

Tom Lantos Human Rights Commission

Hearing  
on  
Northern Ireland: Accountability at Risk

February 15, 2022- 1:00 p.m.  
Virtual, via Cisco WebEx

Statement of Alan McBride  
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**Alan McBride, Presentation on the British Governments Legacy Proposals contained in the ‘Command Paper’.**

**Introduction**

I have been involved in discussions, debates and various consultations on ways of dealing with the past for over 20 years. These have included *The Healing Through Remembering Report (2002)*, *Consultative Group on the Past Report (2009)*, *Haass O’Sullivan Report (2015)* and *Stormont House Agreement Report (2016)*. I have also been involved with **Operation Kenova** as a member of the Victims Focus Group, plus led the campaign for an **Injured Pension** for 13 years as facilitator of the WAVE Injured Group.

I am glad to say that the pension is now being rolled out which will make a difference to many hundreds of those who were injured, but unfortunately I cannot say the same with regard to other legacy challenges. The conversation about the past is circular in nature, in the sense that it just goes

to address them similar in each and every report. They talk about a menu of options that include ‘truth and justice’, ‘oral history’ and ‘memorialisation’. They are built on strong principles that suggest victims and survivors needs should be at the heart of any process, and that what is proposed should aid healing and reconciliation.

The context in which these reports are launched hasn’t changed either. We have two parties in Government in Sinn Fein and the DUP, who see the conflict from opposing viewpoints and which makes finding agreement in the political sphere somewhat impossible. It has been this ‘lack of agreement’ that has resulted in endless negotiations and it would appear that each time dealing with the past is put out for consultation, what is decided is substantially less than what was decided before.

The last negotiation was in 2016, **Stormont House Agreement**. This initiative came close to gaining unanimous political support from across the five main parties that make up the Northern Ireland Executive. Sadly, the British Governments '**Command Paper**' has driven a horse and cart through these proposals, and united the Victims and Survivors sector in their opposition to them.

The political parties, at least in public, have also been opposed. I say 'at least in public' because I suspect that privately they are relieved that prosecutions are off the table. On the part of the Unionist parties they have not wanted to see members of the Security Forces being investigated and hauled before the courts, and likewise within Sinn Fein with the IRA.

The Secretary of State and officials from the NIO have indicated that the Command Paper is not a fait accompli but rather a series of suggestions to be considered and that they are in listening mode. My challenge to them remains the same, 'if you say you are in listening mode, and everyone you talk to both in the political world and within the victims and survivors sector, is opposed to your ideas, yet you proceed anyway, then you have not really been listening'.

Dealing with the past remains a challenge. It is my opinion that there should be no further departure from the Stormont House Agreement. That is not to say that the Stormont House Agreement is perfect. It is not, but it represents a way forward that if implemented would bring about healing for many thousands of victims and survivors.

## **Presentation**

Below are some points that I would like to build my presentation around. I will begin by looking at some principles that would ensure the process remains victim centered.

Any process to deal with the past must be;

- Victim Centered
- Time bound
- Independent
- Resourced, both with regard to finance and support for victims and survivors.
- Menu of options, to include opportunities to have your story told and invalidated. Opportunities for 'truth recovery' and 'justice', if the evidentiary process leads to prosecution.
- Justice process should be article 2 compliant

## **Government's Command Paper**

The Legacy proposals in the Governments Command Paper turns some of these principles on their head and must be resisted.

- The government's proposals are not article 2 compliant as it removes justice as an outcome from the outset. The Northern Ireland Human Rights Commission have written to the Secretary of State to challenge the notion that the government proposals are article 2 compliant, arguing that you cannot rule out prosecutions if that is where the evidence takes you.
- The government's proposals reinforce a message that says, 'your loved ones death doesn't matter, and who carried out the murder doesn't matter either'. Would this happen with the July 7<sup>th</sup> Victims, or victims of other atrocities? If it is not acceptable in these cases then it is not acceptable when it comes to 'Troubles' victims.
- To get to the truth the 'truth' needs to be interrogated in a court of law. The Ballymurphy Inquest is a good example of this. If the findings of the British Military remained the 'official truth', then the people who died in the massacre would forever be noted as being 'gun men and gun women'. But the families knew the truth and campaigned to have their loved ones vindicated and the real guilty ones in the dock. This would not have happened without the Army's version of events being contested and interrogated in court.

## **Operation Kenova**

Whilst I support the proposals in the Stormont House Agreement, I am also keen to put forward processes that are working so as we don't have to reinvent the wheel. In this regard it is my contention and also the contention of the WAVE Trauma Centre that **Operation Kenova** be looked at as a workable model for the **Historical Investigations Unit** as set out in the SHA. I understand that Kenova might have to be up-scaled to fulfill this role, but have also been assured that this wouldn't be a major difficulty.

I sit on the Victims Focus Group for Operation Kenova, plus WAVE works with many of the families that have interacted with Jon Boucher and his team of detectives. The Focus Group looks at Kenova from the aspect of those that have engaged with it, we are not part of Operation Kenova but have been assembled to make sure the investigation delivers for families. And it does deliver for families. This has been bourn out in the work of the Focus Group, the work of WAVE and in Dr Alison Kirkpatrick's independent report. The points below are what makes Kenova work for families,

- Victim Centered
- Honest engagement with Jon Boucher and his team
- Expectations are managed
- Family liaison
- Getting answers for families
- 31 files with the Public Prosecution Service

## **Conclusion**

Northern Ireland needs a process to deal with the past. It will not be all things to all people as there will always be those who remain skeptical. Perhaps they are too traumatized, too angry, too embittered, too much influenced by others with political agendas and so they won't give

proposals a chance. But we need to press on to get answers for families that want them. Time is running out for many people, I have already attended two funerals this year of victims and survivors that have passed away. We don't need any more consultations or negotiations. The Government knows what needs to be done and they should not depart from it to keep veterans happy. **There must not be an amnesty.** The Stormont House Agreement remains the way forward. With regard to truth and justice I would add to that the Operation Kenova model. We know it works for families, and at the end of the day if it works for them, then it works. It is those who have lost loved ones that should be uppermost in our minds.

**End**