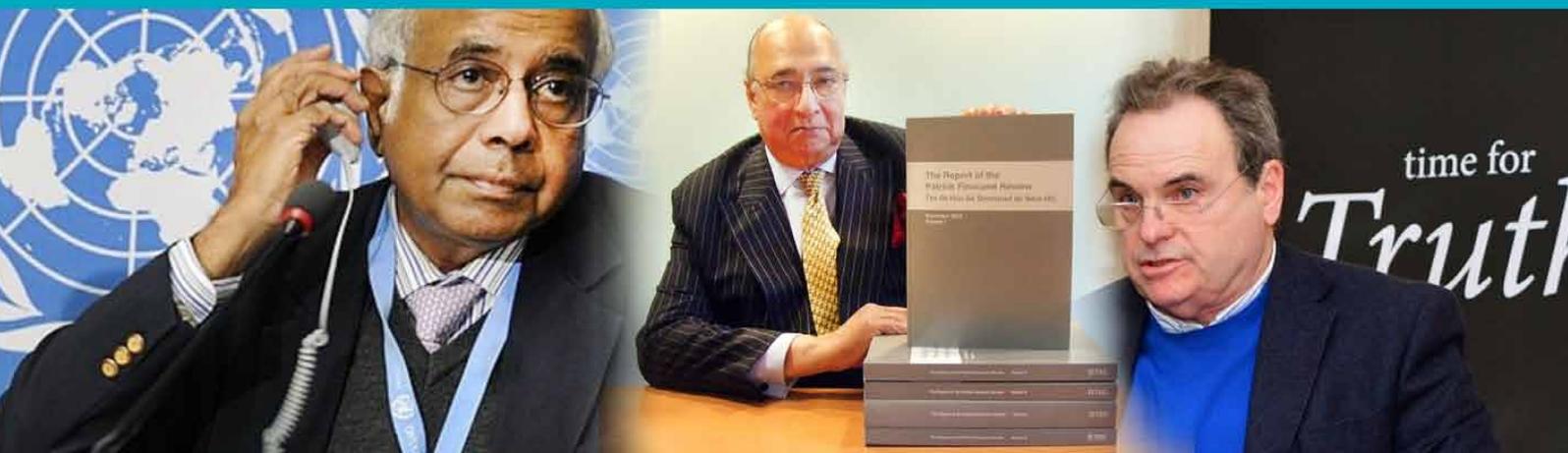




Pat Finucane

The Campaign for an Independent Public Inquiry

RELATIVES FOR
JUSTICE





Introduction

On the 22nd November 2016 the Court of Appeal heard legal arguments from lawyers representing Geraldine Finucane and her family concerning the failure of the UK government to establish a Public Inquiry into the murder of her husband, human rights lawyer Pat Finucane. For other bereaved families, interested observers and supporters of the Finucane family who follow RFJ, this article seeks to set out and explain briefly the background and context to the initial challenge and the appeal hearing. The material concerning Pat's murder, and the tireless campaign by his family, is so voluminous that even doing justice to describe what has been achieved to date would be a huge task and so for the purposes of this article Relatives for Justice (RFJ) Director, Mark Thompson seeks to set out some key facts and benchmarks.



Human right lawyer Pat Finucane was murdered in an attack at his home on Sunday 12th February 1989. His wife Geraldine was also shot and injured in the attack. The attack happened in front of their three children, Michael, John and Katherine. The UDA, a legal loyalist paramilitary organization that the UK government refused to proscribe, claimed responsibility for the attack.

In the weeks preceding the attack, senior members of the RUC provided a security briefing to the UK government Home Office at Whitehall in London.

This briefing led to a junior Tory government Home Office minister, Douglas Hogg MP, making a statement

in the UK Parliament in January 1989 in which he claimed that in the North of Ireland 'some solicitors were unduly sympathetic to the cause of IRA'.



When challenged about the recklessness of the comments and that this would immediately put the lives of lawyers at risk, with them becoming the target for 'assassins bullets', Hogg refused to retract his statement and went even further in asserting his claims were based on the Home Office briefing.



Prior to the attack Pat Finucane had been threatened by RUC Special Branch, who had delivered threats to some of his clients during their arrests and detentions at Castlereagh interrogation center, Belfast.

The RUC, Tory NIO ministers and unionist politicians vehemently denied claims of collusion in the murder. The Finucane family were vilified and attacked publicly for daring to damage the reputation of the RUC, British army, and UK government.

Pat's murder occurred against a backdrop of emerging evidence of collusion between the 'security forces' and loyalism. In September 1989 the British government appointed the deputy head of



Norththumbria police John Stevens to investigate 'allegations' of collusion. The tipping point had come when loyalists produced police and military montages and information they had received from the 'security forces' regarding a man they had targeted and killed, Loughlin Maginn. There had also been other killings involving collusion including those of Gerard Slane and Terence McDaid.



John Stevens



Brian Nelson



William Stobie



Ken Barrett

Stevens concluded his investigation in April 1990. His investigation was hampered persistently by the RUC and British army intelligence including the burning down of his offices, which were located within an RUC secured base. His findings were that there was collusion between loyalists and the 'security forces'. His investigation led to the arrest of Brian Nelson, a British army agent within the UDA, on January 12th 1990. Among those Nelson had targeted for killing were Pat Finucane, Gerard Slane and Terence McDaid. Other assassination bids failed. It is believed that the Force Research Unit of the British Army, like RUC Special Branch, had Pat specifically targeted. There is evidence that Contact Forms (CF's), which detail precise information between agents and their handlers within the FRU, have been deliberately doctored. Only a full Public Inquiry can address these matters.



Brigadere Gordon Kerr head of FRU

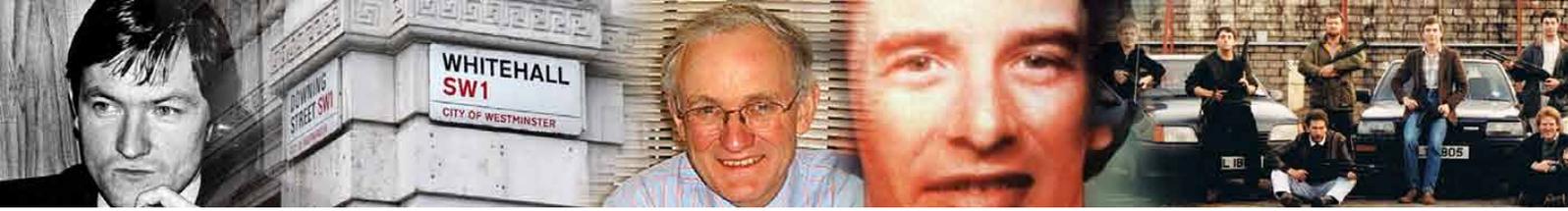
Stevens would return twice more, as head of the London Met, and his three investigations would span 14 years. One of his investigations focused more on a number of killings including Pat's. In 2003 Stevens III recommended that 24 members of RUC Special Branch and British army intelligence be prosecuted. In June 2007 the North's DPP finally made a determination in the case; he refused to prosecute.

In the course of his three investigations Stevens interviewed 210 civilian people involved in collusion, mostly under caution. He would later state that 207 of these were acting state agents. The UK government has refused to make public his findings.



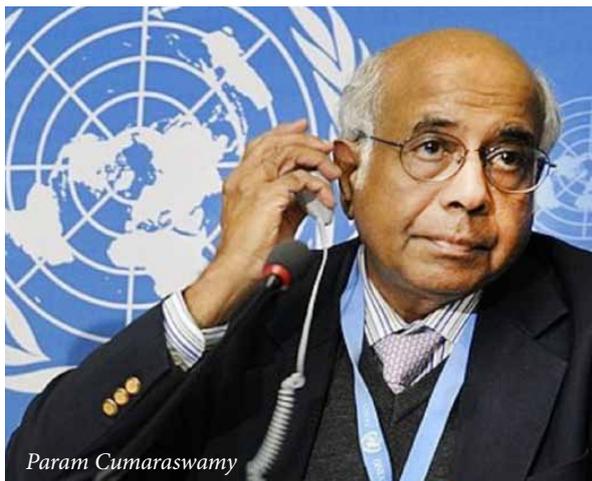
Geraldine Finucane and family

Through a persistent, tireless and dignified campaign for an independent Public Inquiry to establish the full facts, the Finucane family, led by Geraldine, earned the respect and support of international governments, leading human rights bodies, the UN, the US Congress, European Parliament politicians, civic leaders, and above all the many families from across the religious and political divide that had also been victimized in similar circumstances of collusion. The evidence was clear and the case for a Public Inquiry was compelling.



Numerous political interventions by the UK government through its embassies, ambassadors and officials sought to undermine Geraldine Finucane as she went about championing her cause globally for justice; a cause equally on behalf of the hundreds of ordinary people also affected by collusion. The stakes were obviously high for the UK government begging the question just how bad is it when they go to such lengths?

Indeed controversy raged when the UN Special Rapporteur (UNSR) on the Independence of Judges and Lawyers, Param Kumaraswamy, delivered a report in March 1998 following a fact-finding mission in October 1997 that detailed threats to lawyers by police as being widespread and that the UK was not acting appropriately to deal with such. The report also focused on the circumstances of Pat's murder.



Param Kumaraswamy

The UNSR visit had been prompted by the Finucane family, Relatives for Justice (RFJ) and the Committee on the Administration for Justice (CAJ) travelling jointly to Geneva on a number of visits and giving evidence to the UN's Human Rights Committee on Pat's murder, collusion and other human rights violations.

The BBC's John Ware, who has reported extensively on Pat's murder, would later report attempts by the RUC Chief Constable, Sir Ronnie Flanagan and the UK to unsuccessfully have parts of the report removed prior to final publication, including denying comments attributable to a senior RUC officer concerning the safety of lawyers should the report

be published. In particular Rosemary Nelson, one of numerous lawyers the UNSR spoke with, was referred to. The report was published without naming lawyers, but within a year Rosemary Nelson was murdered.



John Ware



Ronnie Flanagan



Rosemary Nelson

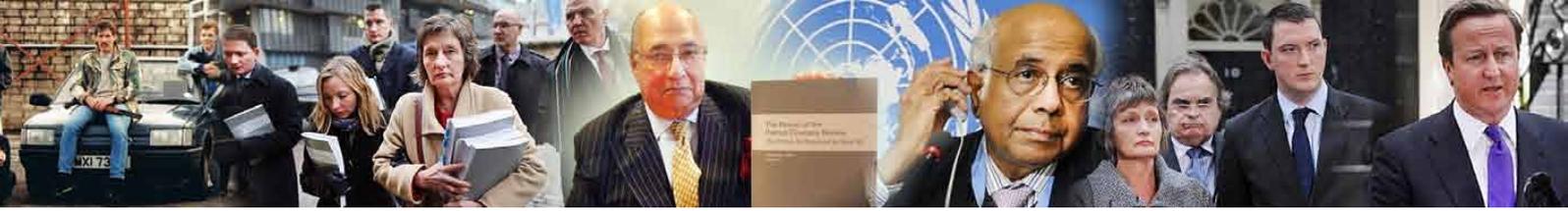
The stonewalling of a Public Inquiry into Pat's murder continued unabated despite the increasing pressure on the UK government especially from the US and Irish government with ongoing revelations about the extent of collusion in the murder.

On the 10th anniversary of Pat's killing British Irish Rights Watch (BIRW), now Rights Watch UK, published a report entitled 'Deadly Intelligence' detailing key facts and information on the killing. This included irrefutable evidence of state forces and intelligence agencies in collusion and murder. Other NGO reports followed including from the New York based Lawyers Committee for Human Rights entitled 'Beyond Collusion' in 2002. A number of US Helsinki Commission Congressional Hearings also took place, chaired by Congressman Chris Smith.



Congressman Chris Smith

Political talks and negotiations between the Irish and British governments, including the political parties, at Weston Park in 2001 secured a joint governmental agreement to examine Pat's case and to determine whether or not it merited a Public Inquiry. Unionist leaders, who had continually sought to block such



an inquiry into Pat's murder, had introduced cases in which the IRA had killed people, two RUC officers and UK judge and his wife in two separate incidents as they travelled back north from over the border, suggesting collusion with the Irish police An Garda Síochána. Unionists also called for an inquiry into the killing of leading loyalist Billy Wright by the INLA in Long Kesh prison. It has been suggested that these were tactics by unionists to prevent the Finucane inquiry rather than to establish inquiries.



Tony Blair and Bertie Ahern

However, it was agreed that six cases would go to an independent judge for his assessment; three killings by republicans as referred to above, the killing of Catholic man Robert Hamill in Portadown by a loyalist mob as the RUC watched on failing to intervene, and of lawyer Rosemary Nelson after being threatened numerous times by the RUC. Rosemary had also been the lawyer acting for the family of Robert Hamill prior to her murder by loyalists in March 1999 - a decade after Pat's murder.



Judge Peter Cory

Retired Canadian Judge Peter Cory was appointed and after concluding a paper review of the cases recommended inquiries into five cases he examined. He said that there was no evidence of collusion in

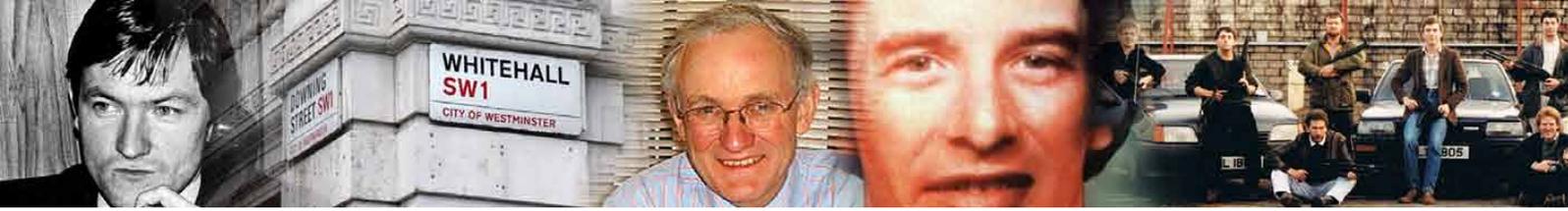
the case of the judge, Justice Gibson, and his wife. The Irish government honoured its commitments in the Weston Park Agreement, an international agreement between two sovereign states, by holding a tribunal of inquiry in its jurisdiction concerning the case of the two RUC officers, Breen and Buchanan, raised by unionists.

The UK government committed to holding the remaining four inquiries but have to date only held three. In delaying to hold a public inquiry into Pat's murder the UK said at the time they were considering the position and that an inquiry would only be held in the case of Pat Finucane after new legislation had been passed. It was now clearly evident, even to independent observers, that in this case there existed far reaching levels of collusion that were proving too problematic for the UK establishments of Downing St. and Whitehall.

The UK, on receiving the recommendations from Judge Cory, tabled and passed new legislation to amend the then existing laws governing Public Inquiries. Known as the Inquiries Act 2005 this limited the scope of inquiries and was roundly condemned domestically and internationally. It was seen as moving the goalposts and presented government ministers far reaching powers including the ability to determine disclosure of materials and evidence under Section 19 of the Act.

In campaigning the Finucane family learned that two of those involved in the planning and preparation for the attack were agents, William Stobie for RUC Special Branch and Brian Nelson for FRU. A third person, Ken Barrett who participated directly in the attack, was recruited by the RUC afterwards.

It is widely suspected, and indeed some of the evidence is irrefutable, that RUC Special Branch and the secretive British army intelligence unit known as the Force Research Unit (FRU) incited and directed the attack; that the principle agent, Brian Nelson a former British soldier secreted into the UDA, had targeted Pat on instruction of his FRU handlers and that other Special Branch and British army agents are also suspected to have been directly involved.



In truth whilst the UDA claimed the attack it was the British government, through its own 'security' and intelligence forces that were the true authors. One of the guns used to kill Pat was a British army weapon. It was state murder by proxy. Only a Public Inquiry that examines thoroughly all the material evidence and all witnesses can establish the full facts. The UK has consistently worked to deny such a Public Inquiry.

The killing of Pat Finucane has become a byword for collusion; such is the extent to which the direct involvement of all of the UK security agencies, including government, at the highest levels in the attack of Sunday 12th February 1989, has been exposed. So much so that the previous UK Prime Minister, David Cameron, would be forced to apologise publicly to the Finucane family for his government's role in the murder, yet refusing a Public Inquiry that would reveal the full facts and seek accountability.



David Cameron

There has never been an open, transparent, independent, impartial examination of the murder of Pat Finucane. The policing, military and intelligence agencies, the civil servants and politicians, who all know the precise facts given their various roles, have never been publicly questioned about what they knew and did. Nor has there been a proper scrutiny of the intelligence materials, nor of those who penned them in this context too. Only a Public Inquiry can address these pertinent issues.

And yet despite the vindication that collusion was the principle factor in the murder of Pat, the

vilification and vindictiveness continues alongside the refusal to hold a Public Inquiry.

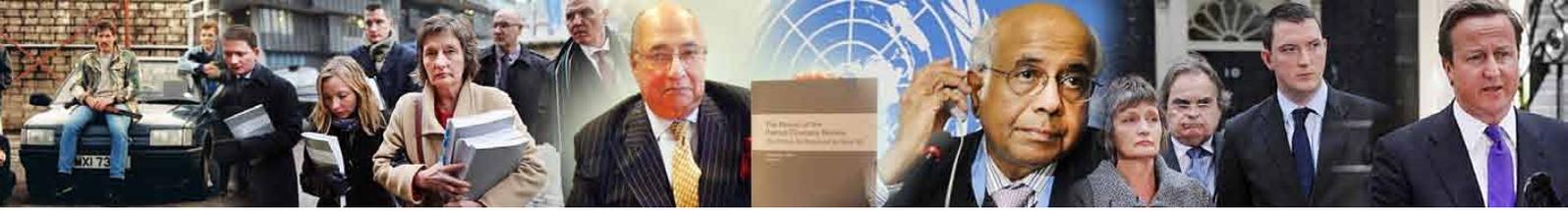
As the only family denied a Public Inquiry from the Weston Park Agreement the campaign continued domestically and internationally.



Finally in 2011 the UK government entered into some discussions with the Finucane family and their lawyer Peter Madden about how to proceed. Under the Inquiries Act 2005 there had been an inquiry into the death in custody of an Iraqi citizen, Baha Mousa, arrested in Basra by the British army and who had been tortured. This inquiry, held in London, appeared to offer some hope in that there was little interference by government ministers; something that had rightly been of concern with the refusal by the UK to hold a Public Inquiry, reneging on the joint agreement, and then after Justice Cory recommending an inquiry the introduction of the Inquiries Act. It was speculated in the media that this was a model that could potentially work and was eventually referred to as the Baha Mousa protocol.

However, such an approach was a compromise position from the family's point of view though, in good faith, they continued talks in the hope of finally establishing a Public Inquiry and reserving their decision in terms of what was on offer until the UK government made public their actual position. Though all the indications of an inquiry were very positive and the UK hadn't indicated anything otherwise.

On October 11th 2011 the Finucane family arrived in Downing St. for what they, the Irish government,



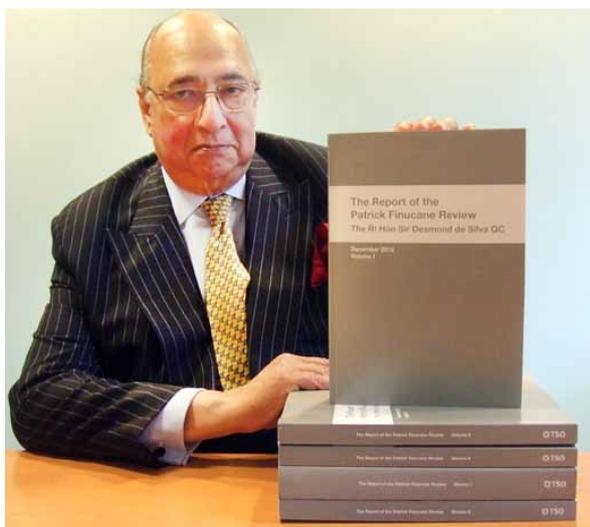
the international community and the world's media, believed was to be an announcement of a Public Inquiry. They were stunned to hear that this was not now going to happen.

Instead the UK Prime Minister David Cameron announced a review of the papers concerning Pat's murder by a barrister he had appointed, Sir Desmond De Silva. This was a rerun of the exercise undertaken by Judge Cory years previously. It was a sham from the outset and in total bad faith compared to the Finucane's good faith. In publicly announcing De Silva to the UK Parliament Cameron reiterated in public the apology for his government's role in the murder whilst keeping a tight lid on it also.

This was devastating news and was viewed as an attempt to publicly humiliate the Finucane family - it was despicable treatment of the Finucane family.

A review was far from what the Finucane family were led to expect and David Cameron reneged on his government's commitment yet again.

In December 2012 De Silva published his review putting into the public domain information that raised even more questions and arguably made the case for an inquiry all the more compelling.



Sir Desmond De Silva

Like each of the Stevens investigations, Cory, and now De Silva, it was clear that each time, at every stage, as pressure grew for an inquiry more bits of

information that was said never existed appeared. It was as Peter Madden said 'pre-cooked and pre-prepared from off the shelf'. Over two decades later from the murder it demonstrated how much they'd held back raising the question how much more is there? Which is precisely why an independent Public Inquiry is required.

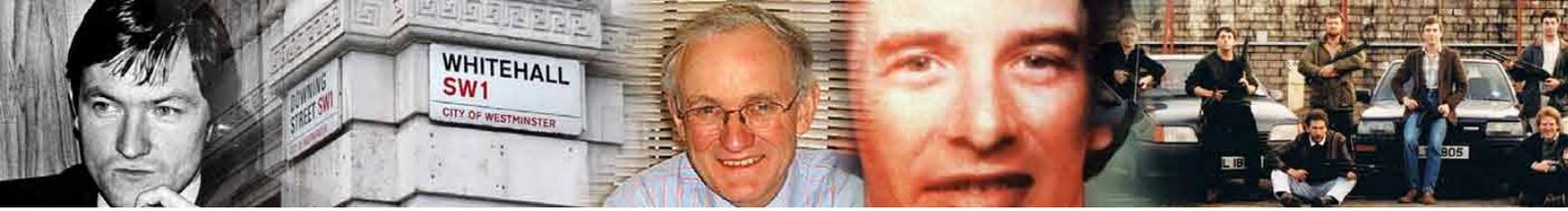
As a consequence Geraldine Finucane decided to issue legal proceedings by way of judicial review against the UK government for failing to honour its commitments to hold a Public Inquiry given the case history, broken agreements, and the suspected extent and levels to which collusion in the murder of Pat was far reaching into the heart of the 'security', intelligence and political establishments of Downing St. and Whitehall.



L to r: Geraldine Finucane, Peter Madden, John Finucane

Geraldine made the case that there was a legitimate expectation that a Public Inquiry would be held and that this was now being denied despite the agreed position by the UK government at Weston Park.

Indeed at the October 2011 meeting with Cameron he cited that the people in the buildings around Downing St. wouldn't allow a Public Inquiry. This was an amazing admission for a UK Prime Minister to make, and one that rang consistent to and correlated with the refusal to hold a Public Inquiry. The very people subject to scrutiny via a Public Inquiry were also in the driving seat. A memo by the most senior British civil servant, the Cabinet Secretary Jeremy



Heywood, stated that he couldn't understand why Cameron wasn't holding an inquiry given the evidence. He went on to say that '...it's as bad as it gets, far worse than anything in Iraq and Afghanistan.'

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UK government lawyers argued that they were entitled to change their minds about not holding a Public Inquiry. Some of the legal arguments are covered in blogs on the RFJ site from our attendance at the hearings and support for the Finucane family.

Justice Ben Stephens heard the judicial review over several days with a reserved judgment that eventually found in favour of the UK government.

Tuesday 22nd November 2016

Geraldine Finucane appealed that decision and on Tuesday 22nd November 2016 in the Court of Appeal, sitting with Lord Justice (LJ) Gillen, LJ's Horner and Deeney, the appeal opened lasting until Thursday 24th. Judgment is reserved.

Updates and news from the hearing can be found on links to twitter feeds from Michael and John Finucane and we will also later post an article addressing key points of the appeal by Peter Madden.

A dedicated website hosted by Madden & Finucane Solicitors, the hugely successful law firm Pat and Peter established, contains a dedicated section with all the family statements, reports, speeches, judgments, challenges, and related information on the case and can be accessed at;

<https://madden-finucane.com/pat-finucane-case/>



“Moreover, I wish to reiterate to the Committee of Ministers that it is the firm view of the Irish Government that a satisfactory outcome to this case will be best achieved through a full public inquiry, and we again call upon the British Government to fulfil the commitments it made in this regard at Weston Park fifteen years ago.”

Statement by Irish Government Minister Charlie Flanagan, December 7th 2016, to the European Committee of Ministers, Strasbourg.