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“Northern Ireland: Insufficient Attempts to Deal With the Past”

March 11, 2014

Rep. Chris Smith (NJ-04), Chair

*Joint Hearing of House Subcommittee on Africa, Global Health,
Global Human Rights, and Int'l Organizations
and the Subcommittee on Europe, Eurasia and Emerging Threats*

Welcome to everyone joining us this afternoon, in particular to many friends who are testifying today, and to others whom I see in the room.

Today we will inquire into the Northern Ireland peace process, particularly that aspect of it which is called “dealing with the past.”

Sadly, much of what we will hear about amounts to failures to deal with the past, as in the rejection of the recent proposal made by Dr. Richard Haass. Dr. Haass served as Chair of the Panel of Parties in the Northern Ireland Executive – that is, he was asked to assist in brokering an agreement to move the peace process forward. In that capacity Dr. Haass spent months consulting and formulating a proposal. In the end, the proposal was not accepted by all of the parties, though it clarified where progress can be made and where sticking points remain.

One of the most important questions that Dr. Haass and the parties dealt with is what will be done with the Historical Enquiries Team (HET) and the Police Ombudsman of Northern Ireland (PONI) – two key bodies established by the Good Friday agreement to investigate unsolved murders.

We’ll discuss the Dr. Haass’s proposal to replace the HET and PONI with a Historical Investigations Unit and Baroness O’Loan’s suggestion to replace them with a rather different Investigative Commission during the hearing. For now I want to underline this: both agree that the status quo way of dealing with Troubles crimes should be replaced. Likewise the parties in the Northern Ireland executive reportedly agreed with this aspect of Dr. Haass’s proposal. So the agreement is broad on this point. It’s time to move to a better system.

As Dr. Haass's proposal stated: "The multiplicity of institutions and vehicles for justice in respect of conflict-related incidents, however, creates confusion and places enormous burdens on the police. The HET, PONI, and inquests also suffer from the perception that they have proceeded too slowly."

The facts alone tell this story: of the more than 3,000 Troubles-related deaths that occurred between 1968 and 1998, the HET has yet to review some 600 cases, involving 800 deaths.

Dr. Haass's proposed Historical Investigations Unit has much to say for it – by establishing a single unit with full investigative power it would eliminate the overlaps, contradictions, and waste of resources in the mandates of the HET and PONI.

Likewise the suggestion of Baroness O'Loan – who served very successfully as Police Ombudsman from 2000 to 2007 – for an Investigative Commission that would be a "totally independent investigative fully empowered and fully resourced body ... with a remit to examine any Troubles related cases involving death up to 2006..." Lady O'Loan's proposal emphasizes the need for an unimpeachably independent agency in order to win the trust of both communities.

In any case Dr. Haass's proposal remains extremely important on all points – those involved most closely in the peace process have expressed their confidence that it accurately reflects the current divisions and positions of the parties, and will likely serve as an important basis for future discussions.

We'll also hear today about the Finucane case and the British Military Reaction Force. These aspects of 'dealing with the past' were not covered by Dr. Haass proposal to the Northern Ireland political parties – because they deal with matters that are the responsibility of the British government.

First, the British government's failure to conduct the promised inquiry into collusion in the 1989 murder of Patrick Finucane. The British Government has a solemn obligation to initiate the full, independent, public, judicial inquiry that was agreed as part of the overall peace settlement in Northern Ireland during the Weston Park negotiations in 2001. This obligation, which was undertaken by both governments as part of the Belfast Agreement – one of the outstanding diplomatic achievements of recent decades – was an extremely serious undertaking. In order for the peace process to move forward, the British government must honor it.

While Prime Minister Cameron admitted to "shocking" levels of collusion between the state and loyalist paramilitaries in the murder of Patrick Finucane, and apologized to the Finucane family for it, this does not substitute for a full exposition of the facts behind the British State's involvement in the murder. Rather the steady increase in the amount of evidence being revealed publicly that the British State colluded with the killers has made honoring that commitment more important than ever.

The British Government committed to implement the recommendation of a judge of international standing on six inquiry cases; in 2004, Judge Peter Cory recommended a public

inquiry in the case of Patrick Finucane. To date, it remains the only case investigated where the recommendation has not been honored, a situation that is deeply unsatisfactory for many reasons but not least because it is evidently the one where the British Government is most culpable. Conversely, it is also the case in which – until the Prime Minister’s announcement in December 2012 – there has been the greatest level of sustained official denial by various state agencies.

The many previous denials and time that has passed have drained public confidence in the peace process and diminished respect for the rule of law in Northern Ireland. It must be said that there are those who oppose the peace process and their opposition is dangerous. The failure to address the case of Patrick Finucane in the manner promised by the British Government provides a readily available propaganda tool for those who would abuse it to further their own ends. In our view, this represents yet another reason why the Finucane case is one of the most important unresolved issues in the peace process.

Second, there is the matter of killings committed by the British Army’s Military Reaction Force. From approximately 1971-1973 the British Army ran an undercover unit of approximately 40 soldiers, who operated out-of-uniform and in unmarked cars, mostly around Belfast.

On November 21, 2013, the BBC program *Panorama* aired a documentary in which former members of MRF broke silence on aspects of the unit’s operations, confirming what many had suspected for a long time. The BBC reported that, “we’ve investigated the unit and discovered evidence that this branch of the British states sometimes... shot unarmed civilians.”

The BBC spoke to seven former members of the MRF, and though the men were careful not to incriminate themselves or each other in specific killings, they made plain that, as *The Independent* fairly characterized the report, “The unit... would carry out drive-by shootings against unarmed people on the street without any independent evidence they were part of the IRA.”

As one of the former members admitted to the BBC, “We were not there to act like an army unit – we were there to act like a terror group.”

Now the onus is on the British government to investigate and punish these crimes. The British Ministry of Defense has said that it has referred the matter to the police for investigation. Unfortunately, the BBC reported that “these soldiers were undercover, and what they did has been airbrushed from the official record.”