

TOM LANTOS HUMAN RIGHTS COMMISSION

NOVEMBER 19TH 2024

What next for the pending inquiry into UK Collusion in the Murder of Patrick Finucane?

“Chairman Smith, Chairman McGovern, may I begin by also extending my deepest thanks and gratitude for convening today’s commission hearing, and the invite to us all to attend and testify before you.

Whilst we have all at some stage either met with you or testified before you, today represents, to the best of my knowledge, the first time all four of us have appeared beside one another and I thank you for that.

For we are here in America in very different circumstances than you will have been used to seeing us. After over 35 years we have finally listened to a British government publicly announce that they will establish a public inquiry into my father’s murder. It has been a long road to achieve that, and we know we have a considerable journey still to travel as we set out to ensure the inquiry is credible both to us and those who have supported us over the years.

This recent stage of our journey can be traced back to our victory in the UK Supreme Court in January 2019, when the court found that all previous investigations had been ineffective and failed to meet the standards required under human rights law.

This was significant because by that time we had had experience of different investigative vehicles over the years, from the Stevens’ police investigations, the Cory Review and the De Silva Review. Each one was not asked for, or welcomed by us, and we called each of them an exercise in delaying the correct approach which was the establishment of a public inquiry.

Following our Supreme Court win, we were again met by deliberate inaction on behalf of the government, and my mother was once again forced to initiate legal proceedings due to the inadequacy of the response. This led us to yet another significant endorsement by the courts, when on December 21st 2022 our High Court again recognised the absence of any effective investigation, and, in judicial terms, criticised the governments response to the Supreme Court ruling.

Not surprisingly to us, but cynically nonetheless, the government appealed this ruling, and this led to our Court of Appeal in Belfast examining all of the issues once again. Whilst we were again frustrated at the delay these proceedings naturally brought, it is no exaggeration to say that when the court gave its judgment on July 11th this year, it was crystal clear in its message, and momentous in its implications.

It is a lengthy and detailed judgment, dealing with at times, complicated areas of human rights law but some extracts are worth noting. In particular was the court's clear frustration at the government's response, or lack thereof, to the Supreme court ruling. It said:

“[39] We have some difficulty in accepting the submission that the Secretary of State now requires further advice from this court about what steps he must take to ensure that any investigation is article 2 compliant. Firstly, the instructions given by the Supreme Court were clear and comprehensive. No one should have any difficulty following them. We have set them out in some detail. Secondly, it does raise the issue, given the lengths to which Lord Kerr took to set out what was required, and given the decision of the judge at first instance (see below), as to whether there is a genuine bona fide appeal or an attempt to procrastinate in the hope that the difficult decision of whether the State colluded in the murder of PF will fall to be made by someone else or indeed a different Government, which is now the case.”

The court went further again when analysing the response of the government:

“[96] The court is driven to conclude that whatever way one looks at what has happened, the following conclusions can be reached with some degree of confidence:

(i) The Supreme Court gave clear instructions as to what was needed to have an article 2 compliant investigation.

(ii) Those comprehensive instructions for whatever reason have not been followed and this court will not attempt to improve upon them.

(iii) To date there has still not been an article 2 compliant investigation and waiting until the PONI process is completed in 2025 (at the earliest) was never going to be the answer.

(iv) The Secretary of State made insufficient effort to assess what further process(es) might be necessary after PONI had reported and how this could be achieved, and what the likely timescale(s) was going to be.

So, our Court of Appeal was clear. The government had not responded as they should have, there was still no effective investigation, so what was to be done? Where we going to have yet another damning judgment under our arm, and hope that, by now, a new British government would do the right thing? And it is in this context, it is the court's directions which proved so significant.

Having excoriated the government's position, they directed that the government must find agreement with our family within 3 weeks on an Article 2 compliant process. In the absence of agreement, both parties, the government and ourselves, would submit what they felt was the best Article 2 compliant process and then the court would direct which one would require to be established.

Just 1 week after the British general election, and a day before a holiday in the north of Ireland, the significance was perhaps lost on the media and others, but certainly not ourselves, for it is exactly this judgment which we believe has led to the British government realising that they must finally establish an inquiry, when they made the announcement to the House of Commons on September 11th.

So, this is where we now find ourselves, in unfamiliar but welcome territory. We are no further on with regards details of an inquiry, from the announcement itself, but this is not necessarily something we would criticise, for we want to see that everyone is committed to doing this correctly, rather than expeditiously.

Our focus, and indeed the focus of those who have supported our call for an inquiry, must now be on ensuring this process is credible, transparent and capable of gaining the trust and endorsement of those who have recognised its need. My mother and I were asked just last week what we wanted from an inquiry, and indeed this is something which we are all giving deep thought and consideration to, but some points are obvious.

We want an inquiry to be independent from government and free to make its own determinations and recommendations. We feel this inquiry needs to be led by an independent judicial panel, complimented by the key appointments to an inquiry, such as Counsel to the Inquiry, Solicitor to the Inquiry and Secretary to the Inquiry also being independent and committed to ensuring the terms of reference are implemented, and followed fairly and sensibly.

Terms of reference which I have just mentioned are also critical. We look forward to engaging with the British government and indeed the inquiry itself on these, for they will

be crucial in determining from the outset the inquiry's ability to examine all of the circumstances leading up to, and following, my father's murder.

We know that collusion existed, we know it was widescale and we have had a British Prime Minister apologise for this. However, we will meet this inquiry with no pre-conceived expectations. What we want is what we have always asked for, and that is something which is fully independent and transparent, and capable of finding out all of the details as to what happened and ensuring recommendations are made to ensure a policy of murdering your own citizens is never allowed to happen again.

As with all stages of our campaign, this is a battle we know we will not be facing alone. American involvement and guardianship of our peace process has proved both pivotal and necessary at times, and so too does this apply when we look at how we are dealing with our past, and in particular the case of Pat Finucane.

Now more than ever, we need you and your colleagues being that critical friend to the British government, impressing on them not to waste or undermine this opportunity to finally examine what they described in their own words as "one of the darkest chapters from their military history".

We thank you again for the invite to speak with you today, and your continued support up to this point and in the time ahead.