**Quaker briefing for parliamentarians:** **Northern Ireland Legacy (Troubles and Reconciliation) Bill (NILTRB)**

**Overview**

Q-CAT is a registered charity campaigning for the elimination of torture and such ill-treatment. We are led by our faith to care for the spiritual wellbeing of both the victims and those complicit in the use of torture, believing that such ill-treatment harms them all.

We believe that the Northern Ireland Legacy Bill cannot achieve its stated purpose. This Bill calls in to question our values of truth and integrity. It undermines fundamental legal principles of fairness and equality before the law. It creates a two-tier system of justice, some people being immune to justice, others not. “Conditional immunity” diminishes the rights of all.  The structure of the Independent Commission for Reconciliation and Information Recovery (ICRIR) precludes the ability to deliver the state’s obligation to facilitate proper accountability and redress. Both of which are crucial for healing, rehabilitation and reconciliation.

The Bill therefore cannot “[introduce a process that provides answers for families](https://www.gov.uk/government/news/northern-ireland-troubles-legacy-and-reconciliation-bill-second-reading-opening-speech)” (Ministry of Defence statement). It does nothing to achieve justice for the victims and their families who have been waiting years to understand what happened to their loved ones. It does nothing to achieve justice to the military and government actors, caught up in the Troubles.

**What you can do**

Please help us raise our concerns with ministers and other parliamentarians. We believe the Bill cannot deliver justice, or promote reconciliation. We would like the Bill to be ‘scrapped’ as it is not fit for purpose.

**Our concerns about the Bill**

**1. Breaches international obligations**

Under Articles 2 and Article 3 of the European Convention on Human Rights (ECHR) there is a positive obligation to conduct investigations into deaths, torture and serious injury. All routes to justice in this Bill are collapsed into one body with restricted scope, and no investigative powers. This means there will be no “independent, effective, prompt investigations” that are open to public scrutiny and involve the family. The Bill, by choosing to conduct a weaker ‘Review’, risks breaching UK’s obligations in international and domestic law. The Bill cannot ensure robust investigation of unsolved murders, including soldiers. This completely negates the recent assurance made by the Minister of State to soldiers’ families. Additionally, the Bill will cover up failings on the part of senior officers, the poor training, and poor briefing of soldiers on the ground. Law ensures that such failings, criminal action, have to be acknowledged and addressed.

The Bill proposes that on specific dates *all* criminal investigations, civil claims, inquests and police complaints will end. Veterans, and civilians, will be badly let down, for example, by having no defence rights any more. “The police will be prevented from investigating, the courts will be prevented from ruling, prosecutions will be prevented” (Northern Ireland Human Rights Commissioner, statement to [N.I Affairs Committee](https://www.itv.com/news/2022-06-07/troubles-legacy-bill-cannot-be-made-compatible-with-human-rights) 7th June 2022).

**2. Lack of independence**

ICRIR compromises the independence devolved to Northern Ireland by the Good Friday Agreement. The Secretary of State for Northern Ireland (SOSNI) will appoint the personnel (some having Northern Ireland policing experience), make regulations governing its work, control the resources, and issue ‘guidance’ over aspect of the process and reviews it holds. Conferring such wide power on the SOSNI is troubling, especially in the light of the widely held recognition that UK government agencies were complicit in wrongdoing, including killing and mistreatment amounting to torture, during the Troubles. State failings are not likely to be addressed by the ICRIR. Given the nature of the Troubles there may well be people who will not wish to present information to ICRIR as constituted: the facts that finally emerge will not represent all those involved.

**3. Mechanisms of enquiry too restricted**

The ICRIR is limited to reviewing papers and taking testimony. It cannot seek to corroborate facts by further enquiry, so is most unlikely to reveal currently obscured truths, as proper investigations or inquests would. Clear safeguards are lacking against discriminatory or abusive use of information. The exercise of police powers is unclear. The role of the SOSNI will enable them to protect state agents’ past actions.

**4. Breaches obligations for accountability and redress**

Article 3 of the ECHR and UN Convention Against Torture (UNCAT) have established the right not be subjected to torture, inhuman or degrading treatment or punishment. Such activity has to be investigated. The prohibition of civil actions in this Bill contravenes the right to claim for damages, for redress and compensation. The Bill has no mechanism to prevent scapegoating and errors of culpability. It is avoiding the state’s duty to identify its failures of guardianship (to punish serious crimes and breaches of fundamental human rights). In effect the Bill does the opposite, absolving perpetrators.

**5. Conditional immunity**

‘Conditional immunity’ contravenes UK’s duty to investigate and punish serious crimes and breaches of fundamental human rights, such as killings and torture. Torture is prohibited in all situations. The ‘conditional immunity’ scheme is not compliant with international law (Article 2 & 3 ECHR), and the requirement for impartial, full, open and transparent investigations, restitution and appropriate sanctions. Those who have suffered crimes or committed crimes in the Troubles are living with their individual experiences, and suffering the impact of those events. Without the prospect of redress through impartial, legal, thorough processes, there can be little comfort, closure and reconciliation.

The immunity clause suggests that decisions about the consequences for wrongdoing, such as unlawful killing or torture, will rest with the SOSNI, not established forums of justice. SOSNI judgements will be open to accusations of bias and government ‘cover-up’. Allowing lower standards of culpability by introducing ‘potential immunity’ is in fact introducing a dual system. The implications of this resonate well beyond our borders.

**Conclusion**

Finding a way for more facts to safely emerge about the Troubles, to give closure for those involved, and to work towards reconciliation, for both victims and perpetrators, is an admirable aim.

This Bill does not forward this aim. This Bill does not serve families who have been waiting years for answers to their questions. It does not protect civilians, does not help victims or bereaved, nor assist government officials learn from their encounters in this bitter, domestic discord.

The Bill will further damage our standing in the world, undermining our system of justice and democracy.

**Further information**

For further information please contact Juliet Morton, Trustee for Quaker Concern for the Abolition of Torture (julietmorton0@icloud.com).