

“Worse than Pinochet”

The Model Bill Team responds to the UK government’s Amnesty Proposals

*By Brian Gormally, Director,
Committee on the Administration of
Justice*

Over the course of more than twenty years, successive UK governments have failed to put in place a comprehensive set of mechanisms to deal with the legacy of the conflict in Northern Ireland. The Stormont House Agreement (SHA) 2014, completed after lengthy negotiations with the Irish government and the five main local political parties, offered a route to finally deliver on the promises made to victims and to comply with binding international legal obligations.

Despite repeated commitments to introduce the enabling legislation (most recently in January 2020), the current UK government now appears to have unilaterally abandoned the SHA. In July 2021, the government published Command Paper 498 on *Addressing the Legacy of Northern Ireland’s Past*.

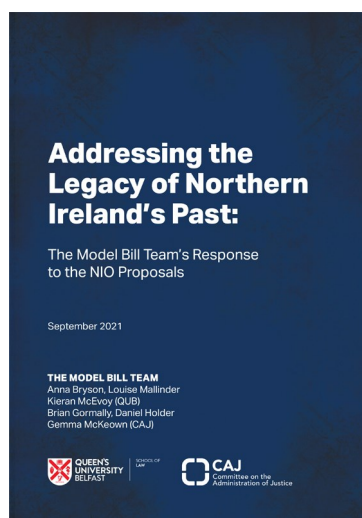
This paper proposes a sweeping and unconditional amnesty which would end all legacy-related ‘judicial activity’ (i.e. current and future legacy prosecutions, inquests, and civil actions) as well as all police and Office of the Police Ombudsman investigations. The paper also suggests the establishment of a new Information Recovery Body and various proposals for developing oral history and memorialisation initiatives.

In September, the Model Bill Team - which is comprised of three experts from the QUB School of Law and several CAJ staff

members - published a [detailed response](#) to the Government proposals. This report heavily criticises the proposed amnesty, noting: “The enactment of a broad, unconditional amnesty by the UK would send a dangerous signal to other states that they too can legislate for impunity and evade their international legal obligations. It would also be highly damaging to the UK’s international standing.”

Their report also notes that based on the information provided within the command paper, the so-called Information Recovery Body would not have sufficient investigative powers to conduct effective investigations into conflict-era deaths, despite this being legally required by Article 2 of the European Convention on Human Rights (ECHR) and the Human Rights Act. In the context of an amnesty - and in the absence of effective investigations capable of delivering truth, justice, and accountability - the report argues there is a real risk that the credibility of any additional reconciliation-focused work would be irreparably damaged due to being viewed as ‘soft options’ to disguise the broader drive towards impunity.

At the launch of the report, some of the authors spoke trenchantly about its conclusions. Regarding the UK government’s proposed amnesty,



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Professor Louise Mallinder said: “The effect of the proposed UK government amnesty would be to prevent not only criminal prosecutions but also to close down current or future investigations in the civil courts, in coronial inquests or Police Ombudsman investigations – all of which would be closed off to families. I have been working on amnesties around the world for almost twenty years and I have analysed almost 300 amnesties related to conflict and peace from 1990 until 2016. The proposed UK amnesty would offer the broadest form of impunity of all the amnesties surveyed.

“By way of illustration, the amnesty introduced by the former Chilean dictator General Augusto Pinochet is usually held up as one of the worst. However: (a) Pinochet’s amnesty excluded certain crimes such as crimes of sexual violence (the UK proposal excludes no crimes); (b) Pinochet’s amnesty applied only to the first five most violent years of the 17 year dictatorship (the UK proposal has no temporal limits); (c) Pinochet’s amnesty excluded criminal cases already before the courts (the UK proposal would close down cases already in the system); and (d) Pinochet’s amnesty applied only to criminal prosecutions, civil actions were permitted to continue (the UK proposal would end all types of legal cases). In other words, the proposed UK amnesty is Pinochet plus.”

The UK proposals also signal the government’s intention to replace families’ ability to seek truth through the courts and police investigations with the option for them to engage with a new Information Recovery Body (IRB). However, Daniel Holder (CAJ Deputy Director) said: “It is simply not true to suggest that the present proposals represent *a change of direction* towards information recovery. The existing judicial and police legacy processes and the proposed investigative mechanism in the Stormont House Agreement largely focused all have ‘teeth’ to provide families with information – legal powers to not only access information and intelligence but powers to search premises, seize documents, question suspects and so forth.

“What is different is that the proposed IRB will have far more limited powers, essentially limiting it to a desktop review of papers and taking voluntary statements. Such powers fall significantly short compared to those already available to the PSNI, the Police Ombudsman or judicial powers of discovery in a prosecution, inquest or civil action. At the same time, there will be increased powers to prosecute official whistle-blowers and journalists for providing information to families outside of reports approved by ministers. What is now being proposed is the least likely model to get at the truth, victims and survivors will get less information not

more.”

Professor Kieran McEvoy concluded: “Underpinning these proposals is a misleading suggestion that progress on information recovery and indeed oral history and memorialisation initiatives is dependent on closing down access to the courts. These proposals represent a unilateral abandonment of the Stormont House Agreement, a breach of the Good Friday Agreement and a betrayal of repeated promises made to victims. This government’s policy on legacy in Northern Ireland is seemingly primarily driven by concerns in Westminster for the fate of a small number of British army veterans being prosecuted for conflict related offences.

“Last year we produced a report which included options, which would have seen the implementation of the Stormont House Agreement, upholding the Good Friday Agreement and the rule of law but reducing all conflict-related sentences from two years to zero. The current proposals – to introduce an amnesty while at the same time reducing the legal powers to achieve information recovery - are very likely to be in breach of human rights law. Moreover, given the widespread opposition in Northern Ireland from across the political spectrum and in civil society, they are politically unworkable.”

The new Government policy has been attacked by groups and individuals, including the NI Law Society, UN Human Rights Special Rapporteurs (see overleaf), and the US Ad Hoc Committee to Protect the Good Friday Agreement. As of yet, the Government has not produced a draft Bill, which would start the process of putting their proposals into law. They claim to be involved in an ‘intensive process’ of consultation with interested parties, but have produced no proposals that would satisfy either victims or international legal standards. We will continue to work for a human rights compliant method of dealing with the legacy of our troubled past.

The Model Bill Team consists of Professor Kieran McEvoy, Professor Louise Mallinder, and Dr Anna Bryson from the School of Law at Queen’s University Belfast and Daniel Holder, Brian Gormally, and Gemma McKeown from the Committee on the Administration of Justice. Since 2013, this team has produced a range of technical briefings and reports designed to help inform public debates on dealing with the past. Members of the team have given written and oral evidence to the US Congress, Westminster committees, and the Dáil Joint Oireachtas Committee on the Implementation of the Good Friday Agreement. For further information, visit www.dealingwiththepastni.com.

UN experts voice concern at proposed blanket impunity to address legacy of 'the Troubles' in Northern Ireland

*In August, UN experts **Mr Fabián Salvioli**, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, and **Mr Morris Tidball-Binz**, Special Rapporteur on extrajudicial, summary or arbitrary executions, published a statement in opposition to the UK government's latest legacy proposal. This is reproduced in full below:*

GENEVA (10 August 2021) – UN experts have expressed serious concern about the UK Government's plan to ban all prosecutions, impede investigations, and preclude victims' civil claims in connection with "the Troubles" in Northern Ireland, which would effectively institute a *de-facto* amnesty and blanket impunity for the grave human rights violations committed during that period.

The proposal, entitled "Addressing the Legacy of Northern Ireland's Past", was announced in a statement by the UK Secretary of State for Northern Ireland before Parliament in July. It would ban all conflict-related prosecutions through the introduction of a statute of limitations to apply equally to all Troubles-related incidents. It would not apply to cases already adjudicated.

Under the proposal, the Police Service and the Police Ombudsman of Northern Ireland would be statutorily barred from investigating Troubles-related incidents, and judicial activity would be ended across the spectrum of criminal cases, and current and future civil cases and inquests. This would effectively also preclude coronial inquests and victims' claims in civil courts.

As noted in the statement, the proposal would bring an immediate end to criminal investigations into Troubles-related offences and remove the prospect of prosecutions.

"We express grave concern that the plan outlined in July's statement forecloses the pursuit of justice and accountability for the serious human rights violations committed during the troubles and thwarts victims' rights to truth and to an effective remedy for the harm suffered, placing the United Kingdom in flagrant violation of its international obligations," the experts said.

In his statement, the Secretary of State justified these measures, stating that criminal justice can impede truth, information recovery and reconciliation. The experts expressed concern that such a justification conflates reconciliation with impunity and noted that criminal justice is an essential pillar of transitional justice processes, alongside truth-seeking and reconciliation.

In this regard, they recalled the importance of adopting a comprehensive approach in a transitional justice process that incorporates the full range of judicial and non-judicial measures. "The essential components of a transitional justice approach - truth, justice, reparation, memorialization and guarantees of non-recurrence - cannot be traded off against one another in a 'pick and choose' exercise," the experts stressed.

The Government's proposal foresees the establishment of a new independent body to enable individuals and family members to seek and receive information about Troubles-related deaths and injuries, and the adoption of an oral history initiative.

In this regard, the experts noted that "the proposed plan does not seem to include measures for establishing the full extent of the truth about the human rights violations perpetrated during the Troubles and about the circumstances, reasons and responsibilities that led to them". "Nor does the proposal seem to ensure that this truth is accessible to all victims and to society as a whole, with due consideration of the needs and safety of victims and with their full consent, as established in international standards," the experts added.

They further noted the insufficient clarification provided regarding the proposed statements of acknowledgement by the various actors of the Troubles and how would this comply with international standards regarding the provision of public apologies, especially with regard to the nature and content of the apology, the responsibilities acknowledged in relation to the violations committed, the author and context of the apology, and the consultation with victims in the design of the apology.

In addition, the experts expressed concern at "the lack of clarity concerning the role that victims will play in the design, implementation and monitoring of the proposed transitional justice institutions and measures, including those relating to memorialization, archiving and truth recovery, and how their full and effective participation will be guaranteed".

The experts urged the British authorities to "refrain from regressing on their international human rights obligations through the establishment of a statute of limitations for conflict related prosecutions and barring all related investigations, inquests and civil claims".

The Troubles in Northern Ireland lasted three decades until the adoption of the Good Friday Agreement in 1998 (also known as the "Belfast Agreement"); and resulted in the death of more than 3,500 individuals and the injury of another 40,000. The experts have been in contact with the United Kingdom of Great Britain and Northern Ireland concerning this matter.



10 years of Larne House Immigration Detention Centre – Time to shut it down

By End Deportations Belfast

In 2019, 65% of people surveyed in the Northern Ireland Life and Times Survey agreed that it is our duty to provide protection to refugees who are escaping persecution in their home country, with only 10% disagreeing. 61% of respondents also agreed that the culture and traditions of different minority ethnic groups add to the richness and diversity of Northern Ireland society, with only 14% disagreeing. These statistics show that the population's views in Northern Ireland to be completely at odds with that of the UK Home Office, which appears to peddle negative misinformation, proffering migrants, people seeking asylum, refugees, and new communities as easy scapegoats for whatever social and economic ills befall the UK.

The presence of a Home Office immigration detention centre in Northern Ireland – known as Larne House – comes as a shock to many, with people horrified to hear that a place of degradation, trauma, and harm exists so close to home.

So what is Larne House? Larne House is a Short Term Holding Facility (STHF). Detention Action refers to STHFs as the “the darker, harsher, less regulated and more secretive corner of our immigration detention system”. Larne House is located within the compound of PSNI Larne and is part of the UK's carceral estate used for immigration detention. From its inception in July 2011 until the end of Quarter 4 in 2020, 4860 people entered immigration detention through Larne House. People can be held there for five days before being deported, transferred to indefinite detention in England or Scotland, or released. According to the UK Home Office, immigration detention is only used to facilitate a person's removal from the UK and is used as a last resort, immediately prior to a scheduled deportation.

But the reality is different. Immigration detention is used far beyond the UK Home Office's stated purpose. In the year ending June 2021, 17,088 people were placed in immigration detention in the UK. Bail for Immigration Detainees (BID) calculated that 77% of people detained in immigration detention in the last year were released back into the community – their detention having served no

purpose whatsoever. We have people from Northern Ireland taken to Larne House, transferred to Dungavel in Scotland or an immigration detention centre in England, then released and needing to make the journey back to Northern Ireland alone, often traumatised. In many cases, immigration detention removes an individual's eligibility for asylum support and so their accommodation may have been withdrawn leaving them homeless and destitute upon release, even if the person is detained by Home Office error. Charities and other asylum seekers step in to provide help while the person makes a new application for asylum support which should not have been stopped in the first place.

In a submission to the Joint Committee on Human Rights inquiry into immigration detention in 2018, Law Centre NI responded that they did not consider that Alternatives To Detention (ATDs) had been properly explored or used in Northern Ireland, exploding the Home Office myth that immigration detention is used as a last resort.

At End Deportations Belfast, we campaign to raise awareness of Larne House and to garner support for community based ATDs. We endorse a complete rejection of the normalisation and existence of immigration detention in any form. Other than performative politics, what purpose does immigration detention serve when cases can be successfully resolved with people continuing to live in their communities with their families and support networks?

In the 2015 Immigration Bill debate, DUP MP Gavin Robinson raised the issue of Larne House in the House of Commons saying: “Anyone with any knowledge of security arrangements in Northern Ireland will know that the police stations there are not the most welcoming or inviting places. That is a consequence of our history. Anyone who is detained for immigration reasons in Northern Ireland is held there [in Larne House], in what looks like a military compound, with sangars, high fences, security lighting and security cameras. It is not an acceptable place”.

Larne House plays an integral role in the Home Office detention and deportation machinery. It is operated by a Home Office contractor, Mitie. The profits extracted from the detention and deportation industrial complex are immense. Companies such as Mitie, GEO, G4S, easyJet, BA, and TUI are recipients of lucrative government contracts. Every night in detention, every transfer to another facility and every (often cancelled) plane ticket

purchased is a cost to the taxpayer. Many directors of these companies are simply too close to politics. Baroness Coddie of Mitie sits in the House of Lords and saw no conflict of interest in voting through the Immigration Bill in 2020. Lisa Tremble, the corporate affairs director at British Airways met with Priti Patel in August 2021 without any officials present, breaking ministerial rules.

The current system is ineffective and unjust. Immigration cases can instead be successfully dealt with in the community — without detention or tearing people away from their families. Immigration detention, with its lack of adequate healthcare, restricted legal support and extreme trauma and emotional distress simply create further impediments in progressing people's immigration cases. The immigration detention and deportation systems are also institutionally racist, with analysis by Detention Action of nationalities of those recently held within the immigration detention estate finding that citizens from countries with predominantly black and brown populations are held for substantially longer periods than those from predominantly white countries.

The lack of Rule 35 / Rule 32 releases from Larne House seems to indicate that people are not being assessed as vulnerable in Larne House and released as a result. These rules are intended to ensure that particularly vulnerable detainees are brought to the attention of those with direct responsibility for authorising, maintaining, and reviewing detention. Larne House relies on self-identification of vulnerability, with Mitie providing a privately hired nurse, separate from a GP practice and the NHS - this is not good enough. Furthermore, we discovered through a Freedom of Information Request that staff at Larne House do not routinely record protected characteristics under the Equality Act of 2010, such as the sexual orientation of detainees. This places vulnerable people, who are forced into shared spaces, at further risk and made invisible to, organisations who can offer, such as LGBT+ support

groups. Perhaps most disturbingly, Larne House continues to hold women and men together and has shared communal spaces despite the HM Chief Inspector of Prisons repeatedly recommending that this practice stop. Women too often resort to isolating themselves in their rooms because of this practice. Immigration detention is beyond recommendations and reform; it must end.

At what point in the drafting of the Good Friday Agreement did we envisage a new Northern Ireland that locks people up without charge? Or with a new police force providing militarised barrack facilities as an entry point for a system of indefinite immigration detention? In 2011 Anna Morvern prophetically wrote for the Institute of Race Relations that "Once opened and operational, Larne House may no longer be seen as a shocking place to exist here, but as a familiar and accepted feature of the landscape in the north". At End Deportations Belfast, we need everyone to be shocked and horrified again by the existence of Larne House. We want Larne House shut down, we want everyone being held under immigration powers in the prison estate throughout the UK released and we want all immigration claims to be dealt with fairly and humanely in the community with caseworkers, support, and full legal access. If we are ever to be a human rights based society, Larne House needs to be consigned to history.

Further reading

[Alternatives to detention](#)

[Immigration statistics, year ending June 2021](#)

[Black Lives Matter? Attitudes to minorities and migrants in Northern Ireland](#)

[Kids in detention centres and why public pressure is so important](#)

[Immigration Bill debate, December 2015](#)

[Report on inspection of Larne House, February 2016](#)



Afghanistan: Taliban wasting no time in stamping out human rights

By Patrick Corrigan, Northern Ireland Programme Director, Amnesty International

The Taliban takeover of Afghanistan has generated a human rights crisis in the country and an exodus of people fleeing persecution. Amnesty International, the International Federation for Human Rights (FIDH), and the World Organisation Against Torture (OMCT) have been documenting the group's wide-ranging crackdown since their seizure of Kabul in August.

Two months since assuming control of Afghanistan, the Taliban have clearly demonstrated that they are not serious about protecting or respecting human rights. Contrary to the Taliban's repeated claims that they will respect the rights of Afghans, we found a litany of human rights abuses including targeted killings of civilians and surrendered soldiers, and the blockading of humanitarian supplies. Restrictions have also been reimposed on women, freedom of expression and civil society.

In early October, an Amnesty investigation revealed how Taliban forces unlawfully killed 13 ethnic Hazaras, including a 17-year-old girl, after members of the security forces of the former government surrendered.

Attacks on human rights defenders have been reported on a near-daily basis since 15 August. The Taliban are conducting door-to-door searches for human rights defenders, forcing many into hiding.

Our researchers spoke to one Afghan human rights defender who managed to get out of the country. He described how, on the day the Taliban entered Kabul, he received a call asking him to hand over his organisations' vehicles, equipment, and money. The caller knew his name and warned him he had no choice but to cooperate. Two colleagues at his NGO were beaten by the Taliban.

A female journalist who Amnesty International spoke to told us she had now fled Kabul following warnings from her employer that her life was at risk, and said her family had been visited and threatened by the Taliban. A male journalist said that editors, journalists, and media workers had received instructions from the Taliban that they could work only under the terms of Sharia law and Islamic rules and regulations.



As a result of a climate of fear bred by the Taliban's takeover, many Afghan women are now wearing the burka, refraining from leaving the house without a male guardian, and stopping other activities to avoid violence and reprisals. Despite the myriad threats now presented to women's rights, women across the country have been holding protests.

While some protests have been allowed to continue peacefully, many were violently repressed by the Taliban. On 4 September 2021, approximately 100 women at a protest in Kabul were dispersed by Taliban special forces, who fired into the air and reportedly fired tear gas.

Amnesty has called on the international community to not turn a blind eye to the violations being committed by the Taliban. The recent establishment of a UN Special Rapporteur on Afghanistan was an important first step to ensuring serious Human Rights Council oversight of the human rights situation on the ground. This should go hand in hand with support for the ongoing investigation at the International Criminal Court, in order to secure accountability for crimes against humanity and war crimes.

There also needs to be an independent investigation of possible crimes committed by US-led forces, including the drone attack in Kabul on 29 August 2021, which killed ten civilians, including seven children. The Biden administration has announced plans for an 'over the horizon' counter-terrorism programme in Afghanistan, raising the worrying prospect of further such deaths via drone.

The threat faced by human rights defenders, journalists, and others stranded in Afghanistan is real. They are forced into hiding and live under the constant threat of arrest, torture or worse. Those who manage to leave the country are now stranded in military camps or in neighbouring

countries, not knowing what their final destination will be, nor how they will be able to rebuild their lives that have been shattered overnight.

In the wake of the Taliban takeover, the Northern Ireland Executive agreed to resettle refugees under the UK Government's 'Afghan Relocations and Assistance Policy' and the 'Afghan Citizens Resettlement Scheme'. The Executive says that work is ongoing to determine the number of citizens to be resettled here and preparations are being made to support the arrival of Afghan citizens.

However, for Afghan refugees who make their own way to the UK, a very different prospect awaits. Latest statistics

from the Home Office show that most recent asylum applications from Afghans have been rejected.

The Nationality and Borders Bill, currently in Parliament, is set to make things worse. The Bill would unilaterally redefine the meaning of the 1951 Refugee Convention and would almost certainly result in the refusal of asylum to refugees who should be entitled to stay because of the persecution from which they've fled.

Amnesty have launched a petition calling on the UK Prime Minister to act urgently to help Afghan citizens at risk. You can sign this here: [www.amnesty.org.uk/actions/urge PM help Afghanistan crisis](https://www.amnesty.org.uk/actions/urge-PM-help-Afghanistan-crisis).

UN experts unite to urge swift global action to protect human rights and prevent civilian slaughter in Afghanistan

On 16 August 2021, UN human rights experts issued a statement calling on Member States to take immediate action to prevent the slaughter of civilians, the destruction of essential civilian infrastructure, and the undoing of decades of work to advance the health, education, culture, and social infrastructure of Afghanistan. In the statement, the experts called for a number of specific actions to be taken forward. These are reproduced below:

“1. The Security Council to take appropriate action under Chapter VII of the Charter to safeguard the human rights and humanitarian needs of the people of Afghanistan, including its most vulnerable, and to address the role of Member States to prevent acts of terrorism under international law.

2. To apply to the fullest extent and consistent with international law, the international sanctions on designated terrorist organizations, including the obligations of all States to suppress and prevent terrorist acts.

3. To ensure that civilians have full and free access humanitarian aid as the needs for emergency assistance grow exponentially, including through the imposition of such sanctions.

4. Member States to keep their borders open to receive asylum seekers from Afghanistan while ensuring adequate protection and humanitarian assistance of Afghan refugees and internally displaced persons.

5. The Human Rights Council to address in an emergency session the obligations of all States to advance the promotion and protection of human rights including:

a) By the speedy establishment of a fact-finding mission to be deployed urgently to Afghanistan to assess the situation on the ground and report back to the Council on human rights violations and responsibilities, including, but not limited to, war crimes, crimes against humanity, and genocide.

b) By supporting the High Commissioner for Human Rights in her efforts to prevent the further commission of systematic human rights violations and create a mechanism of international accountability for these systemic human rights violations.

c) By engaging UN Special Procedure mandates to support fact-finding and accountability on the serious human rights violations occurring in Afghanistan.

d) By paying particular attention to the protection of the most vulnerable in Afghanistan including children, women and girls, those internally displaced, the disabled, human rights defenders, journalists and the media, educators and civil society actors using the full capacity of the Council's diplomatic and political capacity to engage with all stakeholders to protect and support these groups.”

The statement can be read in full on the [website](#) of the Office of the High Commissioner for Human Rights. Those who endorsed the statement include a number of UN Special Rapporteurs and a range of other UN human rights experts.

The Feminist Recovery Plan: One year on

*Robyn Scott, Communications and
Equality Coalition Coordinator, CAJ*

The Feminist Recovery Plan (FRP) was first launched by the Women's Policy Group (WPG) in the summer of 2020 as an ambitious plan to guide post-pandemic policy in Northern Ireland in a way that would increase equality and support the advancement of women within our society. The plan was created in response to the clear evidence that the pandemic was disproportionately impacting women within NI and the UK as a whole. It was in part inspired by the prior work of the Hawaii State Commission on the Status of Women, who had already produced their own feminist economic recovery plan, *[Building Bridges, Not Walking on Backs](#)*.

Despite intense lobbying of politicians and policymakers by the WPG in the months following the launch of the FRP, many of its evidence-led recommendations were not acted upon. Meanwhile, further evidence continued to emerge showing the damaging impact of the pandemic on women, particularly those with children or other caring responsibilities. Women have been more likely to lose their jobs during the pandemic than *[during previous recessions](#)*. When we were in lockdown, women were spending *[far more time](#)* than men on unpaid housework and childcare.

Over time, the long-term nature of the pandemic and its aftereffects has become increasingly clear. When the pandemic first started, few of us were pessimistic enough to think that, more than a year and a half later, the infection rate would still be so high. Life has not returned to 'normal' within Northern Ireland and, at this point, normal will probably look very different than it used to.

With all of this in mind, in July 2021, the WPG decided to update and reissue the Feminist Recovery Plan one year after its original launch. The updated version has been informed by a significant body of primary and secondary research, and, like the first edition, highlights the severe impact the pandemic has had on women, necessitating a gendered response to COVID-19 recovery in Northern Ireland.

The FRP was relaunched at an online event on 28 July 2021, which featured guest speakers including Paula Bradley MLA, Chair of the All Party Group on Women Peace and Security; Madame Nicole Ameline, Vice Chair of the UN Committee on the Elimination of Discrimination against Women (CEDAW); and Khara Jabola-Carolus,

Executive Director of the Hawaii State Commission on the Status of Women.

The relaunched version of the FRP runs at 333 pages in length and includes input from several CAJ staff members. This mammoth document provides a ready blueprint for a better and more equal society. Recommendations fall under six pillars, each of which are split into further sub-sections. These pillars are: Economic Justice; Health; Social Justice; Cultural; Brexit, Human Rights and a Bill of Rights for Northern Ireland; and International Best Practice. Each sub-section is informed by extensive research.

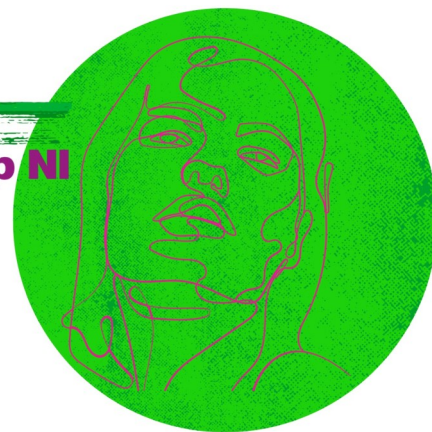
The primary research conducted for the revamped report includes an online survey, which was completed by more than 100 women about their experiences during the pandemic, and one to one interviews. Key findings include that a shocking 82.1% of respondents felt their mental health had declined during the pandemic, while 56.7% felt the pandemic had impacted them financially (with 49.4% having less savings as a result).

This material was also used as the basis for a supplementary report highlighting the WPG's research findings alongside testimonies and case studies from women across Northern Ireland. This report has been made available online alongside the FRP.

Following a successful relaunch, the WPG will continue to use the FRP as a lobbying tool, not least in light of the recent publication of *[Building Forward](#)*, NI's official covid recovery plan, and the anticipated Stormont election in May 2022, which means political parties here will soon be seeking input to inform their manifestos.

You can keep up to date with the WPG's ongoing work here: *www.wrda.net/lobbying/womens-policy-group*. The WPG is a platform for women working in policy and advocacy roles in different organisations to share their work and speak with a collective voice on key issues. It is made up of women from trade unions, grassroots women's organisations, women's networks, feminist campaigning organisations, LGBT+ organisations, migrant groups, support service providers, NGOs, human rights and equality organisations, and individuals.

**Women's
Policy Group NI**
**COVID-19
FEMINIST
RECOVERY
PLAN**





COVID-19 and Gender - Overview

In the past year, since the Feminist Recovery Plan (FRP) was initially launched, further evidence has highlighted what we have been stating from the beginning of COVID-19 - that women have been worst impacted by the pandemic. As we finally move towards a recovery from this pandemic, we need to reiterate our recommendations to take a gender-sensitive response.

We recognise that some issues highlighted will be of a devolved nature for the Northern Ireland Assembly, others will be issues that require Westminster intervention. This recovery plan will be based on all of the issues impacting women and specific policy recommendations will be made to both the Northern Ireland Assembly on devolved matters and to the UK Government on UK-wide issues. Over the past year, we have made bespoke summary reports for each level of Government as well as departmental reports and key briefings.

It is essential that all levels of government representing Northern Ireland are fully aware of the unique challenges in Northern Ireland; particularly as the UK government is the duty bearer for human rights in NI. Women in Northern Ireland have suffered immensely due to a decade of Austerity, and over a year of the ongoing pandemic, and any COVID-19 recovery cannot come to the detriment of women's equality and economic wellbeing.

The ongoing COVID-19 pandemic has created an unprecedented challenge across the UK. It has put in sharp focus the value and importance of care work, paid and unpaid, and highlighted the essential nature of often precarious and almost always low paid retail work. Women undertake the majority of this work, and women will bear a particular brunt of this crisis; economically, socially and in terms of health. The WPG is calling on decisionmakers across the UK to take action to ensure a gender-sensitive crisis response as we transition from crisis response to recovery.

The ongoing crisis affects men and women differently, and in many cases deepens the inequalities women experience on an everyday basis². These inequalities, along with key solutions, were highlighted in a Women's Manifesto issued by the WPG in preparation for the general election in December 2019. These solutions remain central for a long-term response, but the developing crisis has put a number of issues in sharp focus for urgent emergency action.

Not only does this crisis have a disproportionate impact on women, but that impact is worsened for women from particular backgrounds: for instance, black and minority ethnic women, disabled women, women with caring responsibilities, and LGBTQI+ women. The emergency action required, and any recovery programme put in place, must meaningfully take into consideration the institutionalised inequalities that exist within Northern Ireland, and must co-develop a roadmap forward with the communities affected.

NI Covid-19 Feminist Recovery Plan: Relaunch One Year On, Pages 9 & 10



A video summarising the main recommendations from the plan can be viewed at on [YouTube](#). You can download the latest version of the FRP as a PDF here: www.wrda.net/feminist-recovery-plan. The supplementary report, based on the primary research, is also available from the same webpage.

Legacy Bill: NIO breached its Equality Scheme and withheld documents from its investigators

Daniel Holder, Deputy Director, CAJ

The 'Section 75' equality duties were a key safeguard emerging following the GFA. Policy making in secret regardless of the adverse equalities impacts was to be thing of the past. The duties oblige most public authorities to adopt an Equality Scheme containing binding commitments to publicly consult on and equality assess new or revised policies. Most schemes follow a methodology recommended by the Equality Commission for Northern Ireland (ECNI), involving an initial 'equality screening' assessment and then, if the screening identifies equalities impacts, a full Equality Impact Assessment (EQIA), along with consideration of alternative policies or mitigating measures. Equality Schemes provide that equality screening is to be conducted at the 'earliest' possible stage of policy development and made public on request. Breaches of the equality duties in some circumstances can be actioned through judicial review, but the general statutory remedy for breaches of an Equality Scheme is through a complaint to the Equality Commission who have formal powers of investigation.

In relation to policy to deal with the legacy of the 'Troubles', the NIO followed these processes when it ultimately came to progress an implementation bill for the 2014 Stormont House Agreement. A public consultation was held, equality screening made public with a commitment to a full EQIA. However, a recent Equality Commission investigation of the NIO regarding its *subsequent* legacy policy, further to complaints from CAJ and the Pat Finucane Centre, tells a different story.

The NIO unilateral U-turn of March 2020

As part the January 2020 New Decade New Approach (NDNA) agreement to restore power sharing at Stormont, the UK committed to introducing SHA legislation into Westminster within 100 days. The new Secretary of State Brandon Lewis however unilaterally departed from that commitment in a Ministerial Statement to Westminster in March 2020, setting out in general and vague terms, a revised policy on legacy. The ministerial statement announcing this change of legacy policy was expressly tied to preventing criminal proceedings against soldiers.

Then for months there was silence. There was no consultation or engagement and no sign of equality screening. Into the Autumn an interim report by the Westminster Northern Ireland Affairs Committee stated it was "dismayed by the lack of consultation and engagement" and that it was "deeply worrying" that the UK Government had not provided any further policy detail at all since the March 2020 ministerial statement.

However, behind closed doors action was being taken. On the 20 July 2020, in an incidental response to a House of Lords question about civil claims against the UK military abroad Ministers made public that the NIO was actively preparing new NI legacy bill.

The complaint by CAJ and the Pat Finucane Centre

It was at this stage, in the context that the process had moved as far as the active preparation of legislation, that CAJ and PFC requested a copy of the Equality Screening exercise that the NIO was obliged to conduct at the earliest possible stage of a policy change, like that which had been announced in March 2020.

This was no mere procedural technicality. A change of policy abandoning robust investigative processes agreed under the SHA to instead pursue a vague policy of limited information recovery with a particular objective of protecting soldiers (and by extension others) from prosecution is clearly going to have significant impacts on the families of victims. There will be an interface between groups of victims and a number of the protected characteristics under the equality duty. If the processes under the Equality Scheme are properly followed the likely adverse impacts on equality would therefore have prompted the NIO to consider 'alternative policies' and 'mitigating measures' instead. Furthermore, the NIO would not be able to develop its new policy in secret; the schemes' duties on public consultation and engagement would kick in. In particular, the NIO would have to conduct equality screening and release it on request transparently demonstrating both further detail on the new policy and also what equality impacts it would have.

In this instance though NIO declined to provide a copy of the equality screening when we asked for it. Instead, the NIO responded that the screening would only be made public when the legacy bill was actually introduced to Westminster, by which time the processes under the equality scheme would be redundant. In further engagement there was then some variation on this position, but no commitment to make public the document. The NIO even surreally offered a meeting to discuss the screening, on the proviso that we would not be able to actually see the document we were supposed to be discussing.

CAJ and PFC lodged a 'breach of scheme' complaint over the refusal to provide the Equality Screening. The NIO responded by stating that the screening would be made available at some unspecified point in the future and that the process was ongoing. Having exhausted the process with the NIO, CAJ and PFC then pursued our complaint with the Equality Commission on the 10 September 2020. The NIO issued further correspondence after this now stating that it did not hold a 'duly signed off' equality screening, as its process was not complete.

This was an unusual situation. At times several revised screening exercises are conducted as a policy develops,

the NIO has done this with other policies. It would also be odd for an initial Equality Screening on such a far-reaching policy change not to be ‘completed’ many months after the policy change, which had reached the stage of developing a bill. It would be irregular if a screening exercise had been written but not ‘signed off’ to evade the duty to make it public. Any Commission investigation was going to have to deal with the status of this initial equality screening and just what was in it.

On the 2 December we were notified that the Commissions Investigations subcommittee had decided to authorise a formal investigation. Under Commission procedures either party is allowed to appeal a decision over a formal investigation within 20 working days. Such a ‘review’ of decision can only be requested on the basis of one of a small number of listed grounds for appeal. The NIO lodged such a review request on the 30 December 2020, but this neither cited nor related to any of the permitted grounds of appeal. Rather it consisted of a brief letter from the NIO Permanent Secretary that reiterated the NIOs most recent position with some general background information.

When we responded to this, the NIO submitted further correspondence towards the end of January. This did set out ground for appeal and alleged that the complainants had ‘misrepresented the NIO’s position’ and further arguing that the screening document was not ‘complete’ and that the NIO was “not yet in a position to finalise an equalities screening process”. At this point, it was ten months on from the policy change announcement and six months on from Westminster being told the NIO had reached the stage of preparing legislation.

The Commission dismissed the appeal and proceeded with their investigation, meeting with NIO officials to take evidence in April 2021. In addition to the investigation probing NIO procedures, the terms of reference expressly stated it would examine whether the Equality Screening document actually existed at the time CAJ requested it, and at what stage of completion it had reached.

The investigation

The Equality Commission investigation reported in early October 2021, finding failure to comply with the equality scheme and highlighting the processes involved in some detail. The Equality Commission was not however able to get to the bottom of the contested question as to whether the initial equality screening had been ‘completed’ or not as the NIO also withheld the relevant documentation from Commission investigators. ECNI’s [investigation report](#) records that the NIO had stated that “initial screening assessment had been carried out” at the time of the March 2020 [see para 3.35], but the NIO representatives “did not, either prior to, for the investigation meeting, nor afterwards, provide a copy of the draft screening documentation referred to. They were asked again during the preparation of this report, but again declined to release a draft document.” [4.16]



The investigation report elaborates that a ‘partially completed’ screening form ‘reportedly existed’ but the ‘complexity and sensitivity’ of the subject matter meant it was not ‘sufficiently developed’ to be shared with the complainants [4.45]. The NIO did concede to investigators that on previous occasions, “It was NIO practice to release partially completed screening forms to consultees”. In essence a differential approach had been taken with these particular legacy proposals.

The NIO had stated also that discussions had taken place with the Secretary of State advising him regarding the equality screening process, but investigators also noted “the NIO did not provide any documentary evidence of these discussions as reported...” [3.35].

Overall, the Investigation notes that the Equality Schemes processes had followed their usual course when the NIO was developing policy regarding the SHA, but departed from them following the March 2020 statement. Noting the NIO have described the screening process as a ‘continuing one’ given the ‘difficulties’ on this ‘highly political and contentious policy development process’ the Investigation holds that: “...nowhere in the evidence is any acknowledgement or suggestion that the NIO understands that the statutory equality and good relations duties in Section 75 are also continuing duties. There is therefore no indication that the NIO has continued to apply its Equality Scheme commitments consistently or coherently through this complex and lengthy process of policy development and draft legislation.” [4.18]

The investigation ultimately finds that the NIO breached its Equality Scheme in relation to the broader screening process. In particular, the report emphasises the purpose of screening in informing the policy development process. It contains a number of recommendations, including that the NIO review its processes for completing Equality Screenings so they are undertaken in a way that can be presented and inform the policy decision maker of potential equalities impacts of proposals prior to an announcement on legislation. The Commission also recommends the NIO reviews its approach to equality assessment on the legacy bill and procedures with the previous SHA commitment to a full EQIA. The report

however also highlights a number of broader irregularities in process.

The NIO legacy policy process – what the investigation revealed

Following Brandon Lewis' statement on legacy in March 2021, over a year passed before any further official information was put into the public domain about the direction of travel with legacy policy. This occurred in irregular fashion in May 2021 on elections day in England when leaks to the London Times and Telegraph set forward plans for an amnesty.

Further policy detail was not set out until the Secretary of State issued the July 2021 Command Paper, which set forward UK plans for an amnesty, which has been judged by [experts](#) to be more extensive than that deployed by General Pinochet; the establishment of an 'Information Recovery Body' with comparatively weak powers; and the concurrent shutting down of all other forms of investigation and inquiry, including curtailing inquests, along criminal and civil proceedings already before the courts. The investigation reveals that NIO representatives had briefed the Secretary of State on equality matters prior to the March 2020 announcement "but it is not clear how any of the Equality Scheme processes or arrangements were applied" [4.43]

It appears that NIO officials were then taken by surprise by at least some of the content of the March 2020 statement. The investigation records that the screening was based on 'assumptions' officials had previously made as regards the policy, and that the March Ministerial Statement had 'changed the direction of travel' with some of those 'assumptions' being rendered 'actually incorrect' [3.41]. Whilst the report does not elaborate, it is possible that officials had 'assumed' the Secretary of State would act in good faith over previous commitments to implement the SHA. Not least as the SHA had been recommitted to in the Queen's Speech, in statements to the Council of Europe Committee of Ministers, and, most notably, in the NDNA agreement, just two months before the changes were announced.

ECNI's report highlights that the NIO had been 'reluctant to confirm' the content of the screening to CAJ and PFC as it related to *previous* policy proposals [4.24]. It's not clear however if this relates to not wishing to reveal what had been on the table regarding SHA implementation prior to the March 2020 statement or at a later stage. The request for the Equality Screening document was not issued until July 2020, four months after the Ministerial statement when legislative drafting was apparently underway. Furthermore, the NIO had maintained when meeting Commission investigators in April 2021 the equality screening was *still* not ready.

An alternative explanation could be that the proposals for the much broader amnesty and shutting down of investigations and inquests were part of the policy

proposals much earlier than has been officially acknowledged. It is possible there was significant change after the March statement but even Parliament was not updated. It is also possible actual legacy policy decisions ebbed and flowed in a haphazard way and did not follow the normal processes with officials.

Reading between the lines the report provides some pointers on this, albeit not conclusively. NIO officials told investigators they had not resumed work on the screening as the "policy had been in such a significant flux" and the screening had become really quickly "out of date according to current thinking" [3.42]. These are of course not Equality Scheme-compliant reasons not to release a screening document.

The NIO also contends it did not have "any clear policy proposals to screen" [4.40]. If this was the case in July 2020 it is not clear how the UK Parliament was told the proposals had reached the stage of draft legislation being prepared. By April 2021, officials were still contending it would take 'significant work' and a 'comprehensive review' to 'take account of where we are at now' to complete screening. [3.43].

Officials did not think it was reasonable to expect the NIO to have completed a new screening exercise each and every time a decision had been taken to change the policy [3.44]. This is of course however what the Equality Scheme would require. It is the whole purpose of screening to ensure that policy decisions *actually take into account the likely equality impacts* they would cause to.

This whole episode demonstrates deeply irregular policy making at the heart of government, and a significant departure from the processes envisaged by the post-GFA equality duty. The Commission investigation has, however, provided a level of accountability and may yet prevent recurrence.

Where are we now?

The legacy proposals set out in a [July 2021 Command Paper](#) (Addressing the Legacy of Northern Ireland's Past) have already generated almost universal opposition. Experts from the UN and Council of Europe (as well as others) have argued that aspects of the plans would be unlawful. It is, however, feared that the present UK Government may press ahead regardless.

The ECNI investigation has, however, led to the NIO producing a screening on the command paper proposals, published in July 2021. NIO has also committed to conducting a full EQIA, which would – if done compatibly with the statute and Equality Scheme – require a proper consideration of equality impacts and consequent alternative policies, as well as a full public consultation.

If the NIO continues its present (unilateral) course on legacy, rather than reverting back to the SHA, it remains to be seen whether or not any of this will actually happen.

The Mental Health Strategy is a missed opportunity

Sara Boyce, Development Worker, PPR

In June 2021, the World Health Organisation (WHO) joined the United Nations (UN) in critiquing the medicalised model of 'mental health' and in calling for fundamental changes in how countries respond to emotional suffering and distress. The publication by the WHO of '[Guidance on Community Mental Health Services: Promoting Person-Centred and Rights-Based Approaches](#)' is hugely significant. It marks another big step in the global shift in thinking, away from biological explanation of human distress, championed by psychiatry and drug companies alike, towards an understanding of distress and trauma that is rooted in social determinants such as violence, poverty, discrimination, and unemployment. It is worth quoting directly from that report: "The predominant focus of care in many contexts continues to be on diagnosis, medication and symptom reduction. Critical social determinants that impact on people's mental health such as violence, discrimination, poverty, exclusion, isolation, job insecurity or unemployment, lack of access to housing, social safety nets, and health services, are often overlooked or excluded from mental health concepts and practice. This leads to an over-diagnosis of human distress and over-reliance on psychotropic drugs to the detriment of psychosocial interventions."

In the report, the WHO advocates for a fundamental paradigm shift in the treatment of mental health conditions, as was previously called for by the UN Special Rapporteur on the Right to Health, Professor Dainius Puras. Specifically, the WHO argues for "a move towards more balanced, person-centered, holistic, and recovery-oriented practices that consider people in the context of their whole lives, respecting their will and preferences in treatment, implementing alternatives to coercion, and promoting people's right to participation and community inclusion." At a more local level, within Northern Ireland, activists who have had experiences of mental health services that have sadly not only been negative, but often further traumatising, echo this assessment. One activist commented: "Current psychiatric treatment is violence and works by brain impairment."

The development of [a 10-year Mental Health Strategy](#) by the Department of Health (DoH) in June 2021 provided a much needed, once in a generation opportunity to shift towards a human rights-based paradigm in treatment of mental health. Before Covid it was widely [recognised](#) that our mental health services were unable to respond appropriately and effectively to the levels and scale of emotional distress and trauma that exist in this post-conflict society, especially in working class communities.

All evidence points to an [increase](#) in levels of human distress and suffering as a result of the pandemic, with

particular groups and communities being impacted disproportionately, as pre-existing health inequalities are intensified and deepened. Yet, regrettably, DoH did not take that opportunity presented by the drafting of the strategy to develop a transformative vision for our understanding as a society of 'mental health'. A vision that would have, as its starting point, the question 'what happened to you?' instead of 'what's wrong with you?', and recognise that what surrounds us also shapes us, rather than blaming chemical imbalances within our brains. In the profound words of the poet Mary Oliver "Tell me about despair, yours, and I'll tell you mine".

Instead, what we got was little more than a short-sighted review and reorganisation of existing mental health services. PPR has previously highlighted how the 10 year Mental Health Strategy is a [missed opportunity](#). The Strategy, while it refers to the social determinants of health, effectively kicks them to touch. Indeed, the two relevant actions that are included, transfer responsibility for addressing those social determinants to "individuals, families and communities to address the social factors that impact on their mental health".

NISRA data, demonstrating clearly the inextricable links between deprivation and poor mental health, is effectively ignored. The ten worst [Super-Output Areas](#) on the combined mental health indicator are divided evenly across just two Assembly constituencies - North and West Belfast. Rates of suicide are over [three times higher](#) in deprived areas than in wealthy areas, while the overall number of deaths by suicide [increased](#) by 33.5% from 2019 to 2020. Unemployment and lack of a decent income are known to be risk factors for suicide. The links between claiming benefits and [increases in mental distress and suicide](#) have been documented. A recent survey by the Right to Work: Right to Welfare campaign found that in over 75% of cases supported by advice workers, those workers anticipated a denial of the 'minimum essential levels of benefits'. Yet the Mental Health strategy makes zero mention of this.

The theme for [World Mental Health Day 2021](#) is *Mental Health in an Unequal World*. The challenge is to focus on the issues that create and perpetuate mental health inequality, locally and globally. In Northern Ireland, the 123GP campaign (which is supported by PPR) is actively working to promote a different narrative around 'mental health'. As part of this we are developing a number of exciting initiatives including [The Rest of the Story](#), a grassroots, community-based, trauma informed storytelling project. For more information on the 123GP campaign, please email sara@pprproject.org.



PSNI@20: Human Rights Reflections on Policing Reform North and South

9.30am to 1.30pm, Friday 5 November 2021, QUB Great Hall and virtual

*Dear **Just News** reader, you are cordially invited to join us at a seminar on policing reform organised by CAJ in collaboration with ICCL. The event is being hosted by the Senator George J. Mitchell Institute for Global Peace, Security and Justice, and the School of Law at Queen's University Belfast*

Police reform and oversight has been an essential pillar of the NI peace process from the 1990s onwards. It has now been 20 years since the PSNI was established following the Independent Commission for Policing in Northern Ireland (the Patten Report), along with wider policing oversight arrangements, including the Office of the Police Ombudsman for Northern Ireland. Meanwhile, in the Republic, generational police reforms under the Commission on the Future of Policing are now entering a critical phase as legislation on the restructured oversight mechanisms is being brought forward.

The Irish Council for Civil Liberties (ICCL) and the Committee on the Administration of Justice (CAJ) have been key players in the policing reform process for many years and have played a key role in advocating for a rights-based approach to policing within both jurisdictions.

Set against a very different social and political environment to that underpinning the Patten Commission era, twenty years on we now stand at a key juncture for advancing and sustaining policing reform, and with this comes an opportunity for us to reflect on past successes, current challenges, and risks for the future around human rights.

During this half day seminar, we will hear from academics, practitioners, and others with a direct involvement in police reform and oversight. There will be an opening

address from Professor Fionnuala Ní Aoláin, UN Special Rapporteur and academic based at Queen's University Belfast and the University of Minnesota.

An opening panel on human rights, policing reform processes and structure will feature experts including Dr Richard Martin (LSE), Alyson Kilpatrick (current Chief Commissioner with NIHR and former Human Rights Advisor to the Policing Board), and Dr Michael Maguire (Fellow of the Senator George J. Mitchell Institute, QUB).

This will be followed by a panel discussion focused on policing at a community level including Dr John Topping (QUB), Lilian Seenoi-Barr (Director of Programmes for the North West Migrants Forum), Conal McFeely (Creggan Community Development Worker) and Debbie Watters (Ulster University). A final 'reflections' panel will draw on the experience of those involved in policing reforms processes, North and South. It will be facilitated by Dr Vicky Conway (Dublin City University), and feature Stephen White (former PSNI Assistant Chief Constable) and Jack Nolan (former An Garda Síochána Assistant Commissioner).

This seminar is part of a broader joint ICCL-CAJ project on policing oversight, funded by the Community Foundation Ireland. It will be followed by a further seminar in Dublin in early 2022. We acknowledge support from the School of Law and Mitchell Institute.

Register via Eventbrite: www.bit.ly/psniat20 (online tickets only remaining)

Email events@caj.org.uk if you have any questions about the event.

 The Community
Foundation for Ireland