

Time is ticking

In May the Northern Ireland office announced a four-month consultation period regarding the proposed legislation dealing with the past, the Stormont House Agreement.

By now I hope that you have all either attended one of the consultancy events held around the country, including Dublin and GB or you have either popped into our office at SEFF or into one of our partner groups to chat with either myself or my colleagues Ken, Wendy, Yasmin or Pete. The consultation period has been extended to 5th October so there are only a few more weeks to get responses in.

There are some core points to remember when filling in the response:

The Historical Investigations Unit (HIU) will be to all intense purposes a separate police force to investigate Legacy cases. As the proposals stand families who already received a HET review (as distinct from investigation), those who had a loved one murdered outside of Northern Ireland or was seriously injured have all been excluded, this is so wrong and if the process is to be a holistic and fair process adjustments need to be made to the said proposal.

The HIU Director will decide which cases previously investigated will receive a new investigation. This seems like a very wide remit and there need to be safeguards to ensure fairness and some method for families to appeal decisions.

There is also a question regarding adding deaths post signing of the Belfast Agreement and 2004, while initially this may seem like a fair request, we would urge caution. There are a number of questions to ask. Why can they not be investigated through the Serious Crime Branch? Why stop at 2004? Will this mean the early prisoner release scheme will be extended to 2004?

The Independent Commission for Information Retrieval (ICIR) is intended to provide a place where families can access information about their loved one's murder. None of the information given can be used in a court of law, neither will names be given. How will the information received be verified? Will it be victim centred and answer the questions that families want answered and not just the information that the informant wants to give? Will there be a facilitation for families who wish to speak directly to the information giver? As the proposal stands the ICIR decide what information to give families and will give them a report. I have to wonder how beneficial this will really be and does it risk yet more frustration and trauma?

The Oral History Archive (OHA), is proposed to be an educational tool for future generations to learn about the troubles. It will hold the stories from both innocent victims and terrorists and this is where the problem lies it puts the terrorist on an equal footing with their victim and care needs to be taken that murder is neither glorified or justified and stories are validated.

The Implementation Reconciliation Group, will act to review the work of the legacy institutions and to commission an independent report and promote reconciliation. Both the Irish and British governments will choose somebody to sit on the group as will the 5 main political parties. The voices on the group that will be missing are those of victims' and survivors.

So as you can see it is extremely important that as many of us add our voices to this process as possible. Please contact any of the Advocates to discuss the best way to do this and for support. Our numbers are listed on this newsletter.

Ann Travers



Advocacy for Innocent Victims Newsletter



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Dear Member,

This month's supplement includes contributions from Ann, and also from Rachel, our new research officer. I continue to ask any member, if you have a pressing issue, or if you wish to contribute your testimony of how terrorism impacted your life, please forward it to me or any of the other advocates for inclusion in the AfIV supplement.

Aitor is now in post in London, and is available to give Advocacy support for victims in GB. He has the same mobile number as used by Yasmin, and his email is as per the list to the right. The AfIV team, now with the inclusion of Rachel, continues to support all innocent victims and survivors in their pursuit of truth, justice and recognition. Rachel is a valuable asset to support the five advocates with her research skills.

You will be aware that the Consultation period has been extended by the NIO for a further three weeks, with a closing date of Friday 5th of October. We continue to urge everyone, if you haven't already done so, to respond to the NIO, either online or in writing; it is essential your views are heard. We will continue to support anyone who needs assistance with the completion of this form.

The AfIV team were present at Stormont on Friday past, in order to support members of SEFF, Decorum, MUVE, SaETWS, FRPU and MAST for the launch of a charter for the injured and disabled. Thereafter, some of these groups delivered their organisational responses to NIO staff at Stormont House.

On Friday evening, we were afforded some time with the Defence Minister, Gavin Williamson, when we were able to discuss and advocate on issues such as the War Widows Pensions, the proposed Statute of Limitations and its potential implications, the need for the British Government to support its citizens in the same way the RoI acts on behalf of Irish nationalists, and other problems. The Minister appeared to give us a sympathetic ear.

Kind Regards,

Ken



Research report on the definition of a 'victim'

With the consultations on its end, it became clear in several feedback forms that the majority of people are asking for a proper definition of a 'victim'. As some of you already know, I have written a research report for SEFF on 'victim' and 'innocent victim': a research into what is applicable for the victims of the Troubles in Northern Ireland. An evaluation whether a change in the definition of the 2006 Victims and Survivors (Northern Ireland) VSNIO is needed. The VSNIO's definition gives way to discussion on who is included in this definition. This brings grief to many victims because perpetrators are not excluded from this definition. The purpose of this research was to find out which definition would be best applicable in the case of the (innocent) victims of the Troubles in NI and therefore the members of SEFF and if we should fight for changing the definition and perhaps how. I will give more discussion on this subject in October newsletter.

The current definition of a victim

SEFF would like to see a definition that does not include perpetrators. But for this to happen the current VSNIO definition would need to be altered. Currently the definition describes a victim in Article 3 as the following: (1) In this Order references to "victim and survivor" are references to an individual appearing to the Commissioner to be any of the following :

- a) someone who is or has been physically or psychologically injured as a result of or in consequence of a conflict-related incident;
- b) someone who provides a substantial amount of care on a regular basis for an individual mentioned in paragraph (a); or
- c) someone who has been bereaved as a result of or in consequence of a conflict-related incident.

This broad definition gives way to discussion on who is included in this definition, since the explanatory memorandum does not give more clarification. The definition as it stands does not include someone who has been part of a proscribed organisation. Besides that it does not exclude any person who has been physically or psychologically injured as a result of their own criminal act or act of terrorism. Also family members of bereaved or injured perpetrators are not excluded from the definition. But who should be categorised as a victim?

Ethics, law and statistics

There are different approaches to categorise the 'real' victims. The main focus in my research report was on ethics, law and statistics. Ethics play a key role in the question around who a victim is and who a perpetrator. Studies show that there is a hierarchy in victimhood with at the bottom the paramilitary groups who cannot be defined as innocent due to their lack of passivity. At the top of the hierarchy are innocent civilians killed as a result of paramilitary violence, often women and children. Ethics also questions whether if someone can be considered a victim if they weren't exposed to direct or indirect violence.

To define a victim one could also look into the different fields of law like International law, European law, Common law, and jurisprudence. The UN provides a framework for a victim of terrorism as being physically or psychologically injured by an act of terrorism. The Belfast/Good Friday Agreement considers anyone who has been a victim of violence as a victim. In the same way the Right to Restitution for Victims of Gross Human Rights defines a victim as a person who suffered harm in a physical, psychological, emotional or economic way as a result of a violation of human rights or humanitarian law norms. By the same token EU Directive 2012/29/EU defines a victim as one who has suffered harm in a mental, physical, economic way caused by a criminal offence direct or indirectly. Neighbouring country Ireland uses a similar definition. All these definitions speak of a causation by a criminal act or terrorism. Article 3 of the VSNIO does not follow these definitions and speaks of ' conflict- related incidents' giving room to include perpetrators who have become victims.

The Troubles in Northern Ireland had a lengthy period, resulting in thousands of people becoming victims of violence. The severity of the conflict becomes clear when statistics show that two thirds of the NI population have had two or more experiences of conflict related trauma. However, statistics show that only 12 per cent of NI considers themselves victim. Defining a victim also depends on the approach like geography, religion and more. The heaviest responsibility for harm is borne by paramilitary organisations, accounting for 80 per cent of deaths; half being caused by Republican paramilitaries. But the largest group of fatalities were civilians and security forces. Thus, ethics and statistics clearly show who the real victims are.

My view on the definition

Many have asked what my opinion is on how a definition should be defined. I would have to start off with telling how amazed I am by the inconsistencies in the current legislation that came forth after the 1998 Agreement. For example according to the Oxford Dictionary a victim is: A person harmed, injured, or killed as a result of a crime, accident, or other event or action. Why does the dictionary define a victim more concise as Article 3 which speaks off on an incident rather than an act of crime, accident or other event? During my research I have found that even the word 'Troubles' was offensive. This seemed strange to me, an unbiased foreign student, who has been taught about the Troubles rather than a conflict-related period of time. Even the definition of the Troubles has difficulty amongst people even though it has been a perfectly accepted word around the world to describe what happened in Northern Ireland. Many of the people in Northern Ireland have been affected by the Troubles, but there are different grounds to argue that they should not all be considered victims. Marie Breen-Smyth said in her article: "There cannot be a 'one size fits all' approach, because it would mean everyone in Northern Ireland had the same experiences and statistics do not bear this assumption out". Then why does the legislator choose to do so in Article 3 of the VSNIO? For example why should someone who is injured as a result of carrying a bomb being classed and receive the same rights as the victims resulting from that perpetrators bomb who are the 'real innocent' victims? This seems illogical for an unbiased person as myself. Even in other countries like Spain who had the terrorist group ETA and Colombia with the terrorist group Farc, the people did not give in to concessions of terrorists. Spain chooses not to equate Eta with its victims: "Eta killers are murderers and will be treated as such". In Colombia a referendum in 2016 was held among Colombian voters which showed that the voters disagreed on the peace agreement with Farc. They voted against financial compensation and the release of prisoners. The voters were afraid that members of Farc would get away with murder. In Colombia under Law 1448, relatives of civilians may not be recognised as victims of human rights if their relative was a member of an illegal armed group. Why does Northern Ireland choose to lead a different path? It seems that NI does not include their voters (anymore) like these countries. Maybe the legacy consultations will show Stormont that many people find the current definition flawed.

But what should Northern Ireland do?

It is my belief that a paragraph should be added to the VSNIO which includes an exclusion for terrorists. An example could be made with the Special Advisers Bill for an exclusion of persons convicted with a criminal conviction for 5 years or over. This Bill was introduced by our very own Ann Travers. Another exclusion could be: any person convicted for a serious criminal conviction or scheduled offence. A total exclusion will most likely cause an outrage amongst certain groups. Even partial exclusion clauses seem unlikely to be put into legislation. If this is the case how am I able to make a recommendation whether we should fight for a change of the definition? Thus, at this moment in time it seems that there will never be a proper and fair definition of a victim.

Rachel Glover