

**Rights & Security International’s evidence to the Northern Ireland Affairs Committee
on the Northern Ireland Troubles Bill**

October 2025

Executive summary

While the government presents it as a solution for reconciliation, the Northern Ireland Troubles Bill (‘the Bill’) remains in direct conflict with the UK’s obligations to effectively investigate serious conflict-related crimes under Articles 2 and 3 of the European Convention on Human Rights (ECHR).¹ If implemented, the Bill will also fail to create a system of transitional justice in Northern Ireland that provides truth and justice, and in turn, contribute to reconciliation. In our view, the Bill:

- *Denies justice* by creating a system in which effective criminal investigations and prosecutions are unlikely.
- *Denies truth* by granting the state sweeping powers to conceal information under broad and potentially subjective or arbitrary ‘national security’ claims. The new Legacy Commission’s operational mechanics (especially the national security veto), as outlined in the Bill, could be misused to protect state actors from scrutiny.
- *Denies participation* by centralising power within a state-appointed and state-controlled body, while minimising the voices of those most affected.
- *Likely violates international law* by failing to meet the standards for effective investigations required by Articles 2 and 3 ECHR.²

The Bill offers an illusory form of ‘reconciliation’ that demands that victims accept a limited and state-controlled version of the truth in exchange for forgoing any realistic hope of justice. This is not a path to genuine reconciliation, but a recipe for continued grievance, alienation, and a perception that the state will decide who gets justice and who does not. Equally importantly, even the goal of reconciliation does not enable the UK to evade its legal obligation under the ECHR to carry out effective investigations in individual cases.

The Bill accentuates the belief among many victims that the UK government continues to perceive the conflict as a sectarian squabble rather than fully acknowledging its own role. Concerns about the state shielding itself from accountability are prompted by, *inter alia*, the national security veto and the Secretary of State for Northern Ireland’s (SSNI’s) control over the Legacy Commission.

¹ Northern Ireland Troubles Bill: <https://bills.parliament.uk/bills/4022>

² For an overview, see Rights & Security International, ‘The Human Right to Effective Investigations and Northern Ireland ‘Legacy’ Cases: A Legal Explainer’ (18 August 2021): https://www.rightsandsecurity.org/assets/downloads/210916_Legacy_Legal_Brief_Final.pdf.

We also encourage the Committee to refer again to:

- Rights & Security International’s March 2025 assessment tool ‘Holding the ICRIR to account: Key Performance Indicators for the investigatory body,’ which outlines what the UK government needs to do to create an investigatory body for Troubles-related crimes that complies with its obligations under the ECHR;³ and
- Our September 2025 submissions to the Committee regarding the UK-Ireland ‘Joint Framework’ for addressing the legacy of the past.⁴

Submissions

The UK’s obligations under Articles 2 and 3 ECHR

Article 2 ECHR, as interpreted by the European Court of Human Rights (‘ECtHR’), requires the UK government to ensure that any Legacy-related investigatory body:

- Is independent, meaning that it must be free from the influence (or possible influence) of people or entities whose conduct could become the subject of an investigation.⁵
- Is able to instigate investigations itself, i.e. without relying on victims, survivors or their families to do so.⁶
- Conducts adequate investigations, including by:⁷
 - Taking reasonable steps to obtain evidence;⁸
 - Having sufficient powers to secure all relevant evidence;⁹ and
 - Undertaking a thorough, objective and impartial analysis of the evidence.¹⁰
- Investigates expeditiously.¹¹

³ Rights & Security International, ‘Key Performance Indicators for the Independent Commission for Reconciliation & Information Recovery’, March 2025: <https://www.rightsandsecurity.org/impact-post/holding-the-icrir-to-account-key-performance-indicators-for-the-investigatory-body/>.

⁴ Rights & Security International, ‘Rights & Security International’s evidence to the Northern Ireland Affairs Committee on the ‘Joint Framework’ on addressing the legacy of the past’, September 2025: <https://www.rightsandsecurity.org/impact-post/rsi-gives-evidence-to-the-northern-ireland-affairs-committee-on-the-joint-framework-on-addressing-the-legacy-of-the-past>.

⁵ See App. No. 5878/08, *Armani da Silva v. UK*, 30 March 2016.

⁶ App. No. 55721/07, *Al-Skeini and Others v. UK*, 7 July 2011, para. 165.

⁷ This obligation relates to the methodology of the investigation, not its outcome: see App. No. 26307/95, *Acar v. Turkey*, 8 April 2004, para. 223; App. No. 47708/08, *Jaloud v. the Netherlands*, 20 November 2014, para. 186.

⁸ *Armani da Silva v. UK*, supra n5, para. 233.

⁹ *Ibid*, para. 233.

¹⁰ App. No. 24014/15, *Tunç and Tunç v. Turkey*, 14 April 2015, para. 175.

¹¹ *Armani da Silva v. UK*, supra n5, para. 237; App. No. 23458/02, *Guiliani and Gaggio v. Italy*, 24 March 2011, para. 305. For more information, see App. No. 42771/98, *Bayrak and Others v. Turkey*, 12 January 2006, paras. 54-55; App. No. 58933/00, *Adiyaman v. Turkey*, Decision, 9 February 2010.

- Has powers to identify perpetrators and punish those it deems responsible for wrongdoing.¹²
- Is transparent, so as to facilitate public scrutiny – including by:
 - Ensuring that victims, survivors and their families are involved in the investigative process;¹³
 - Consulting with victims, survivors and their families and allowing them to review the investigative process and publishing the details and conclusions of its investigations.¹⁴
 - In cases in which the state – in the form of the military, the police or other public bodies, for example – has been accused of, or is otherwise potentially implicated in, unlawful acts, the investigative body must meet an even higher standard of transparency.¹⁵
 - This is because, in cases in which it is implicated, the state will likely have a monopoly over crucial evidence.¹⁶
 - The investigative body must not adopt a blanket or otherwise broad policy excluding transparency, although in some instances, it might permissibly withhold information from public scrutiny due to real individual security concerns.¹⁷

The new Legacy Commission must, at a minimum, comply with these obligations.

Below, we highlight some aspects of the Bill that, in our view, fail to meet ECHR standards. To summarise, for legal purposes the investigations would not be:

- **Effective**, because the Legacy Commission has inadequate powers and the investigative process is not robust enough to be considered a proper ‘investigation’ under Article 2 ECHR. An adequate investigation includes taking reasonable steps to obtain evidence; having sufficient powers to secure all relevant evidence; and undertaking a thorough, objective and impartial analysis of the evidence.
- **Independent**, because the Legacy Commission will be too closely linked to the UK government, particularly because the SSNI has significant power over it (e.g., appointing its senior officers and setting its ‘terms of reference’).
- **Transparent**, because the SSNI retains the power to exercise a veto on disclosure of information that is deemed to be ‘sensitive’ in circumstances perceived as being against

¹² Armani da Silva v. UK, supra n5, para. 243.

¹³ Al-Skeini and Others v. UK, supra n6, para. 167; App. No. 24746/94, Jordan v. UK, 4 May 2001, para. 121.

¹⁴ Ibid.

¹⁵ App. No. 50385/99, Makaratzis v. Greece, 20 December 2004, para. 73.

¹⁶ Ibid, para. 73.

¹⁷ App. No. 52391/99, Ramsahai v. the Netherlands, 15 May 2007, para. 353.

the national security interests of the state, with the potential for self-interested decision-making when the state is being challenged on alleged human rights abuses, especially collusive activities with paramilitaries.

Whether the legislation, as introduced, meets the needs of victims, survivors, and their families

1. The shift from criminal justice to ‘information recovery’

- *The ‘conditional’ nature of investigation*

The Bill frames its primary function as ‘information recovery’ rather than criminal justice. While criminal investigations are not prohibited, the Bill defaults to a lower standard of inquiry.¹⁸ The decision on whether to conduct a criminal investigation hinges on whether there is a ‘realistic prospect’ of information being provided to a prosecutor.¹⁹ This is a very high threshold that could effectively shut down a proper criminal investigation before it even begins, denying families a genuine opportunity for justice.

We observe that ‘information recovery’ alone is unlikely to be sufficient to meet ECHR standards for an effective investigation. Further, regarding alleged torture specifically, the Convention against Torture (CAT) – to which the UK is a party – requires criminal prosecution procedures *per se*.²⁰

- *Dilution of investigative standards*

The emphasis on avoiding ‘duplication’ of prior investigations risks glossing over or not establishing individual criminal responsibility of perpetrators.²¹ In terms of the issue of ‘duplication’, in deciding what steps are necessary, the Bill maintains that the Director of Investigations ‘must’ take into account ‘any investigation (of any kind, including an inquest)’ that has previously been carried out in relation to the conduct to which the investigation relates.²² Furthermore, the Director ‘must’ ensure that the Legacy Commission does not do ‘anything’ which duplicates any aspect of any such previous investigation unless, in the Director’s view, the duplication is ‘essential’.²³ Therefore, the Director has broad discretion to consider what is ‘essential’, which appears to be a high threshold.

¹⁸ Northern Ireland Troubles Bill, supra n1, Section 36

¹⁹ Ibid. Section 36(3)

²⁰ Article 7: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

²¹ Ibid. Sections 36(8) and 36(10)

²² Ibid. Section 36(8)

²³ Ibid. Section 36(8)

Accordingly, this approach may lead to superficial investigations that fail to meet the requirements of effectiveness under Article 2 ECHR or the requirement for criminal prosecution procedures under CAT.

2. The centralisation of power and lack of independence

- *The Legacy Commission's structural dependence on the SSNI*

The Legacy Commission is structurally dependent on the UK state. The SSNI will have, *inter alia*, the following powers:

- Appointing all key figures: the Commissioners, the Directors of Investigations, and the judicial panel members.²⁴
- Establishing (including creating the terms of reference for) and appointing members to the Victims and Survivors Advisory Group;²⁵
- Providing guidance on national security;²⁶
- Exercising the exclusive power to identify and notify the Legacy Commission that certain information is 'protected international information', i.e. that the SSNI views the disclosure as 'likely' to damage international relations, triggering a prohibition on its disclosure;²⁷
- Prohibiting the Legacy Commission from disclosing 'sensitive information' (a broad category including material that would 'risk damaging... national security') if the Secretary of State views the disclosure as not in the public interest. This is a ministerial veto;²⁸
- Vetoing the disclosure of protected international information;²⁹
- Varying or revoking restriction notices (post-proceedings). After inquisitorial proceedings have ended, the SSNI has the power to revoke or vary any restriction notices or orders that are still in force, which limit public access to information;³⁰
- Commissioning Independent Performance Reviews, which involves the duty to appoint an independent person to review the performance of the Legacy Commission's functions after 2, 5, and 7 years. The SSNI lays the resulting report before Parliament;³¹
- Winding up the Legacy Commission;³²

²⁴ Ibid. Section 4(1), Section 5(1), Section 6(1) and (3)

²⁵ Ibid, Section 8(1), (3), and (7)

²⁶ Ibid. Section 20(1) and (2)

²⁷ Ibid. Section 16(1), Section 17(6) and Schedule 5, Paragraph 6

²⁸ Ibid. Schedule 5, Paragraph 5

²⁹ Ibid. Schedule 5, Paragraph 6

³⁰ Ibid. Section 57(6)

³¹ Ibid. Section 24

³² Ibid. Section 25(1) and (2)

- Creating regulations on the holding and handling of information;³³
- Creating regulations on the treatment of biometric material,³⁴
- Making regulations about the awarding of legal representation and other expenses to participants in inquisitorial proceedings.;³⁵
- Creating regulations regarding the procedure and rules of evidence for inquisitorial proceedings;³⁶ and
- Funding the Legacy Commission.³⁷

The Commission's dependence on the SSNI is a legal problem because it creates an irreconcilable conflict of interest regarding:

- The state's duty to conduct an independent, effective investigation into a death; and
- The state's role under the Bill because it is the appointing authority, funder, and evidence censor for the body conducting that investigation, the Legacy Commission.

This structure necessarily means that the investigation is not, and cannot be perceived as, independent from the executive. As a result, any investigation conducted under this framework into a case involving state actors (such as veterans) will, in our view, likely violate Articles 2 and 3 ECHR.

- *The 'Oversight Board'*

The creation of an oversight board within the Legacy Commission, dominated by appointees, further concentrates control and risks politicising operational decisions that should be purely independent.³⁸ As such, it is not really an 'oversight' board at all in the sense of an independent regulator or watchdog, but rather it is:

- The Legacy Commission's 'board of directors' or 'governing body.' It is the top-tier internal management body that sets strategy, controls resources and delegates power.
- A control mechanism in the sense that, by placing this board -- which is comprised entirely of government appointees -- at the apex of the Legacy Commission's internal structure, the Bill ensures that the SSNI's influence is baked into the Legacy Commission's daily strategic and operational decisions.

³³ Ibid. Section 21

³⁴ Ibid. Section 22

³⁵ Ibid. Section 59(7)

³⁶ Ibid. Section 60

³⁷ Ibid. Section 3(6)

³⁸ Ibid. Section 3(4)

It is the primary vehicle through which the state maintains control over the legacy process.

In essence, the ‘Oversight Board’ provides the illusion of robust internal governance while functioning as the key mechanism for ensuring that the Legacy Commission remains aligned with the government's strategic interests, rather than acting as a truly independent body.

To be ECHR-compliant, the Oversight Board should be independent, meaning that it should be free from the influence (or possible influence) of people or entities whose conduct could become the subject of an investigation. It should be able to demonstrate its independence in the institutional, hierarchical and practical senses.³⁹

- *The Victims and Survivors Advisory Group*

While the Bill centralises government control over the Legacy Commission, it would relegate the Victims and Survivors Advocacy Group to an advisory role, with no decision-making power. Its inclusion appears more symbolic than substantive, giving the appearance of consultation without granting real influence.

Our analysis that the Victims and Survivors Advisory Group is ‘symbolic’ and lacks ‘real influence’ is a legal problem because it demonstrates that the Bill's design fails to incorporate victim participation as a substantive right.⁴⁰ By creating a powerless advisory body, the Bill undermines the effectiveness of and public confidence in the legacy process and risks breaching Articles 2 and 3 ECHR, which require victim and next-of-kin involvement in investigations.

A group that is merely ‘consulted’, and whose views can be disregarded, does not fulfil this right to effective participation, in our view. The stark contrast between the state’s and victims’ input would be powerful evidence that the process is not designed to be

³⁹ Each of these terms is defined in European Court of Human Rights case law: see Council of Europe and European Court of Human Rights, ‘Guide on Article 2 of the European Convention on Human Rights: Right to Life’, updated 28 February 2025: https://ks.echr.coe.int/documents/d/echr-ks/guide_art_2_eng, paras. 163-170.

⁴⁰ In the Dillon Supreme Court case, the SSNI does not challenge the Northern Ireland Court of Appeal’s findings that: (a) insofar as applicable, any relevant rights in the Victim Charter, Victims Directive, or ECHR were given effect in Northern Ireland on or before 31st December 2020; (b) rights in B/GFA are underpinned by the Victim Charter, which implemented EU law; (c) rights in the B/GFA are underpinned by the Victims Directive (insofar as directly effective); (d) rights under the Victim Charter are diminished by the Act; and (f) insofar as applicable and diminished, any relevant rights in the Victim Charter and Victims Directive would not have occurred had the UK remained in the EU, (g) the factual determinations concerning the Act’s meaning and impact on the Respondents, as found by Colton J and the NICA. See ‘Victim Charter: A Charter for victims of crime’, September 2015, brought into operation by the Victim Charter (Justice Act (Northern Ireland) 2015) Order 2015 made under ss.28 and 31(3) Justice Act (Northern Ireland) 2015.

independent, impartial and victim-centred, but is instead a state-controlled mechanism that denies victims any real agency.

3. Sweeping information control and secrecy provisions

- *Ministerial veto over disclosure*

Section 10 of the Bill would impose a duty on the Legacy Commission not to do anything that would risk damaging national security, endanger a person's safety, or prejudice criminal proceedings.⁴¹ While these aims may be legitimate in specific cases, they are framed in the Bill as absolute prohibitions that the government could use to withhold vast amounts of information from families and the public. We note that 'national security' is a particularly vague phrase in this context.

Even more alarmingly, the Bill grants the SSNI the power to prohibit the disclosure of 'sensitive information' to the Commission. This may include information that would, in the SSNI's view, 'risk damaging ... national security interests.'⁴² Such a definition is broad and could therefore lend itself to inconsistent, subjective or arbitrary decision-making. The process for appealing against a prohibition is complex and weighted in favour of the state, with the Minister's decision only being subject to judicial review, a route that allows the courts to engage in only a limited form of scrutiny; moreover, in national security cases, UK courts typically defer to the executive. This broad power, coupled with limited appeals mechanisms, creates a *de facto* ministerial veto over decisions to reveal the truth. It risks, in effect, collusion all over again.

The government's failure to disclose information on 'national security' grounds has been a decisive reason so many victims, survivors and families are still waiting to find out the truth; the Bill will perpetuate that harm.

For example, in March 2024, the Coroner in the Sean Brown case told the NI Court of Appeal that more than 25 people, including state agents, had been linked by intelligence material to the murder of Sean Brown. However, the Coroner found that he was unable to complete the inquest due to the SSNI withholding a significant quantity of material on 'national security' grounds. In the Court's judgment, Lady Chief Justice Siobhan Keegan remarked that

'The United Kingdom has remained in continuous breach of the procedural limb of the Article 2 obligation since 1997. This is a shocking state of affairs in that a quarter of a century has passed since Sean Brown was murdered and yet there has been no lawful inquiry into the circumstances of his death.'⁴³

⁴¹ Northern Ireland Troubles Bill, supra n1, Section 8

⁴² Ibid. Sections 16-17; Schedule 5.

⁴³ *In The Matter of an Application by Bridie Brown for Judicial Review* [2025] NICA 16, para. 1

The SSNI is appealing this judgment.⁴⁴

Under the ECHR, investigators must have the ability to compel evidence disclosure, including from the state; if the Commission cannot obtain the evidence, then it cannot effectively investigate the case.⁴⁵ Indeed, in its 2024 *Dillon and others* judgment, which remains the subject of an appeal, the Northern Ireland Court of Appeal held that the Northern Ireland Legacy (Reconciliation and Information Recovery) Act 2023 ('Legacy Act') did not comply with the Article 2 ECHR obligation to effectively investigate potentially unlawful conflict-related deaths due to the breadth of powers granted to the government to avoid disclosing information on 'national security' grounds.⁴⁶

About Rights & Security International

Rights & Security International (RSI) is a charity established in 1990 to promote human rights and justice for abuses in Northern Ireland, and now advocates for human rights throughout the UK and worldwide. Over the past 30 years, we have frequently called on the UK government to effectively investigate conflict-related killings and other harms, including in Northern Ireland.

⁴⁴ Brendan Hughes, BBC News NI, 'Government to seek Supreme Court appeal in Sean Brown case' (2 May 2025): <https://www.bbc.co.uk/news/articles/cn7x4vlp03xo>

⁴⁵ *Ramsahai v. the Netherlands*, supra n17, para. 353.

⁴⁶ *In the Matter of an Application by Martina Dillon and others* [2024] NICA 59, para 232.