

Northern Ireland Legacy – How to Comply with International Human Rights Law

The UK government's new legacy plans for Northern Ireland – specifically, [for a mechanism to recover evidence and information about the past, an oral history archive and a so-called 'statute of limitations'](#) for prosecutions – will violate international law if implemented.

Under the European Convention on Human Rights and the Human Rights Act 1998, the UK must ensure that the government investigates potentially unlawful killings and other serious human rights violations. These investigations must be 'effective,' [meaning that they must be:](#)

- **Conducted independently:** This means the agency or person investigating the possible human rights violations must not be connected to the alleged perpetrators or the victims.
- **Adequate:** The investigators must have the resources and powers they need to gather evidence and, ultimately, to determine the facts of the case and whether any criminal offence has been committed.
- **Prompt:** The investigation must begin swiftly and there must be no unjustified delays in the process.
- **Transparent:** Victims and their families should be involved in the process, whilst the public should have access to up-to-date information about the progress of the investigation.

International human rights law does not require any particular type of investigation, such as a criminal prosecution – [except in the case of torture, genocide, war crimes or crimes against humanity](#) – but instead focuses on ensuring that the steps taken are effective. However, human rights experts today widely agree that governments must not automatically rule out criminal investigations or prosecutions.

The UK government's new Northern Ireland 'Legacy' proposals fall short of the UK's obligations under international human rights law. RSI has identified three main reasons for this:

- 1) New evidence is still readily available and could lead to criminal charges. [Additionally, many Troubles-related cases are still moving through the criminal justice system.](#) In international law, when evidence suggests that someone may be criminally responsible for a killing or other serious human rights abuse, the European Court of Human Rights and other sources agree that amnesties are prohibited. The UK government is labelling its proposal as a 'statute of limitations'. However, by stopping all criminal prosecutions and civil claims with no exceptions, it is creating an amnesty in reality.
- 2) The existing 'Legacy' mechanisms have frequently failed to meet the legal requirements for an 'effective investigation', [as UK and European courts have consistently held.](#) In international law, there is no reason to believe that the UK is allowed to escape its obligations because its past investigations have not been effective and have caused a delay.
- 3) When cases involve alleged killings, especially by agents of the state, the government should be even stricter about making sure the alleged crimes are investigated and perpetrators are held accountable. Instead, the UK government plans to give itself the power to use 'national security' exceptions to stop credible evidence of [state collusion](#) in alleged killings from becoming public knowledge. Under human rights law, the government might be allowed to withhold some information from the public domain on this basis – but it cannot use vague or overly broad 'national security' exceptions to avoid accountability.

RSI recognises that the current 'Legacy' system is not sustainable, but the government's proposal should not go ahead as planned. Instead, any Northern Ireland 'Legacy' mechanism must:

- Create accountability for human rights violations – and not create impunity.
- Reflect the views and interests of victims and their families.
- Be appropriately funded.
- Involve sufficient engagement by the government and other public bodies.
- Receive 'whole of government' support for its functioning.
- Have the power to order the full disclosure of facts and evidence, without being limited by overly broad national security exceptions.