



*The untold stories of
Relatives, Victims, and Survivors*

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To all members of the Joint Committee on the Implementation of the Good Friday Agreement

A Chairde,

We understand that Pádraig Yeates and colleagues involved with his Truth Recovery Process (TRP) will present to you tomorrow. As a regional organisation supporting thousands of victims and survivors, we have several concerns about the TRP. Ultimately, and notwithstanding any good intention, in our considerable experience the TRP will ultimately damage victims, erode their rights, undermine accountable justice, and put beyond reach truth despite its title. It will add further harms for victims. Therefore, in advance we would like to submit the following brief written submission. Further, we would like to meet with the Committee when next in Belfast and would more formally like to present to the Committee in session at the Oireachtas.

The Good Friday Agreement (GFA) contains numerous references to human rights, justice and equality. Rights are the very spine of the GFA and appropriately so given that the conflict and ensuing political violence, from all sides, arguably stemmed from and had its roots in the denial (abuse) of human rights, justice and equality before the law.

Therefore, as a document the Agreement has provided agency to **ALL victims** of the conflict to use rule of law norms, standards, and the administration of justice, to address outstanding violations and seek proper legally compliant investigation, judicial scrutiny and remedy.

This is possible because the European Convention on Human Rights (ECHR) is incorporated into domestic legislation via the Agreement in the form of Human Rights Act (HRA) 1998.

Such agency has delivered to families where other processes have evidently failed.

The GFA signalled that no longer would impunity prevail, it could be lawfully challenged.

This new found agency signalled that rights – victims' rights – and accountable justice were no longer dependent on who the victims were and who the perpetrators were but rather based upon the democratic principle of universal rights. Rights no longer in the gift of others with power (often the perpetrators) - or as an act of political benevolence. These were now hard law rights.

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In the 25 years since the GFA families, NGO's and lawyers have worked collectively and collaboratively using the instruments of the Agreement to progress and realise truth and a form of accountable justice. This work has oftentimes been against powerful resistance by those responsible for abuse on all sides.

For example, one instrument has been the office of the Police Ombudsman under Dame Nuala O'Loan, Dr Michael Maguire, and currently Marie Anderson. Just some of the many reports delivered by this GFA institution include the Omagh Bomb, Operation Ballast (Mount Vernon, North Belfast), The Heights Bar Murders (Loughinisland, Co Down), Operation Greenwich (Northwest/ South Derry, North Antrim, & Donegal) Operation Shiloh (Attack at Dairy Farm Center, West Belfast), Operation Achille (Ormeau Rd Bookies & South Belfast) to the report last week into the murder and disappearance of independent councillor Pasty Kelly in West Tyrone.

Since the devolution of criminal justice and policing powers, in 2010, and the creation of the office of an Attorney General, another GFA institution, numerous inquests have been reopened. This form of judicial inquisitorial investigation has delivered and is delivering to numerous families including the vindication that not only were terrible wrongs committed and people killed but that also the good names characters of those killed, for the most part civilians, children, priests and mothers, were vilified in order to somehow justify the taking of life and injuring of others.

These inquests, some completed and many ongoing, include massacres such as Ballymurphy and Kingsmills. Others include ambush and shoot-to-kill operations against republicans, many unarmed, the killing of RUC members, and for the most part numerous civilians from both communities.

The successes of these processes for families cannot be overstated in terms of healing, recovery (including not just that of physically and therapeutic healing but also of historical memory), truth, and accountability within an official semi-judicial setting.

This work is officially correcting historical injustices, the legacies of which have cast a long and deeply traumatic shadow over the bereaved and grieving families and by extension whole communities and society. Not to mention the trans-generational effects which are very much present too.

These processes are beginning to, and have the potential to, end the perpetuity of long running sores and injustices lifting that dark shadow. They are working.

Righting such wrongs on all sides is crucially important.

Without the GFA none of this would be possible.

Attempts at other forms of remedy – i.e. notional truth recovery - simply will not suffice because at their core they rely solely on goodwill, benevolence, and acts of good faith from institutions, state and non-state parties to the conflict, to voluntarily come forward with information. To date there has been absolutely no demonstration of such a move – indeed, even with judicial powers of compellability before inquests, civil courts, and other processes such as the Police Ombudsman, tactics of avoidance, delay and obfuscation are commonplace.

To suggest that another forum would be more effective is folly. Such a process would be a case of marking your own homework. It's not acceptable. For example, the UK refused to cooperate with the Oireachtas Committee tasked with examining the Dublin/Monaghan

bombings. This is why both governments, and all the parties, settled on the legacy architecture agreed at Stormont House. That is why Article 2 is imperative.

In addition, this approach shifts the emphasis of power directly to the perpetrators taking away rights from victims. Therefore, victims lose the very agency enshrined in the GFA. This not only undermines the Agreement, but it places us all back to the very era that led to the conflict when rights were denied. This approach is flawed and open to abuse by vested interest.

Proposals that move us away from an Article 2 human rights compliant processes are tantamount to tearing-up the rights enshrined within the Agreement. This would destroy the very principle of the Agreement and its living, working, everyday relevance to victims. It would be akin to the current UK proposals.

Simply, this approach will not work. It is unacceptable.

The robustness, of independent judicial, inquisitorial, and investigative processes balance out the rights of all (Victims and perpetrators) and contain the real formula to deliver for victims.

This has been proven with Eames/Bradley, Haass/O'Sullivan and with the Stormont House Agreement. At their core these processes were designed as such, following exhaustive consultations, and in accordance with domestic and international law, treaties and conventions because they are the only workable way forward that affords rights to all and upholds and protects the GFA. And it is morally right.

Promoting, protecting and ensuring a process underpinned by rights and the rule of law is the only way forward. Not least after violent conflict where rights were so systemically violated.

These views have been echoed by many including the current head of the NI Human Rights Commission Alyson Kilpatrick, a leading barrister and recognised expert on Article 2.

Relatives for Justice and WAVE Trauma Center are the two largest NGO's working with victims and survivors on these Islands. In April 2022, in response to Pádraig Yeates and his Truth Recovery Process initiative, Sandra Peake OBE, the Director of WAVE, wrote in the *Irish News* Pádraig was "following the NIO playbook" and that "his proposals will give perpetrators power over victims and survivors".

Had the GFA not provided rights and agency to families then the aforementioned reports and inquests would not have occurred. Truth would still lie hidden with no light shining on it – no scrutiny, and no justice. No healing. No recovery. No hope for countless other families.

Without law we're dependent on the goodwill of those who did the killing to come forward. This is simply not logical, cannot work, and must be resisted.

As co-signatories of the Agreement the Irish government are guarantors with responsibilities. Should the UK proceed to enact under law its legacy bill then the Irish government must act to defend the rights afforded to all within the GFA, (HRA/ECHR), and not least the rights of **all victims**. Such an act would protect the GFA.

We believe such a move would find widespread support from across the community as the overwhelming majority of victims, their representative NGO's, human rights lawyers, legal academics, international human rights groups, and statutory authorities, are all in agreement that this proposed bill is wrong, unworkable, and should be withdrawn. This, notwithstanding universal political opposition.

Irish government action would also be a humanitarian act given that many aging relatives do not have the luxury of time to wait for outcomes in Strasbourg as this could take up to six years when one considers that the domestic courts, including the UK Supreme Court, must first be exhausted should a victims' family take a challenge. And that's not accounting for the delay and prevarication experienced to date by the UK and its various agencies when it comes to such cases. An inter-state case by Ireland would go directly to Strasbourg by-passing domestic courts effectively preventing delaying tactics.

We believe that the Joint Oireachtas/Parliamentary Good Friday Implementation Committee were right to say it would support the Irish government should it decide to take an inter-state case against the UK in the event of this legislation becoming law.

We urge the Joint Oireachtas/Parliamentary Committee not only continue to pursue the above objective in favour of **all victims** and in protecting the GFA but that it should reject the notion that another way – a voluntary perpetrator-centered led process - is possible. It is not. Otherwise, what is the point of human rights, law, due process, administration of justice, and international law agreements.

No matter how well intended others believe they may be the simple reality is they are adding more harm to victims. Pursuing a rights-based agenda – a democratic pathway – is the only way to deliver for **all victims**.

Dignity, rights, equality, justice, and hope were the themes of President Biden on his recent visit to Ireland – North and South. In the Oireachtas he echoed these very sentiments – these very principles.

The course the UK has set itself on with its legacy bill seeks to remove access to rights, law, and courts for victims. It denies justice and equality to all victims. It extinguishes hope for victims. It is undignified. This is precisely why the UK has been isolated across these islands, in the US, and throughout the democratic world.

If passed into law the UK legacy bill will not be a full stop. It will merely, regrettably, open another chapter adding additional barriers for families – prolonging their suffering, agony and removing their agency for accountability for egregious wrongs.

Removing those barriers must involve the collaborative work of the Joint Committee and the Irish government. **In such a scenario the Irish government must become the agency for all victims. Strasbourg is key to such agency.**

Finally, we reiterate the live and real-life relevance of the GFA to victims must not be extinguished. It must be fostered, promoted, and protected. This has been the very work of the Joint Oireachtas Committee, for which we are grateful. We urge you to continue this vitally important work.

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