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Submission
to
Joint Committee on Human Rights
on the
Northern Ireland Troubles Bill

(28th November 2025)

The Ulster Human Rights Watch (UHRW) was created in 2001 and its Chairman is Robert Campbell. The UHRW upholds and promotes human rights and fundamental freedoms and has been recognised as a major human rights organisation in Northern Ireland.

The work of the organisation has expanded so as to justify the development of an Advocacy Service dedicated to working with victims of terrorism. Terrorism has been and remains a major issue in Northern Ireland and the Advocacy Service serves the interests of victims of terrorism in Northern Ireland and across the United Kingdom from whatever background.

Introduction:

This submission deals with (I) the findings of the UK Courts in relation to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, addressed in the Troubles Bill, (II) the "Relevant appointments" by the Secretary of State that threaten the independence of the Legacy Commission and the rights of victims of terrorism, (III) the Independent Commission on Information Retrieval (ICIR) and its compliance with article 2 of the ECHR, and (IV) the adverse impact of the lack of full Republic of Ireland cooperation on the Legacy Commission requirement to carry out Convention-compliant investigations.

I. The findings of the UK Courts in relation to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, addressed in the Troubles Bill

1. The High Court, the Court of Appeal of Northern Ireland and the Supreme Court of the United Kingdom have all recognised that the Independent Commission for Reconciliation and Information Recovery (ICRIR) has the potential to carry out investigations that are compliant with the European Convention on Human Rights, and in particular confirmed its independence.

2. The incompatibilities identified by the courts and needing to be addressed to ensure full Convention compliance were: the removal of all immunity provisions; and the need for proper arrangements to provide for the involvement of next-of-kin in investigation processes, by way of representation by lawyers of their choice and attendance at public hearings, while ensuring that there will be adequate disclosure of sensitive material held by the ICRIR. The courts also stated that restrictions on admissibility of material obtained by the ICRIR in civil proceedings and the barring of civil claims relating to the Troubles should both be removed.

3. Consequently, amendments to the legislation needed only to remedy these issues, which has been done through the Troubles Bill. Unfortunately, other provisions have been introduced in the Bill that raise serious concerns for the rights of victims of terrorism during the Troubles when dealing with the legacy of the past.

II. The "Relevant appointments" by the Secretary of State that threaten the independence of the Legacy Commission and the rights of victims of terrorism

4. Under the new arrangements the Secretary of State will have extensive powers to make the "relevant appointments" as follow:
   - two to five Commissioners, some with experience only outside of Northern Ireland;
   - two co-directors for investigation, one with experience of conducting criminal investigations outside of Northern Ireland;
   - members of the judicial panel;
   - three to seven members of the Victims and Survivors Advisory Group (Section 9(5)).

5. The criteria for choosing Commissioners, Directors and members of the judicial panel are not yet known and the concern is that they will not be made on the sole basis of merit. The Secretary of State will have the freedom to appoint and dismiss who he will, including members of the Judicial Panel. This appears to be a considerable threat to the independence of the Legacy Commission, which may be used to produce a particular outcome in relation to investigations carried out and "Memorialising the Troubles" (Part 4 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023).

6. The criteria to appoint members of the Victims and Survivors Advisory Group are not known, but the key issue that will determine whether the Group will protect, promote and defend the fundamental human rights of victims of terrorism is the definition of victim that will be used to appoint its members. Since the legislation will apply to the whole of the United Kingdom, the "interpretation" of victim, provided in the Victims and Survivors (Northern Ireland) Order 2006, which applies to perpetrators of acts of terrorism as well as to victims of terrorism in Northern Ireland, should not be relied upon, so as to ensure perpetrators of acts of terrorism are not appointed to the Group. Otherwise, this will have an adverse effect on the rights of victims of terrorism when determining the terms of reference for the Group (Section 8(7)) and the views given by the Group to the Legacy Commission and the Secretary of State (Section 8(8)).

7. It is therefore recommended that the definition used to appoint members of the 'Group' is that of victim of crime, which includes victim of terrorism, such as applies to England, Wales, Scotland and in Northern Ireland (Section 29 of the Justice Act (Northern Ireland) 2015) as well as in the Republic of Ireland (Criminal Justice (Victims of Crime) Act 2017). The definition of victim of crime, to the exclusion of perpetrators, is a sound foundation on which the Legacy Commission and the Victims and Survivors Advisory Group must be established. This will ensure that victims of terrorism are not discriminated against through a failure to acknowledge their status, which must not be confused with that of perpetrators, as this would result in a breach of their rights under Article 14 combined with Articles 2, 3 and 8 of the ECHR.

III. The Independent Commission on Information Retrieval (ICIR) and its compliance with article 2 of the ECHR

8. The Independent Commission on Information Retrieval (ICIR) is based on the example provided by the Independent Commission on the Location of Victim's Remains (ICLVR). It is a fact that the ICIR will not

be able to confirm as true and accurate whatever information they may receive. The ICIR, unlike the ICLVR, will offer no possibility for the families of those murdered to verify the information received.

9. Although the provision of information will not give the person immunity from prosecution (Section 73 (5)), any information provided will not be admissible in legal proceedings and may not be used by the Legacy Commission in connection with any investigation (Section 73 (6)(a) and (b)). Therefore, if any information is provided to the ICIR which could justify an investigation leading to a prosecution, but is now ruled to be inadmissible in criminal proceedings, this is likely to result in a breach of article 2 of the ECHR.

IV. The adverse impact of the lack of full Republic of Ireland cooperation on the Legacy Commission requirement to carry out Convention-compliant investigations

10. It is a well-known fact that the Republic of Ireland was used during the Troubles as a safe haven for terrorists, who used its territory to plan and prepare attacks carried out in Northern Ireland, and retreated there afterwards to avoid arrest, prosecution and conviction. Around 500 murders were carried out in the cross-border area and many of the most serious atrocities perpetrated in Northern Ireland were planned in the Republic of Ireland, where terrorists also found refuge[1].

11. Over many years the British authorities requested the extradition of perpetrators by the Irish authorities and their cooperation in pursuing criminal investigations. On many occasions the contribution of the Irish authorities has been minimal and they have failed to cooperate openly and fully with the British authorities in the investigation of multiple cases.

12. The Government of Ireland has indicated that they will create a dedicated unit within An Garda Síochána, but the ROI has so far refrained from setting up equivalent institutions mirroring those that exist in Northern Ireland for addressing the legacy of the past and delivering for victims of terrorism.

13. What is required from the Republic of Ireland is to cooperate with the Legacy Commission to the required standard, as do the various British agencies, who are under the obligation to make available all the information they hold in relation to any of the cases that will be investigated.

14. The serious and legitimate concern is that, in many cross-border cases, the lack of cooperation of the Irish authorities or the refusal to provide the required information will prevent the Legacy Commission from fulfilling its obligations under Articles 2 and 3 of the ECHR, in violation of the rights of victims of terrorism.

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[1] Many incidents carried out in Northern Ireland were planned and prepared by terrorists in the Republic of Ireland where they also found a safe haven such as in the cases of the Kingsmill, Narrow Water, La Mon Hotel, Enniskillen, Corry Square.