



Project Monnet



Mobilising Opposition Networks to
Nationalistic European Terrorism

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This magazine provides a brief summary of (1) the Project MONNET Conference ‘*Victims’ Vision: Countering Terrorism to Protect Human Rights*’ held on 11 March 2008; considers the possibility of classifying atrocities such as (2) the Kingsmills massacre as a crime against humanity; exposes (3) the Belfast/St Andrews Agreement as being a compromise between democrats and terrorist-related politicians; informs about (4) the true purpose, flawed foundation and dangerous provisions of the proposed Bill of Rights for Northern Ireland and finally highlights the misleading definition of “victim” in (5) the proposed Bill of Rights for Northern Ireland.

1. **PROJECT MONNET CONFERENCE ‘VICTIMS’ VISION: COUNTERING TERRORISM TO PROTECT HUMAN RIGHTS’**

On the European Day for the Victims of Terrorism, 11 March 2008, the conference ‘*Victims’ Vision: Countering Terrorism to Protect Human Rights*’ took place in the La Mon House Hotel. It was a very successful event organised by FAIR in the very place that saw one of the worst and most barbaric atrocities of the terrorist campaign waged by the Provisional IRA in Northern Ireland over the past thirty-eight years.

On the evening of 12 February 1978, as members of an Irish Collie Dogs Club were gathered for their annual dinner dance, the Provisional IRA taped a devastating napalm-type bomb to the window of the hotel's Peacock Room. Twelve people were killed, some of the bodies burnt beyond recognition. A further thirty-three were injured. All the victims were innocent Protestant civilians.

The conference started with the commemoration of the victims of terrorism and particularly those who were murdered in the La Mon House Hotel, Councillor William Wilkinson introduced Project MONNET and outlined the purpose of the conference. Dr James Dingley then provided the reasons for identifying terrorism as the most particular circumstance in Northern Ireland, for which there has never been any justification. Legal consultant Axel Schmidt spoke next, providing a definition of terrorism as applied to Northern Ireland. He also presented the different elements that constitute the crime of genocide and the crime against humanity, which could be applied to crimes committed during the terrorist campaign in Northern Ireland. Jim Allister, QC, MEP intervened from Strasbourg and gave a comprehensive overview of the policy and legislation developed against terrorism at European level by the European Union. Finally, Barrister Austen Morgan addressed the issue of the rights of innocent victims in Northern Ireland and the abuse of Convention rights, particularly the right to life by the perpetrators of acts of terrorism. A panel discussion was held at the end of the conference and attendees were able to ask the different speakers questions.

The spirit of the conference was very positive. There was a common agreement between all the speakers that democracy cannot co-exist with terrorism, but that terrorism must be defeated by democracy so that the human rights of innocent victims of terrorism and law-abiding people are protected¹.

2. THE KINGSMILLS MASSACRE: A CRIME AGAINST HUMANITY?

On 5 January 1976, ten Protestant workers from a textile factory in Glananne (County Armagh) were machine-gunned by a group calling itself the south Armagh Republican Action Force.

On their way back home from the factory their bus was stopped. The IRA terrorists asked each worker his religion. One of them identified himself as Roman Catholic and the ten others as Protestants. The Catholic workman was told "to get out of the way" and to "run up the road". The Protestant workers were lined up and summarily executed by the terrorists with automatic weapons. The scene on the road where nine men lay dead was one of "indescribable carnage" according to a police officer.

Only one man survived, although he was hit 18 times. Ten years later, he described to the Belfast Newsletter what happened that day: "The talk on the minibus that night was no different than normal. There had been talk earlier in the factory that day about the killing of the young Reavey brothers from Whitecross. It horrified us all. We passed through Whitecross village shortly after 5.30 p.m. and when our minibus was stopped, a short distance

¹ A complete report on the Conference will soon be made available.

up the road past Kingsmills crossroads, we thought it was the army. A group of about 12 armed men, unmasked but with their faces blackened and wearing combat jackets, surrounded the vehicle and ordered us all out on to the road. Even then few of us thought there was anything amiss. One man, with a pronounced English accent, did all the talking and proceeded to ask each of us our religion. Our Roman Catholic work colleague was ordered to clear off and the shooting started. It was all over within a minute and after the initial screams there was silence. I was semi-conscious and passed out several times with the deadly pain and the cold. A man appeared on the scene. He was in a terrible state and was praying loudly as he passed along the rows of bodies. He must have heard my groans and came across to comfort me. I must have been lying at the roadside waiting on the ambulance for up to 30 minutes. It was like an eternity and I can remember someone moving my body from one side to the other to help ease the pain". He also stated: "I remained in the Bessbrook area for a time, but as I left my young daughter to school every morning I was confronted by the orphans of men murdered in the massacre. It brought it all back on a daily basis and I decided to move to Scotland. Two years in Scotland helped me to adjust but I knew I had to return home to Bessbrook. Even now when I hear of an innocent person being killed the horror of the massacre all comes back and I can feel every bullet hitting me. Bessbrook lost its heart through that massacre. It was once a vibrant happy community full of life and enjoyment. What was done that night was a sheer waste, a futile exercise that advanced no cause."

This odious massacre raises the issue as to whether it should be classified as a crime against humanity carried out by IRA terrorists. The offence of crime against humanity was first mentioned in 1915 by the Allied Powers to charge the Ottoman Government for committing the Armenian genocide. Since that time the requirements for establishing a crime against humanity have evolved in customary international law.

Case-law from the Nuremberg Tribunal and the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia have both contributed to the definition of what a crime against humanity is. The Rome Statute, which provides for the International Criminal Court (ICC) to have jurisdiction over crimes against humanity as well as genocide and war crimes, has probably given the most advanced definition of what a crime against humanity is.

Article 7 of the Statute gives a list of eleven acts that are considered as crimes against humanity when committed as part of a widespread or systematic attack directed against any civilian population, including: murder; imprisonment; torture; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender ... or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in the same paragraph; enforced disappearance of persons, other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental and physical health. In the case of the Kingsmills massacre, the act of murder can also be described as one of persecution against civilians because of their Protestant religion.

The Commentary on the Rome Statute indicates two other elements that are required for a crime against humanity to be established: first, the act must be part of a widespread or systematic practice; and second, that practice must be tolerated or condoned by a government or a *de facto* authority.

As regards the act being part of a widespread and systematic practice, it can hardly be denied that the Kingsmills massacre was part of a widespread campaign of terrorism waged by the

IRA and started in 1969. This campaign resorted to extreme violence that was carried out in most areas of Northern Ireland but particularly in the border regions with the Irish Republic. This widespread practice of atrocities involved murders, tortures, abductions and enforced disappearances of people, intimidations, threats mainly against Protestant people and all those who were opposed to IRA violence and/or their political aims. The Kingsmills massacre, which was a most barbaric atrocity, was part of the widespread IRA terrorist campaign and was not an isolated or sporadic act.

The last element required for a crime against humanity to be established is that the practice or policy must be tolerated or condoned by a government or a *de facto* authority. Initially, the practice or policy had to be that of a State, as was the case in relation to Nazi Germany. However, since the Nuremberg Tribunal, customary international law has developed to take into account forces which, although not those of the legitimate government, have *de facto* control over a defined territory. The authority could be an entity exercising *de facto* control over a particular territory without the formal status of being the government of a *de jure* State, or it could be a terrorist organisation². The issue that needs to be considered is whether or not the IRA had control over part or the whole of the territory of Northern Ireland. To answer that question one must examine the political aims and practice of the IRA. This terrorist organisation has always stated that they were opposed to the legal and legitimate authorities of the United Kingdom, which they wanted to eliminate. The IRA had instituted itself as an authority controlling extended areas, as they demonstrated by taking control of the Bogside quarter of Londonderry in 1969. Since the beginning of the terrorist campaign, the IRA has developed as a *de facto* authority in Northern Ireland, ruling by fear and violence in pursuance of their political aim to destroy the recognised British authorities and eventually exercise control in their place. By means of terrorist activity, the IRA has indeed succeeded in accessing the government of Northern Ireland while maintaining the Army Council so as to retain their ability to return to widespread violence if necessary. Behind the appearance of a legitimate government, even today the IRA is exercising a *de facto* control over the territory of Northern Ireland.

If we apply the criteria of the developed customary international law with a clear understanding of the political objectives pursued and achieved by the IRA, the Kingsmills massacre can clearly be described as a crime against humanity for which those responsible should be prosecuted.

3. THE BELFAST / ST ANDREWS AGREEMENT, A COMPROMISE BETWEEN DEMOCRATS AND TERRORIST-RELATED POLITICIANS

At the time it was made the St Andrews Agreement was presented by some political parties as a “new” agreement, to replace the Belfast Agreement. It was supposed to bring about peace and a final settlement to Northern Ireland’s constitutional instability. But the St Andrews agreement did not replace the Belfast Agreement, nor did it fundamentally modify it. It merely introduced practical changes to the working of the Northern Ireland institutions already set up following the Belfast Agreement.

² Trial Chamber of the International Criminal Tribunal for the former Yugoslavia, Judgment 7 May 1997, paragraph 654.

Each of these agreements has led to new legislation, which has been passed in Westminster. The Belfast Agreement resulted in the *Northern Ireland Act 1998*, which determines the powers and duties of the Northern Ireland institutions and their functioning and can be described as the Constitution of Northern Ireland. The St Andrews agreement led to the *Northern Ireland (St Andrews Agreement) Act 2006*, which amends minor aspects of the *Northern Ireland Act 1998*.

The Northern Ireland institutions were established on an unstable basis: (1) a compulsory partnership between democrats and terrorist-related politicians, (2) the absence of collective responsibility of the Ministers before the Assembly and (3) the interdependence between the Executive Committee in Northern Ireland and the international North-South Ministerial Council.

1. A COMPULSORY PARTNERSHIP BETWEEN DEMOCRATS AND TERRORIST-RELATED POLITICIANS

The first and predominant characteristic of the constitutional system created as a result of the Belfast Agreement is a compulsory partnership between democrats and terrorist-related politicians at all levels of the institutions, both in the Assembly and in the Executive, and consequently in the international North-South Ministerial Council.

The system of appointment of Ministers (the D'Hondt system) guarantees that the different political parties elected to the Assembly will have the possibility of being represented in the Executive, even if a party is made up of terrorist-related politicians.

This runs contrary to the principle applied in all genuinely democratic systems, where the party or parties which receive the largest vote either form the Government on their own, or seek to ally themselves freely with other democratic parties in order to implement an agreed programme of government.

If such a principle had been enforced in Northern Ireland, it would have allowed only truly democratic parties to form a government and would have prevented terrorist-related politicians from accessing government positions. It would have also discouraged the electorate from voting for those who use undemocratic means to subvert democracy and undermine the democratic society of Northern Ireland in order to fulfil their aims. Indeed no system of Government that is genuinely democratic could sustain the institutionalisation of a permanent compromise with the forces of terrorism. The principles that underpin a democratic society with respect for freedom and human rights can only be maintained if compromise with terrorist organisations is excluded. Co-existence between democracy and terrorism is impossible. They are irreconcilable enemies. If democracy is to survive in any part of the European Union, it must dissociate itself totally from terrorism.

2. THE ABSENCE OF COLLECTIVE RESPONSIBILITY OF THE MINISTERS BEFORE THE ASSEMBLY

Once Ministers are appointed to the Executive, they operate independently at the head of their own Department. The First Minister or deputy First Minister cannot give specific directions to be carried out by another Minister. The Executive as a whole is not collectively responsible to the Assembly. The Assembly has no powers to request and obtain the removal of the Executive by way of a motion of confidence, as is possible in democratic parliamentary

systems. The principle of separation of power between the Executive and the Legislative is not implemented, and therefore there is no proper system of checks and balances.

A Minister can be removed from office if there is a vote against him/her by the Assembly, provided a resolution is passed with cross-community support after a motion for that resolution is supported by at least 30 members of the Assembly, and is moved by the First Minister and deputy First Minister acting jointly. For example, if a terrorist-related politician breaches the Pledge of Office and there are grounds for him to be removed, a majority of the nationalist designation would have to vote for his removal, along with a majority of the Unionist designation. Even if a breach of the Pledge of Office is established, the removal of the Minister is highly unlikely to take place owing to lack of cross-community support.

Therefore any terrorist-related politician who is a Minister in the Executive is secure in his post. He can continue to undermine democracy by furthering the aims of the terrorist organisation to which he is intrinsically linked, to the detriment of the functioning of Northern Ireland institutions and to the detriment of the people of Northern Ireland.

3. THE INTERDEPENDENCE BETWEEN THE EXECUTIVE COMMITTEE IN NORTHERN IRELAND AND THE INTERNATIONAL NORTH-SOUTH MINISTERIAL COUNCIL (NSMC)

The international North-South Ministerial Council is a body made up of Ministers from the Executive in Northern Ireland and the Irish Government. Its purpose is to ensure cooperation between Northern Ireland and the Republic of Ireland on as many issues as possible that affect the economy of both. It is meant to merge the two economies progressively and move towards an ever closer union with the aim of finally reaching political union.

The Northern Ireland Act 1998 poses as a Ministerial responsibility the duty for each Minister of the Executive to participate in the North-South Ministerial Council meetings. These provisions, which make the participation of Ministers in an international body compulsory in order to move the integration process forward, do not comply with the principle of the sovereignty and independence of the State, which implies that the government of the State is not constitutionally or unconditionally bound to take part in any international body. International bodies usually proceed from the volition of national governments that have an interest in joining them, not the contrary.

The interdependence between the Northern Ireland Executive and the North-South Ministerial Council can only result in the constant instability of the Northern Ireland institutions, which are to be driven by decisions taken in the North-South Ministerial Council in order to gradually increase the integration of the Northern Ireland economy into that of the Republic of Ireland, towards a united Ireland.

CONCLUSION:

Since devolution took place in May 2007 the Belfast/St Andrews Agreement has been operating in favour of the political aim pursued by IRA/Sinn Fein. By means of violence or the threat of it terrorist-related politicians have succeeded in changing the constitutional arrangements of Northern Ireland so as to enable them to achieve a united Ireland through the integration process initiated by the Belfast Agreement. Meanwhile IRA/Sinn Fein have not

disbanded the Army Council and sectarian attacks carried out by republicans are still going on.

4. THE TRUE PURPOSE, FLAWED FOUNDATION AND DANGEROUS PROVISIONS OF THE PROPOSED BILL OF RIGHTS FOR NORTHERN IRELAND

The Belfast Agreement required the Northern Ireland Human Rights Commission (NIHRC) to consult and advise the Secretary of State on rights supplementary to those in the European Convention of Human Rights, in order to reflect the particular circumstances of Northern Ireland. Rather than conforming to its mandate, the Commission decided to prepare provisions for the most extensive possible Bill of Rights for Northern Ireland, which were published in a Consultation document “*Making a Bill of Rights for Northern Ireland*” in September 2001.

Following renewed consultation, the Commission produced a new document in April 2004 entitled “*Progressing a Bill of Rights for Northern Ireland*” in which some of its initial proposals were amended. The purpose of this document was to pave the way for further discussions, mainly between political parties, so as to reach a consensus on the future Bill of Rights for Northern Ireland.

The Bill of Rights Forum was set up by the Secretary of State on 12 December 2006. It was made up of members of political parties, including terrorist-related politicians, and representatives of civic society. The terms of reference of the Forum were: “*to produce agreed recommendations to inform the Northern Ireland Human Rights Commission’s advice to Government on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international human rights instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and – taken together with the ECHR – to constitute a Bill of Rights for Northern Ireland.*” The deadline for the Forum to complete its work is 31 March 2008.

On the basis of the information received by the Forum, the NIHRC will be in a position to advise the British Government on the proposed Bill of Rights for Northern Ireland, which will then have to be approved by Westminster.

The documents issued by both the Northern Ireland Human Rights Commission and the Bill of Rights Forum should be a matter of concern for all those who have at heart the defence of democracy and the promotion of human rights. It is worthwhile examining (1) the true purpose of the proposed Bill of Rights for Northern Ireland, (2) the flawed foundation on which it is built and (3) the dangerous provisions it contains, in order to determine whether such a Bill of Rights will be of any benefit or on the contrary a real threat to democracy and human rights in Northern Ireland.

1. THE TRUE PURPOSE OF THE BILL OF RIGHTS FOR NORTHERN IRELAND

In any country a Bill of Rights is a fundamental piece of legislation. It is a document of constitutional rank and value that is binding over all other present or future legislation. The

activities of all public and private bodies as well as those of individuals must conform to the provisions of the Bill of Rights and any breach would be subject to legal challenge.

It has often been asked whether a Bill of Rights is necessary in Northern Ireland. This idea has been actively promoted by the NIHRC since its creation, following the approval of the Belfast Agreement. Although it has not been expressed as such, the purpose of the Bill of Rights for Northern Ireland appears to be threefold:

- First, it serves to underpin the Belfast/St Andrews Agreement so as to strengthen the Agreement. The interpretation of the provisions contained in the Bill of Rights will have to be given with due regard to the content of the Belfast Agreement. It will establish the Agreement and make any substantial modifications to the Agreement in the future more difficult if not impossible, so that the process initiated by the Agreement can continue to evolve towards an ever closer union between Northern Ireland and the Republic of Ireland.
- Second, it serves to advance the work towards the elaboration of an all-Ireland Charter of Rights that has already commenced in view of unifying fundamental rights in both jurisdictions. Achieving a Bill of Rights that would be mirrored in the legislation of the Irish Republic or even approved by the Irish Republic will prepare the ground for encouraging the people of Northern Ireland to join a united Ireland.
- Third, it is meant to facilitate a future constitutional change when Northern Ireland is incorporated into the Republic of Ireland. In the British-Irish Agreement, which is appended to the Belfast Agreement, both Governments have agreed to guarantee continued protection of human rights for all citizens, north and south. The same fundamental rights being respected in both jurisdictions will bind the people of the entire island of Ireland under the same rule and facilitate a transfer of sovereignty over Northern Ireland from the United Kingdom to the Republic of Ireland.

The dynamic of the Belfast/St Andrews Agreement, which has initiated a process of progressive integration of Northern Ireland into the Republic of Ireland, from the merging of both economies to a final political union, will be greatly enhanced by the enforcement of a Bill of Rights for Northern Ireland.

2. THE FLAWED FOUNDATION ON WHICH THE BILL OF RIGHTS FOR NORTHERN IRELAND IS BUILT

A Bill of Rights should be based on reliable principles, which should promote democracy and human rights against terrorism. Unfortunately, the NIHRC proposals for a Bill of Rights outline principles which are inefficient to safeguard democracy and human rights against terrorism.

In September 2001 the NIHRC based its initial proposals for a Bill of Rights on what it called the “*principles enshrined in the Belfast (Good Friday) Agreement*”. The so-called principles stated in the Preamble of the proposed Bill of Rights in fact referred to the “*commitments*” made by the participants in the multi-party negotiations, as enumerated in the “*Declaration of Support*” of the Belfast Agreement. Although commitments are pledges to fulfil an obligation and ought to be based on principles, they are not in themselves principles. They were mere declarations of intention made by terrorist-related politicians as well as democratic political

parties. Reliance on these commitments has proven inefficient to prevent Sinn Fein's terrorist-related politicians from gaining access to the governance of Northern Ireland and cannot provide the required safeguards for the protection of democracy and human rights.

Taking into account the criticism that had been made against its initial Consultation document, the NIHRC outlined in its latest proposals "*Progressing a Bill of Rights for Northern Ireland*" the principles it chose to build its Bill of Rights on. Although this marks an improvement, the Commission has avoided making any reference to terrorism, which is the main threat to democracy and human rights in Northern Ireland. Furthermore, the Commission refers to the duty of the Courts and other bodies as having regard to the content of the Belfast Agreement when interpreting the Bill of Rights. Under an appearance of reliability, the proposed Bill of Rights will continue to sustain the Belfast Agreement and accommodate terrorists.

Due to the fact that all political parties are committed to the implementation of the Belfast/St Andrews Agreement, it is very likely that the Bill of Rights Forum will give their consent for a Bill of Rights based on principles that promote the Belfast Agreement. The Bill of Rights thus approved will be a significant step forward on the way to unifying Northern Ireland and the Irish Republic under the same fundamental rules.

3. DANGEROUS PROVISIONS IN FAVOUR OF TERRORISTS AND TERRORIST-RELATED POLITICIANS

The Belfast/St Andrews Agreement is a political compromise between terrorism and democracy and such a compromise will always turn to the benefit of terrorism. As a result, democracy and human rights in Northern Ireland have already been weakened. A Bill of Rights that provides support for the Belfast/St Andrews Agreement will result in the implementation of provisions that will further undermine democracy and human rights in Northern Ireland.

In its 2001 Consultation document the NIHRC introduced into the proposed Bill of Rights a number of provisions, which would be useful to terrorists and terrorist-related politicians. Most of these provisions have been retained in the up-dated document issued in 2004 and are in line with the Belfast/St Andrews Agreement. Given the general approval among political parties in Northern Ireland, they are unlikely to be substantially modified in the future.

Here is a summary of some of a number of provisions that will serve terrorists and terrorist-related politicians:

- Terrorist-related politicians are given the fundamental right to access the Executive of Northern Ireland provided they make a commitment to democratic and peaceful means. Experience has shown that this commitment did not prevent terrorist-related politicians from Sinn Fein from taking seats on the Executive of Northern Ireland even though the IRA Army Council is still in place. No subsequent modifications of the present constitutional arrangements would be able to affect that right once enshrined in a Bill of Rights;
- Terrorists will benefit from the clauses on equal treatment and non-discrimination, according to which they should not be discriminated against on the grounds of their criminal convictions;

- Terrorists will have their right to life further protected because it will be more difficult for police officers to protect life, quell riots or effect arrests. Police will have to establish that they could not have used less extreme means to achieve these objectives, which is not required under present legislation;
- The right to liberty and security of terrorist suspects will be reinforced, since they will be entitled to remain silent while questioned and have no adverse conclusions drawn from their silence;
- Terrorist suspects will have the right to choose to be judged either by a judge and jury or by a judge alone;
- Terrorists will be classified as victims, since there will be no criteria to distinguish genuine victims of the terror campaign from perpetrators of the terror campaign who claim to be victims of the “conflict”;
- Any emergency provisions will have to be agreed by terrorist-related politicians, since these measures will have to receive the approval of the Northern Ireland Assembly by way of a cross-community vote.

CONCLUSION:

It may be hoped that these proposals will be abandoned or rectified by the Forum for a Bill of Rights in the information it will supply to the Northern Ireland Human Rights Commission. However, this appears to be highly unlikely since the Forum has never appeared to object to the proposals of the NIHRC and has on the contrary shown a willingness to use legal documents from countries that have a very poor human rights record, such as China, without discernment or even common sense. Indeed, one of the documents prepared by the Forum in order to mainstream rights provides as a reference, among others, the provisions included in the Communist Constitution of the Republic of China. Obviously, the project of the Bill of Rights for Northern Ireland has passed from Scylla to Charybdis and if allowed to succeed it would result in favouring terrorism and further destroying democracy and human rights in Northern Ireland.

5. THE MISLEADING DEFINITION OF “VICTIM” IN THE PROPOSED BILL OF RIGHTS FOR NORTHERN IRELAND

The idea of introducing a Bill of Rights for Northern Ireland was first put forward by the Northern Ireland Human Rights Commission following the referendum on the Belfast Agreement on 10 April 1998. The Commission gave a broad interpretation of the text of the Agreement in an attempt to justify recommending to the Secretary of State a detailed, lengthy and comprehensive Bill of Rights introduced into Northern Ireland legislation through Westminster.

The Belfast Agreement stated that: *“The new Northern Ireland Human Rights Commission will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the*

particular circumstances of Northern Ireland". Rather than simply working towards defining additional rights that would address particular issues specific to Northern Ireland, the Commission engaged in drafting a complete Bill of Rights, including Civil and Political Rights, as well as Social, Economic and Cultural Rights.

The Bill of Rights was conceived as a legal instrument that would underpin the Belfast Agreement of 10 April 1998 and the subsequent Northern Ireland Act 1998, and which could be described as the new Constitution of Northern Ireland. Its purpose was to strengthen and support the political compromise reached between democrats and terrorist-related politicians, under the auspices of the British and Irish Governments and with the backing of Washington. The dividing line between terrorism and democracy, which had existed until then, became blurred. The Agreement gave legitimacy to the terrorist campaign carried out over the previous thirty years by the IRA. It resulted in opening the door of the Northern Ireland Executive to terrorist-related politicians and granted early release to convicted terrorists. The draft Bill of Rights provided terrorist-related politicians and their convicted comrades with a significant number of fundamental rights that would build on the gain they had already obtained through the Belfast Agreement. Among the new rights were those to be given to victims.

In the Consultation document entitled: "Making a Bill of Rights for Northern Ireland", published in September 2000, the Commission divided victims into two groups, the "victims of the conflict" and the "victims of the future". The Commission stated that "in formulating rights for victims of the conflict it is essential to adopt a broad and inclusive approach so that the suffering and hurt of all those affected can be adequately addressed". The approach chosen was to treat terrorists on an equal footing with all those affected by their evil deeds. The Commission made sure to avoid mentioning the word "terrorist" or acknowledging the reality of the "terrorist campaign" waged by the IRA that has so deeply affected Northern Ireland society. It deliberately chose to disguise the terrorist campaign under the cloak of respectability by using the word "conflict".

Terrorists who were either killed or wounded as a result of engaging in criminal activities were therefore given the same status as their innocent victims, such as mothers and children who were either killed or wounded by their bullets or bombs. Revisionism of the history of Northern Ireland has been a useful means for legitimising the Republican terrorist onslaught on the democratic institutions of Northern Ireland and the human rights and fundamental freedoms of the people of Northern Ireland. What the Commission should have admitted but has failed to, is that there is no justification for anyone to engage in widespread criminal activities in a democratic society in time of peace. In a democratic society there are peaceful means by which political differences can be dealt with and settled without having recourse to violence. Therefore those who commit acts of violence that are in breach of criminal law cannot be considered as equals with those they have killed, maimed and wounded.

In its last report "Progressing a Bill of Rights for Northern Ireland: An Update" the Commission came back to a more traditional definition of victims, restricting it to victims of crimes, but extended its definition to victims of human rights violations which may not themselves be crimes (such as breaches of rights to private and family life).

A proper definition of victims must be made in relation to domestic and international criminal law. Any act or omission to act that is in breach of criminal laws and which results in others being harmed defines the perpetrators and the victims. A person who is killed, maimed or

injured as a result of a criminal act is a victim and his or her family and acquaintances may also according to the circumstances be described as victims as well. Therefore a person actively involved in terrorist activity and fully aware that what he/she does is in breach of criminal law and who is killed, maimed or injured by security forces acting within the law cannot be legally classified as a victim. That person can only be described as a victim if security forces act in breach of the law, although it will remain established that that person was engaged in a criminal activity at the time he or she was apprehended.

The use of a “conflict” or “war” terminology to describe the result of a prolonged campaign of terrorism waged against the people of Northern Ireland over the past 38 years is preposterous. This terminology has been continually used by terrorists to justify their activities and enable them to cover up the atrocities (murders, abductions, torture, maiming, bombing, etc.) they have carried out and are responsible for. It would suit them perfectly if the authorities approved this terminology. The most recent example of implicit approval was given by the Consultative Group about the Past, which suggested renaming the terrorist campaign as a “war” and asking the security forces to apologize for their actions. This caused outrage among the victims of terrorism and all political parties opposed this initiative except Sinn Fein/IRA.

A tree is known by its fruit. The definition of victims and the relentless attempt to introduce new notions and concepts to accommodate and further the aims of terrorists is one of the evil fruits of the Belfast Agreement. Ten years after the referendum it is clear just how far this compromise with the forces of terrorism has undermined democracy and the human rights of law-abiding people.



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