undue delay in its implementation and we are very clear who should be granted a victims pension as outlined in our view of what is a victim.

JFNIVO welcome the government promise to implement the Armed Forces Covenant in Northern Ireland. We do however feel that if it is local government based at Stormont that administers the scheme it will be resisted and denigrated by those that profess to abide by the rule of law but are still guided by an ‘army council’ and will bitterly oppose its introduction and seek to delay and frustrate its implementation.

What steps the Government can take to ensure that the proposed new legacy body is independent, balanced and open, and complies with the Belfast/Good Friday Agreement and ECHR commitments;

JFNIVO have completely lost confidence in the legal system in Northern Ireland and the Supreme Court of the United Kingdom

The voices of many thousands of true victims and survivors of murder and human rights abuse by terrorists are just not listened to and the judicial system in Northern Ireland constantly rules in favour of terrorists to the detriment of those that have suffered at the hands of prolific human rights abusers..

In recent times there have been legal challenges through the courts both in Northern Ireland and then through to the Supreme Court in London where relatives of soldiers that have been murdered by IRA terrorism have been refused legal aid to get justice. To take the perpetrators to civil court they had to mount a begging and political campaign to eventually secure the legal aid; yet the leader of the Republican movement Gerry Adams was given immediate legal aid and legal aid to go to the Supreme Court in London to have his internment order quashed to the dismay of mainstream public.

This is now paving the way for hundreds of suspected terrorist internees to have their internment orders quashed which will further add to the republican revisionist narrative. They will also sue the government and further pad out the multimillion pound republican coffers with payments from the British tax payer in compensation.

Compare these action with any legal challenges from veterans who have sought to have legacy issues overturned or dismissed in the United Kingdom courts. Not one case has been successful.

There are several retired Royal Ulster Constabulary police officers who have been refused legal aid to defend themselves against allegations from the Police Ombudsman for Northern Ireland (PONI) while being under investigation for 20 yrs in some cases.

We find it questionable that when republicans take a case to the Supreme Court or the High Court in Belfast they win and when others take a case they loss.

JFNIV suggest that cases brought before the Supreme Court in London should be heard by Justices that have no connection with Northern Ireland or the conflict period. We would feel that any decision taken would then be free from any perceived toxic personal bias.

The differences between the Government's new proposals and the draft Stormont House Agreement Bill;

There is little detail regarding any new proposals regarding alternatives to the draft Stormont House Agreement Bill however we welcome the prime ministers promise that all Legacy cases that have previously been investigated and no prosecution had been ordered by the judiciary at the time of an incident will not be reopened unless there is new and compelling evidence presented and that many cases may be closed and a bar placed on reopening them

However we do have reservations regarding the tests that will be put in place to ascertain what will be accepted as 'new' evidence and 'compelling' evidence. We believe that the structures for deciding these issues cannot be in Northern Ireland or involve the Northern Ireland judiciary or political parties and should be decided by a commission residing outside Northern Ireland on mainland UK and headed by a former judge that has no connection with the Northern Ireland conflict.

Any legislation presented must include and define explicitly what is new and compelling evidence.

The proposed setting up of the Historical Investigation Unit (HIU) as outlined in the proposed SHA legislation and the powers that are bestowed on the Director and his staff breach many ECHR Articles and offer no redress or complaints procedures. Our concerns are outlined further in the attached submission to the SHA consultation by JFNIVO group.

JFNIVO welcome the government's proposal to reform the use of Article 2 of the ECHR when applying Article 2 to Legacy cases. We as veterans and other former security force personnel have long contended that it is wrong, illegal and immoral to retrospectively apply compliance with any legislation that did not exist at the material time of any event.

Many investigations that are now the subject of Legacy investigation were thoroughly investigated to the standard at the time of an incident with absolute regard to the

conditions on the ground and taking into account the safety of the investigating officers and their ability to complete an investigation. No account has been taken by current Legacy investigators of the extremely difficult circumstances of investigators at the time of an incident. The wide spread intimidation of the civilian population by terrorists to stop them cooperating with the police. The physical harm and in many case death caused by terrorists to those that did cooperate with police. The wide scale rioting orchestrated by terrorists when trying to hold a scene for further investigation. The destruction and removal of forensic opportunities by terrorists when police try to obtain that evidence. The list is endless and must in all Legacy cases be taken into account when considering if a case should go forward for prosecution.

The simple truth is that republicans constantly use phrases like 'Truth, Accountability and Justice' as a weapon through its so called 'human rights proxies and NGOs to further their revisionist policies and care not one iota for the truth, accountability and justice for the hundreds and thousands of our citizens that have been murdered, maimed and scarred by the republican campaign of murder and violence.

Whether and how the Government's proposals will promote reconciliation in Northern Ireland;

JFNIVO believe that those that perpetrated the most appalling human rights abuses do not want to promote reconciliation in Northern Ireland. They are only intent on a revisionist rewrite of history that portrays the Republican movement as those oppressed by a cruel and oppressive state that sought to defend themselves from oppression. The fact is that the Republican movement in any other conflict would find themselves at the International Criminal Court in the Haig for multiple and gross human rights violations speaks volumes on how they hold the government in contempt and are emboldened to continue with their revisionist program using the very legal system that they professed not to recognise but now use to subvert the legal system.

As there is little information of any new draft proposals we would suggest that the overhaul of Northern Ireland judicial system needs to take place as a matter of urgency. In particular the whole legal aid system needs to be open and transparent to allow the public to see who is eligible for legal aid and the criteria by which it was granted. It is an affront to true victims and survivors of terrorism that legal aid is denied them having been means tested but leaders of terrorist organisation whether using a political party as cover or not, readily have access to and granted legal aid which amounts to very large sums of money.

We would also suggest the length of time that it takes to reach a decision when judicial appeals and Judicial Reviews are heard be fairer. The perception has been in recent times that appeals and judicial reviews have been relatively swift in reaching a decision where republicans have raised an issue but where those that have been veteran or police appeals or judicial reviews have dragged on in some case for over a year and still have not been resolved.

It is difficult to see how reconciliation can be achieved when one side is treated differently than the other with those that have suffered the most grievous hurt and human rights abuses feel abandoned and frustrated by continuing daily revisionist actions that go unchallenged by government both local and national..

The potential merits of consolidating the bodies envisaged in the Stormont House Agreement into a single organisation;

We believe that the PSNI is the only legally constituted police service that should be investigating criminal acts in Northern Ireland. JFNIVO has not changed position on its opposition to structures outlined in the draft Stormont House legislation.

Our grave concern have always centered on the proposed introduction of the Historical Investigation Unit (HIU) and the effect that would have on our veterans albeit both military and former police officers.

In short the proposed HIU is seen as a separate police force with unlimited power in excess of those of a normal police service. With draconian powers of enforcement and without any mechanism for complaint by any independent authority. The makeup of the staff from the Director right down through the investigators to the support staff were perceived by JFNIVO to be open to infiltration by those with close links to former terrorist organisations. The denial of experienced former police officers from Northern Ireland from applying to be part of the HIU staff was part of the evidence of the way that the HIU may be subverted. The HIU was deficient and contrary to many breaches of the ECHR which are outlined in our submission to the proposed draft SHA legislation.

More fuller objections are outlined in our earlier submissions to government.

The equity of the Government's proposed approach to the re-investigation of cases;

JFNIVO group welcome any legislation that truly provides the protection from malicious and vexatious prosecution of armed force and security personnel that were deployed in Northern Ireland. We believe that similar legislation as outlined in the recent Overseas Operations (service personnel and Veterans) Bill 2020 should be mirrored and introduced to provide legislation for those that served in Northern Ireland and for future use throughout the whole of the United Kingdom should similar future conflict happen within the United Kingdom.

JFNIVO group will not accept or support any legislation that is not Westminster centric. Government has repeatedly stated in past communications that legislation that will protect Northern Ireland veterans and security forces will not be a devolved matter legislated by Northern Ireland Stormont Assembly.

It is difficult at this time to comment on proposed legislation that has not yet been published.

Conclusion;

JFNIVO looks forward to viewing the governments completed draft Northern Ireland legislation. Whilst welcoming many of the proposals outlined in the Secretary of State for Northern Ireland (SOSNI) in his New Decade New approach document and the Prime Ministers many promises regarding Legacy changes, we as a veteran campaign group will look closely and openly at any new proposed legislation. However we will hold government to account if government renege on these promises and fails to introduces meaningful protective legislation.

Submitted by Paul Del Young

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Justice for Northern Ireland Veterans Original

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Paul Del Young

Evidence submitted and approved on behalf of

Rolling Thunder for Soldier F,

Million Veterans March,

UK Veterans One Voice

Justice for British Armed Forces

Statement from UK Veterans One Voice

UK Veterans One Voice (UKVOV) are against the injustice suffered by veterans, who are being prosecuted for following the lawful commands of their Commanding Officers and UK Government. Whilst this situation is ongoing, families of victims who have been killed in terrorist atrocities have had to self fund legal action against the perpetrators, whilst any crimes they were accused or convicted of have been squashed due to the Good Friday Agreement.

Veterans are also disgusted when known members of paramilitary organisations who vocally do not recognise the UK Government and wish to have self rule under Ireland and have been granted legal aid from the establishment they publicly denounced and carried out terrorist attacks against, to enable them to get their convictions overturned.

It is the view of UKVOV that this injustice must be resolved immediately for the benefit of all veteran's and the morale of current serving personnel

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