

# **THE IRISH GOVERNMENT AND DEALING WITH NORTHERN IRELAND CONFLICT LEGACY**

**OPENING STATEMENT TO THE JOINT  
OIREACHTAS COMMITTEE ON THE  
IMPLEMENTATION OF THE GOOD FRIDAY  
AGREEMENT**

**20 JUNE 2019**

**JUSTICE FOR THE FORGOTTEN**

We wish to state that we agree with all of the recommendations as set out by Dr. Leahy in his report. I will now comment on just a few of his recommendations.

1. **Recommendation No. 1:** Dr. Leahy recommends that the Irish Government should set up a parallel Historical Investigations Unit (HIU) to its proposed counterpart in Northern Ireland or, if not, an oversight committee, body or independent person(s) should be appointed to monitor the progress of Irish state institutions in investigating legacy cases.  
Justice for the Forgotten has consistently argued that such a body should be established as, to fail to do so, discriminates against families of victims of the conflict in this jurisdiction. They would be prevented from having access to the principal mechanism of the Stormont House Agreement. All victims of the conflict should be treated equally. This is particularly important for the families of the victims of the Dublin bombings of December 1972 and January 1973 and those of the Belturbet bombing of December 1972. These families have no other avenue available to them as complaints on their behalf to the Police Ombudsman for Northern Ireland were not accepted for investigation. As you will be aware, the PONI's remit extends only to misfeasance by former police officers. Our Government has, so far, been resistant to setting up this mechanism although at a meeting with An Taoiseach on 7 February 2019 he promised to examine the issue. We await the outcome of his examination. These legacy cases cannot be lumped in with ordinary criminal cases. You will be aware that the Northern Ireland Victims' Commissioner is fully supportive of this approach.
2. **Recommendation No. 5:** The Oral History Archive clearly needs to be accessible to potential contributors across Ireland.
3. **Recommendation No. 6:** With regard to the Irish Government holding its own consultation on the Stormont House Agreement, we believe it should await feedback about its role from the NIO consultation process and thereafter hold meetings with victims' groups and others.
4. **Recommendation No. 9:** Dr. Leahy recommends that the Irish Government should implement any outstanding recommendations from the Barron, MacEntee and Smithwick reports. There are certainly outstanding recommendations from the Barron reports that have never been implemented.
  - (a) In February 2005, the sub-committee of the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights recommended in their Final Report on the Dublin Bombings of December 1972 and January 1973 that aspects of the Garda investigations into the bombings of 1972 and 1973 and other issues in the period 1970-74 should be included in the Commission of Investigation into the Dublin/Monaghan bombings. This, however, did not happen.

- (b) Another recommendation from that report was that, because of the huge number of files in the Department of Justice that had not been made available to the National Archives of Ireland, a committee of independent academics should be appointed to advise the department. That committee was established but, in correspondence with Prof. Mary Daly who chaired the group and Prof. Eunan O’Halpin, who also served on the committee, we have been informed that it was suspended in 2009, allegedly due to the financial crisis at the time and has not resumed its work. The basis for setting up the group was to consider the release of files from the Department of Justice relating to British and loyalist violence during the 1970s. At the time the committee was suspended, they had reached only as far as the 1940s. Our understanding is that the failure to release files is in breach of the National Archives Act (1986).
- (c) In March 2006, the sub-committee of the Joint Oireachtas Committee on Justice, Equality, Defence and Women’s Rights recommended in their Final Report on the murder of Séamus Ludlow that two Commissions of Investigation with very specific terms of reference should be established into the case. I cannot think of a family in any legacy case in this jurisdiction that has been treated as badly by the state and Gardaí as the Ludlow family. This was acknowledged during the public hearings. Apologies were proffered to the family from two former Garda Commissioners, Pat Byrne and Noel Conroy, for the unconscionable failure to follow up a vital lead in the Garda investigation when the names of four suspects were made available to them. They also apologised for the failure to inform the family of the date of the Inquest and for allowing the Inquest to proceed in the absence of any family member. They also received apologies on these two aspects of the case from the then Minister for Justice, Michael McDowell. Despite these apologies, successive governments have refused to implement the recommended Commissions of Inquiry, one to deal with the investigation/ suspects and the other to examine the availability and location of documents.
5. **Recommendation No. 10:** Dr. Leahy recommends that the Irish Government should consider re-appointing a Victims’ Commissioner for the Republic of Ireland. We believe this would be a very positive move as it would provide victims with an opportunity of discussing all issues of concern with a dedicated person who would, in turn, be in a position to liaise with the appropriate government departments on their behalf.
6. **Recommendation No. 14:** Dr. Leahy states that private discussions between victims and survivors with members of the Irish state should continue to be organised and facilitated by peace and reconciliation organisations. We would add human organisations to that recommendation.

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**Justice for the Forgotten**