



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

REFERENCE:GH/fup-122

18 April 2018

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 8 and 9 of the concluding observations on the report submitted by the United Kingdom of Great Britain and Northern Ireland ([CCPR/C/GBR/CO/7](#)), adopted by the Committee at its 114th session in June-July 2015.

On 23 August 2016, the Committee received the reply of the State party. At its 122nd session (12 March-6 April 2018), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Report on follow-up to concluding observations (see [CCPR/C/122/3](#)). I hereby attach a copy of the relevant section of the said report (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. The Committee requests the State party to provide this information in the context of its next periodic report due on 24 July 2020.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Mauro Politi'.

Mauro Politi
Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

His Excellency Mr. Julian Braithwaite
Ambassador
Permanent Representative
Email: geneva_un@fco.gov.uk

Report on follow-up to concluding observations of the Human Rights Committee, CCPR/C/122/3:

Assessment of replies¹

- A Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
- B Reply/action partially satisfactory:** The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.
- C Reply/action not satisfactory:** A response has been received, but action taken or information provided by the State party is not relevant or does not implement the recommendation.
- D No cooperation with the Committee:** No follow-up report has been received after the reminder(s).
- E Information or measures taken are contrary to or reflect rejection of the recommendation**
-

United Kingdom of Great Britain and Northern Ireland

Concluding observations:	CCPR/C/GBR/CO/7, 21 July 2015
Follow-up paragraphs:	8 and 9
Follow-up reply: ²	23 August 2016
Committee's evaluation:	Additional information required on paragraphs 8[B][C][C][C][C] and 9[C][C][C]
Information from non-governmental organizations:	Committee on the Administration of Justice, 7 June 2017 ³

Paragraph 8: Accountability for conflict-related violations in Northern Ireland

The State party should:

(a) Ensure, as a matter of particular urgency, that independent, impartial, prompt and effective investigations, including those proposed under the Stormont House Agreement, are conducted to ensure a full, transparent and credible account of the circumstances surrounding events in Northern Ireland with a view to identifying, prosecuting and punishing perpetrators of human rights violations, in particular the right to life, and providing appropriate remedies for victims;

(b) Ensure, given the passage of time, the establishment and full operation of the Historical Investigations Unit as soon as possible; guarantee its independence, by statute; secure adequate and sufficient funding to enable the effective

¹ The full assessment criteria are available at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf.

² See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fAFR%2fGBR%2f24948&Lang=en.

³ See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fGBR%2f27639&Lang=en.

investigation of all outstanding cases; and ensure its access to all documentation and material relevant to its investigations;

(c) Ensure that the Legacy Investigation Branch and the Coroner's Court in Northern Ireland are adequately resourced and are well positioned to review outstanding legacy cases effectively;

(d) Reconsider its position on the broad mandate of the executive to suppress the publication of inquiry reports under the Inquiries Act 2005;

(e) Consider launching an official inquiry into the murder of Patrick Finucane.

Summary of State party's reply

(a) The Stormont House Agreement, reached in December 2014, includes measures that will provide a new approach in dealing with the legacy of the past in Northern Ireland, and proposes the creation of four new institutions:

(i) The Historical Investigations Unit — an independent body to take forward outstanding investigations into Troubles-related deaths;

(ii) The Independent Commission on Information Retrieval, which will enable victims and survivors to seek and privately receive information about the Troubles-related deaths of their next of kin;

(iii) An Oral History Archive — a central place for people to share experiences and narratives related to the Troubles;

(iv) The Implementation and Reconciliation Group, which will promote reconciliation and anti-sectarianism and will review and assess the implementation of the other legacy institutions proposed in the Stormont House Agreement.

(b) The Historical Investigations Unit will be an independent body that will consider all outstanding cases under investigation by the Police Service of Northern Ireland's Historical Enquiries Team and the Police Ombudsman for Northern Ireland (as of 31 July 2016, there were in the region of 1,700 such cases) and will also provide dedicated family support staff and involve the next of kin in the process. Oversight will be provided by the Northern Ireland Policing Board, and the Historical Investigations Unit will be structurally and operationally independent from the police. The Government of the United Kingdom will make full disclosure to the Historical Investigations Unit (legislation to that effect is required from the United Kingdom Parliament).

The proposed legacy mechanisms were discussed further as part of the Fresh Start negotiations, but no final agreement was achieved at the time of conclusion of the Fresh Start Agreement on 17 November 2015. Therefore, legislation establishing the new mechanisms was not taken forward in autumn 2015, due to lack of consensus. Such legislation requires the explicit consent of the Northern Ireland Assembly and will thus not advance until its support can be secured.

Additional funding, of £150 million, will be available for the Stormont House Agreement measures for addressing the past.

(c) The financial packages to support the cross-party Stormont House Agreement and Fresh Start Agreement are due to deliver around £2.5 billion of extra spending power to the Northern Ireland Executive to help it deliver across its priorities, including the legacy of the past.

The Department of Justice has responsibility for resourcing the Police Service of Northern Ireland and the Police Ombudsman for Northern Ireland's Historical Unit. The Historical Investigations Unit, when established, will take on the vast majority of the legacy cases that currently sit with the Police Service of Northern Ireland and the Police Ombudsman for Northern Ireland's Historical Unit.

The State party is also committed to working with the Lord Chief Justice and to support the Northern Ireland Executive in reforming legacy inquests to better support the delivery of investigations that comply with article 2 of the European Convention on Human Rights.

(d) The State party addressed the role of the executive in withholding material in an inquiry report in its response of June 2014 to the House of Lords Select Committee on the Inquiries Act 2005. It considers that section 25 provides a clear framework for when information may be withheld and that the executive must have such power.

(e) The de Silva review was the most effective way of establishing the truth in the case of Patrick Finucane. The Prime Minister of the United Kingdom apologized in person for the State collusion that had taken place in the death of Mr. Finucane. The decision not to hold a public inquiry was upheld in the first instance in June 2015, and was under appeal.

Information from non-governmental organizations

Committee on the Administration of Justice

(a) There was no progress in the implementation of the legacy mechanisms under the 2014 Stormont House Agreement.

The independent mechanisms of the Police Ombudsman and the coroners' courts have continued to deal with a small number of cases but budget cuts and the withholding of resources have limited their work. There have also been a number of Police Service for Northern Ireland investigations into legacy deaths.

These investigations resulted in the first-ever charges being pressed for conflict-era legacy killings, against three soldiers in two cases. The non-governmental organization (NGO) reports significant criticism from the media, security forces and the political establishment, including from British Cabinet ministers, with misleading propaganda alleging disproportionate judicial bias in legacy inquiries, and political attacks on lawyers and NGOs. There has also been considerable criticism of lawyers and law officers, most notably the Director of Public Prosecutions, who announced his resignation in May 2017.

As at 7 June 2017, there was not a single conviction of a member of the security forces as a result of a legacy investigation.

In April 2017, the Defence Committee of the United Kingdom Parliament published an inquiry report calling for an amnesty (framed as a "statute of limitations") covering all conflict-related incidents until 1998 involving members of the armed forces. It also sought a truth-recovery mechanism and urged the Government to consider extending such an amnesty to the police and other security personnel, leaving the determination as to whether such an amnesty should cover all conflict-related incidents to a future government.

(b) No legislation to establish the Historical Investigations Unit and other legacy bodies from the Stormont House Agreement was introduced in Parliament. The key obstacle in the draft bill was the ministerial national security veto that would prevent disclosure in family reports of any material relating to the actions of intelligence services or intelligence branches of the police and the military (allowing the concealment of practices of informant-based collusion with paramilitary organizations).

There was no public consultation on Stormont House Agreement legislation despite the State party's commitment to do so.

(c) Following a review of all outstanding legacy cases by Lord Justice Weir in January 2016, the Lord Chief Justice of Northern Ireland proposed the establishment of a new legacy inquest unit and completion of the existing legacy inquest caseload within a period of five years subject to the support of a properly resourced Legacy Inquest Unit in the Northern Ireland Courts and Tribunals Service, the cooperation of the relevant justice bodies, and availability of the resources required. The caseload was to be taken forward in



September 2016, however the Government of the United Kingdom withheld funding through the introduction of a precondition of consensus between the main Northern Ireland political parties before resources were released. A further precondition that no monies would be released unless and until the Northern Ireland political parties reached a deal on overall legacy matters was introduced in March 2017.

(d) The powers of ministers to suppress publication of Inquiries Act reports has been retained and the United Kingdom has declined to reconsider them.

(e) The commitment to a public inquiry into the murder of Mr. Finucane made in the 2001 Weston Park Agreement remains unimplemented. On 14 February 2017, the Court of Appeal in Northern Ireland upheld the decision not to hold a public inquiry, and an appeal was lodged with the Supreme Court.

Committee's evaluation

[B] (a): The Committee notes the information on first charges for conflict-era legacy killings against three soldiers as reported by the NGO, and requires updated information on the outcome of those cases and on any other prosecutions for conflict-related human rights violations secured by investigative mechanisms as well as on eventual convictions and reparations provided to victims.

The Committee also notes with concern the proposed enactment of a statute of limitations covering all Troubles-related incidents, and requires updates on any relevant developments concerning the initiative, including on any draft or adopted legislation to that effect, its content and its compliance with Covenant obligations.

[C] (b): The Committee takes note of the framework for addressing the legacy of the past in Northern Ireland under the Stormont House Agreement of December 2014, but regrets the lack of progress in establishing the four institutions, in particular the Historical Investigations Unit, and the negative impact that such delay may have on conducting independent, impartial, prompt and effective investigations into the conflict-related human rights violations in Northern Ireland. The Committee requires additional information on: (a) any draft bill or adopted legislation establishing the Historical Investigations Unit and other legacy bodies and any public consultations on such legislation; (b) the independence and impartiality of the Historical Investigations Unit and how its investigations satisfy the standards under the Covenant; (c) allocation of adequate resources to enable it to carry out its mandate effectively; (d) access to information and full disclosure by the Government to the Historical Investigations Unit, including any national security exceptions to such disclosure and their compatibility with State party's obligations under the Covenant; (e) progress made by the Historical Investigations Unit in investigating cases falling under its remit (if applicable). The Committee reiterates its recommendation.

[C] (c): The State party provided no specific information on measures taken to ensure that the Legacy Investigation Branch within the Police Service of Northern Ireland and the Coroner's Court in Northern Ireland were adequately resourced and were well positioned to review outstanding legacy cases effectively. While welcoming the proposal by the Lord Chief Justice of Northern Ireland of a dedicated legacy inquest unit to address the backlog of legacy inquests, the Committee regrets that the resources necessary for its establishment and operation have not been provided. The Committee reiterates its recommendation.

[C] (d): The Committee regrets that the State party has not reconsidered its position on the broad mandate of the executive to suppress the publication of inquiry reports under the Inquiries Act 2005. The Committee reiterates its recommendation.

[C] (e): The State party has not considered conducting an official inquiry into the murder of Patrick Finucane. The Committee also notes that the decision not to hold a public inquiry is the subject of judicial review by the Supreme Court, and it requires information on the outcome of appeal proceedings and on any other measures taken to implement its recommendation. The Committee reiterates its recommendation.

Paragraph 9: Accountability for human rights violations committed by British forces abroad

The State party should:

(a) **Ensure that the proceedings before the Intelligence and Security Committee of Parliament meet the requirements of the Covenant, including an adequate balance between security interests and the need for accountability for human rights violations, and consider initiating a full judicial investigation in all relevant detainee cases;**

(b) **Address the excessive delays in the investigation of cases dealt with by the Iraq Historical Allegations Team and consider establishing more robust accountability measures to ensure prompt, independent, impartial and effective investigations;**

(c) **Ensure that the allegations in connection with Camp Nama are thoroughly, independently and impartially investigated.**

Summary of State party's reply

(a) The inquiry by the Intelligence and Security Committee of Parliament in relation to detainee treatment and rendition is under way, and the timetable for the inquiry is a matter for the Intelligence and Security Committee.

(b) The State party elaborates on the activity of the Iraq Historic Allegations Team established in 2010, including on its investigative strategy.

(c) Allegations that British armed forces personnel transferred detainees into the custody of, or were present during interrogations by, forces of the United States of America, at Camp Nama and other so-called "black sites", were known to the Iraq Historic Allegations Team. However, as at 23 August 2016, it had not yet been able to identify Camp Nama with a particular location, because a number of the facilities operated by forces of the United States were known by various designations. Any credible allegations will be investigated.

The State party did not maintain any site that could have been called a "black site".

Committee's evaluation

[C] (a): The Committee notes that the Intelligence and Security Committee's inquiry into human rights violations committed by British forces abroad is still ongoing. The State party provided no information on measures taken to ensure that proceedings before the Intelligence and Security Committee met the requirements of the Covenant, including an adequate balance between security interests and accountability for human rights violations, nor on whether consideration had been given to initiating a full judicial investigation in all relevant detainee cases. The Committee reiterates its recommendation.

[C] (b): The Committee notes from publicly available information that the Iraq Historic Allegations Team officially closed on 30 June 2017, and that the remaining investigations have been taken over by Service Police Legacy Investigations. It requires clarification on the independence and impartiality of Service Police Legacy Investigations and its capacity to conduct prompt, independent, impartial and effective investigations; and information on: (a) the outcome of investigations undertaken by the Iraq Historic Allegations Team until its closure; and (b) the number of cases transferred to Service Police Legacy Investigations and the progress of the investigations. The Committee reiterates its recommendation.

[C] (c): The Committee regrets the State party's assertion regarding the inability to identify Camp Nama with a particular location and the lack of specific information on measures taken to investigate the allegations in connection with Camp Nama thoroughly, independently and impartially. The Committee reiterates its recommendation.



Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report: 24 July 2020