

**Joint Committee Briefing and Hearing:
“The Northern Ireland Peace Process Today: Attempting to Deal with
the Past”**

House Committee on Foreign Affairs
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
Subcommittee on Europe, Eurasia, and Emerging Threats

11 March 2014

Written Statement

Julia Hall

**Expert on Criminal Justice and Counter-Terrorism
Amnesty International**

Mr. Chairman, and members of both subcommittees, thank you for holding this important and timely hearing and for inviting me to testify today on behalf of Amnesty International.

Mr. Chairman, last November the *New York Times* opined that although much “good in safety and sanity has flowed from the Good Friday Agreement,” there is “no need to draw a curtain on a lethal past that clearly remains deeply relevant for the people of Northern Ireland.” This editorial was in response to the notion that perhaps there should be no further investigations or prosecutions for crimes committed in the course of the Troubles. Recognizing the very real human suffering that people had endured, however, the Times’ editorial board quoted Amnesty International’s Patrick Corrigan, who said that such a cap on accountability was “an utter betrayal of victims’ fundamental right to access to justice.”

The people at this table and Baroness O’Loan have worked tirelessly to get at the truth and to give victims and survivors of the political violence in Northern Ireland such a route to justice. Special recognition must be given as well to the nongovernmental organizations who have worked with the families of individuals killed in the course of the violence and those who have been injured. Northern Ireland is richly endowed with a vibrant civil society composed of many organizations focusing on these victims’ needs; they play a vital role, one that has helped keep alive the search for truth, accountability, and effective redress for victims and their families.

Mr. Chairman, the signing of the Good Friday Agreement on April 10th, 1998 signalled a turning point in the history of Northern Ireland and there is no doubt that fifteen years on, remarkable progress has been made in moving towards a more peaceful future. However, the ongoing failure to deal with Northern Ireland’s shared, but difficult past has had consequences for both individuals and society-at-large. At the individual level, decades after their relatives were killed and after 15 years of relative peace, many families from across communities in Northern Ireland are still searching for the truth and for justice and for accountability. The legacy of the past, however, affects not just individual victims, but society as a whole. The failure to grapple with the legacy of the past has created fertile ground for continued division and mistrust, undermining progress towards a shared future. Writing in *The American Scholar* in 2011, Duke

University Professor Robin Kirk noted that “Belfast is one of the most segregated cities in the world, an occasionally Molotov-cocktail bombed landscape of ‘interfaces’ and ‘peace walls’ that have grown higher, longer, and more numerous...since the Good Friday Agreement.”

The Good Friday and subsequent agreements, in taking on the huge and important work of building new political institutions, did not provide the tools or create the bodies or processes to fully grapple with the pain, anger, and hurt that are inevitably the legacy of decades of violence and conflict. The piecemeal, inefficient and most importantly ineffective bodies currently tasked with dealing with the past have not proven equal to the task. This failure to establish a process that complies with international human rights standards lies squarely at the feet of the UK government, which has avoided the issue of accountability to serious negative effect. As a result, the past continues to haunt Northern Ireland’s government, institutions, and people, creating division and mistrust that will undoubtedly set the stage for more conflict.

In 2012, Amnesty International decided to take the opportunity of the then-impending fifteen year anniversary of the Good Friday Agreement to examine what mechanisms existed in Northern Ireland to investigate past human rights abuses by non-state actors and violations by the state. We subsequently released the first major research report on Northern Ireland by an international human rights organization in over a decade. Titled “Northern Ireland: Time to Deal with the Past,” this September 2013 report assessed these investigatory bodies -- the Historical Enquiries Team (HET), the Office of the Police Ombudsman for Northern Ireland (OPONI), the Police Service of Northern Ireland (PSNI), select coroner’s inquiries, and public inquiries, such as the one Geraldine Finucane has been fighting for for 25 years -- in light of international human rights law and standards, and the degree to which they were delivering justive and redress for victims. We were deeply disappointed with what found.

I respectfully request that the report, copies of which we have available here today, be formally entered into the record.

In the course of our research, Amnesty International representatives interviewed dozens of victims and their families, from across the community – Catholic and Protestant, Nationalist and Unionist, Loyalist and Republican, and unaligned. And while each person had his or her own story and perspective, there was a common clarion call among the majority for political leaders to give greater priority to victims’ quests for truth, justice, acknowledgment and support. As one family member told us, “It’s a good thing there is peace. We suffered...but I still want to know the truth about what happened to my son; and I want the world to know what happened in Northern Ireland.”

The central overarching finding from our research, however, is that the approach to dealing with the past in Northern Ireland is not adequate; it too often has let victims down and critically, it does not fulfil the United Kingdom’s human rights obligations. We have identified two key problems with the current approach. The first is at the level of the individual mechanisms that have been established or directed to investigate past violations and abuses. Victims and families who engaged with these mechanisms reported a range of experiences. Although some reported that these mechanisms have worked adequately in their specific case and delivered a satisfactory report, by and large those we interviewed told us how these bodies or processes have failed to conduct prompt, thorough and effective investigations in an independent and impartial manner, in line with the UK’s international human rights commitments. Repeated investigative failures across the mechanisms have crucially undermined confidence and trust in their ability to deliver the truth about the past.

The second more pressing point is that even if all these mechanisms were operating in full compliance with their mandates, the piecemeal approach to investigations adopted in Northern Ireland is too diffuse to provide a comprehensive picture of all the violations and abuses that occurred during the decades of political violence. As a result, much of the truth remains hidden, while those in positions of responsibility consequently have remained shielded. These limitations have also contributed to a failure to develop a shared public understanding and recognition of the abuses committed by all sides. Moreover, the near singular focus on the investigation of killings and suspicious deaths has also meant that people who were injured as a result of life-threatening attacks or who were subjected to torture and other ill-treatment have virtually been excluded.

The mechanisms' focus on individual cases has limited the possibility for thorough examinations of patterns of abuses and violations that occurred during the conflict. For example, although armed groups were responsible for the vast majority of deaths and other human rights abuses, the details of their operations remain unclear and under-investigated. There needs to be a more thorough and comprehensive approach to the investigation of abuses by armed groups, into their institutional culture, and their policies and practices. Where there is solid evidence, those allegedly responsible for crimes must be held accountable in full and fair trials.

The role and actions of particular UK state bodies and agencies have also not been subject to effective investigation, nor has sufficient scrutiny been given to the investigation of state policy or state-sanctioned practices and whether they deliberately or indirectly gave rise to unlawful conduct. For instance, state collusion with Republican and Loyalist armed groups is one of the critical issues that has yet to be addressed effectively by existing mechanisms, and as a result, key questions remain regarding the degree and level of collusion that took place. Even in the few cases where the government has acknowledged that collusion occurred, as in the case of Patrick Finucane, the victims' families still do not have the full truth – and no one in higher levels of government has been held accountable.

Our report concludes that one overarching mechanism should be established to address the past in a comprehensive manner. We emphasize that it should be victim-focused and, among other things, empowered to investigate individual cases and patterns of abuses and violations; and where sufficient evidence exists there should be the possibility of bringing those responsible to justice. It should have powers to compel witnesses and documents, and be able to make recommendations aimed at securing full reparation for victims. We believe that such a mechanism would be an important step toward the currently existing environment of impunity for human rights violations and abuses in Northern Ireland, and allow for public recognition and understanding about the harm that was inflicted by all sides, and thus, possibly, set the stage for healing.

As you have heard today, Mr. Chairman, in September 2013 the five Executive parties in Northern Ireland began talks, chaired by Dr. Haass, in relation to three issues of contention, including how to deal with the past. Although Dr. Haass still awaits consensus by the parties with respect to his recommendations, Amnesty International believes that the Haass draft proposals on dealing with the past – specifically the proposals to establish two new mechanisms, the Historical Investigation Unit (HIU) and the Independent Commission for Information Retrieval (ICIR) – are a positive step forward. The proposals will need to be refined to ensure that these mechanisms operate in compliance with international human rights standards, but they provide a solid basis from which to proceed with efforts to deliver truth and justice for victims and their families.

Crucially, however, these draft proposals at the moment remain just that – draft proposals. It is crucial that all the stakeholders in a peaceful Northern Ireland do not let yet another opportunity for progress slip by due to lack of political will and vision. The Haass proposals represent a sensible and forward looking approach, with the promise to deliver truth and justice for victims and their families. Amnesty International is deeply concerned, however, that the Haass proposals on dealing with the past may be held hostage to the lack of agreement on other contentious and sensitive issues, or may fall victim to inaction in the face of other disagreements among the parties. Amnesty International has urged the Northern Ireland political parties, and the UK and Irish governments, to play their part in taking the proposals on the past forward as a matter of priority.

And a final call, Mr. Chairman, to the government of the United States, which was a key actor in helping to broker the Good Friday Agreement and remains to this day one of the custodians of the peace in Northern Ireland. The US government and other US political actors, many of whom sit on the two subcommittees sponsoring this hearing, have an incredibly important role to play at this critical juncture. We urge the friends of Northern Ireland among you to call for real and substantial progress on delivering a comprehensive approach to the past. As the Haass draft Agreement itself emphasizes, the time to rise to the challenge of the past is now, because *“Northern Ireland does not have the luxury of putting off this difficult, but potentially transformative, task any longer.”*

Thank you.