

RELATIVES FOR  
**JUSTICE**

# FACTS ABOUT THE **ICRIR**

INDEPENDENT COMMISSION FOR RECONCILIATION AND INFORMATION RECOVERY



## Facts About The ICIR

The Independent Commission for Reconciliation and Information Recovery (ICRIR) was created as part of the Tory Legacy Act 2023 to administer amnesty to those involved in the conflict. In qualifying for amnesty a person is only required to provide an account of their role in a murder/s and/or attack/s to the best of their belief. The secondary role of the ICRIR is to examine such instances.

Following legal challenges brought by families in respect to the British government's controversial legacy legislation (The NI Troubles (Legacy & Reconciliation) Act 2023) **the Belfast High Court ruled that the amnesty provisions were incompatible with the UK's legal obligations under the European Convention on Human Rights (ECHR) and therefore unlawful.**

The amnesty provisions were the central plank in the **Tory government Bill, the main aim of which was to protect British soldiers from investigation and prosecution for killings they committed in Ireland.**

**This was a significant victory for the families** that has temporarily halted the primary function of the ICRIR in administering the Tory government's amnesty agenda. The British government are appealing the ruling.

Despite attempts by the ICRIR to claim they are independent and Article 2 compliant, in his ruling Justice Colton **did not declare ICRIR as Article 2 compliant.**

In his ruling Justice Colton noted it was premature at this stage to challenge the ICRIR's compliance with Article 2 as the body had not yet been operational and therefore not tested.

The court also noted **the appointment of former RUC/PSNI assistant chief constable Peter Sheridan as the ICRIR's 'chief of investigations' as a conflict of interest** adding that he would need to recuse himself in

instances where as a former RUC/PSNI officer, he was involved. Noting the serious lack of independence around the PSNI's HET because of similar conflicted hierarchical structures his very appointment makes a mockery of this and the need for structural and practical independence - key legal requirements of any sensible, genuine and meaningful process given the extent of unresolved State killings and incidents of collusion.

**However, the ICRIR is attempting to spin the court ruling** suggesting they are lawfully compliant to conduct investigations when they are clearly not.

The legislation governing the ICRIR provides key powers to a British Secretary of State thus compromising any independence of the ICRIR in its other functions such as examining killings and attacks.

Talking up that the ICRIR will get access to all files and documentation is disingenuous.

This is purely notional as the **ICRIR cannot disclose any information that a British government determines is not in the 'public interest', the interests of its 'national security'** or where it applies the practice of **Neither Confirm Nor Deny (NCND) used to protect its agents within illegal paramilitaries involved in murder.**

These practices were best illustrated in the weeks, days, and hours before the May 1 deadline that closed inquests - May 1, the day the ICRIR became operational.

In this period British government lawyers sought High Court orders to prevent coroners from lawfully providing families with gists (a very limited summary of very basic information) of key intelligence files in several high-profile murders involving State collusion. In doing so the British government cited 'Public Interest Immunity', 'National Security' & NCND.

This followed the coroner in the Séan Brown inquest revealing that the principal suspect in the murder had been under surveillance by MI5





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for approximately a year save for the hours Mr Brown was murdered; MI5 resumed the surveillance the next day. The inquest also disclosed a significant number of the suspects including the principal were State agents.

The Belfast High Court reaffirmed the lawfulness of coroners to provide gists to families rejecting the British government's challenge and appeal. The UK government is also appealing this decision to the UK Supreme Court.

Overall, British government restrictions and vexatious legal challenges to coroners was evidently frustrating leaving some with no other option than to call for public inquiries.

Despite the frustrations inquests and associated legal challenges were for the most part conducted publicly with families fully aware of what the British government are trying to hide - which is all-revealing. Families were also legally represented.

The Legacy Act is bad law. Bad law makes for even worse processes like the ICRIR, which ultimately will cause damage and further harm to families.

### **What the ICRIR will not tell victims & survivors**

- The Legacy Act provides sweeping powers to a British Secretary of State/Minister over the ICRIR.
- Therefore, the abuse of Public Interest Immunity, National Security & NCND in shielding agents involved in attacks, bombings & murder will be systemic as the ICRIR is legally compelled to act in accordance with the direction of the British government.
- The British government has said that **'the NCND policy and protecting State agents is fundamental to National Security'**.
- In his *BBC Spotlight* interview, the architect and sponsor of the legacy legislation, Lord Jonathan Caine, refused to answer the question **'Surely no one that commits murder should be protected by the policy of NCND?'**.

- When further asked **‘Are you confident that killers are not being protected?’** the ICRIR sponsor refused to answer citing it was a **‘security matter’**.
- UK security policy is to protect State agents involved in murder.
- The ICRIR will not be independent.
- THE ICRIR must adhere to the determinations of a British government regardless of what it discovers in the course of its work.
- The ICRIR will conduct all its activities behind closed doors in secret.
- There will be no ability for those who engage with the ICRIR to judge evidence/disclosures/material and therefore no ability to challenge decisions leaving them hostage to outcomes determined by British government ministers.
- Had the inquests referred to herein been under the remit of the ICRIR families and the public would never have known anything about intelligence files, State agent involvement, and gists. There would have been no open court cases which brought these matters to light.
- The ICRIR can only disclose information vetted, controlled & permitted by the British government.
- There will be no independent oversight on how the ICRIR, or a British Secretary/Minister, will conduct their activities under this legislation.
- Families who engage with the ICRIR will not be afforded legal representation.
- A British Secretary of State/Minister has the power to prioritise and direct the ICRIR on which cases it should examine.
- In his public attempts to promote the ICRIR its Chief Commissioner, Sir Declan Morgan, referenced the HET as an example of good practice. This was instructive as the HET was shut down by the HMIC because it operated unlawfully in respect to British Army killings and where collusion existed.

Working closely with families, lawyers and other NGO’s, the strategy developed within Relatives for Justice (RFJ) set very clear objectives in challenging this draconian and self-serving Tory legislation:

- Lodge legal challenges within the local courts.





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- Lobby the Irish Government to lodge an Inter-State application to the ECtHR.
- Lobby Irish-America in support of the above objective including considering other actions that ensure UK adherence to the rights enshrined within the Good Friday Agreement/Human Rights Act 1998 for victims & survivors of the conflict.
- Lobby the British Labour Party to commit to repealing the Tory legacy Act if elected as the next British government.
- Reinstate inquests.
- Reinstate the right of the north's Attorney General to reopen inquests;
- Reinstate the right to civil litigation.
- Implement the legacy mechanisms agreed by both governments and local parties at Stormont House in December 2014.

### **These objectives are realised in that:**

- Families won the first round within the courts against the UK's amnesty plans.
- The Irish government has lodged the Inter-State application against the UK at ECtHR in Strasbourg.
- Irish-America has stood firm against the UK Legacy Act including the role of the ICIR.
- The British Labour Party has committed to repealing the Tory Act if they come to power.
- The above commitment would lift the prohibition on inquests impacted by the Act meaning these would resume as would the role of the Attorney General in continuing to reopen inquests under S14.
- This too would lift the prohibition on civil actions.
- This would leave an incoming Labour administration in a position of requesting the Irish government & ECtHR for a hold on the Inter-State application.
- It's within this space that families - victims & survivors - can maximise the outcomes for full truth and accountable justice compliant with international human rights law.
- **In such a scenario the Irish government must only pause the Inter-State application once the above has been achieved and the agreement**

reached at Stormont House implemented; the Irish government must reserve the right to proceed should Labour renege on its public commitment.

## Families - victims & survivors - holding firm together for better outcomes for all

- The date of July 4 has been set for a British general election.
- To achieve the maximum outcome for families, we need to continue to work together - unity is strength providing victims with a greater voice.
- Families - victims & survivors - need to hold firm in their resolve to ensure effective, transparent, and human rights compliant processes are put in place to address legacy should the British Labour Party come to power.
- Repealing the Legacy Act means abolishing the ICRIR as its a central part.
- This would mean that the Stormont House Agreement on legacy would become live.
- Engagement with the ICRIR could well jeopardise the implementation of that agreement as they struggle to seek credibility against huge opposition.
- We understand that there is an emotional pull to examine every conceivable avenue, no matter how bad a process is, in seeking justice for your loved one/s, an emotional pull that the ICRIR are currently exploiting to seek traction and justify their continued existence should Labour gain power.
- We regularly hear phrases like *'We don't have any faith in it ... and we know it won't deliver ... but we want to face them and tell them what we have suffered ... and that we want accountable justice ... even though we know that such endeavours are a waste of time ... we owe it to the memory of our loved one/s'*.
- We fully respect those sentiments and choices whilst supporting families in whatever decisions they make.
- **However, we would respectfully ask families to reflect and await the outcome of the British general election, which is only a matter of weeks away - the legacy landscape could well change for the better for victims & survivors.**



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**BILL OF SHAME**

# Legacy and Reconciliation Bill 2022

Presented to Parliament  
by the Secretary of State for Northern Ireland  
by Command of Her Majesty

May 2022

# TRUTH AND JUSTICE DENIED

