

House Foreign Affairs Committee  
Tom Lantos Human Rights Commission

Hearing  
on  
NORTHERN IRELAND: ACCOUNTABILITY AT RISK

Tuesday, February 15, 2022 – 1:00 p.m.  
Virtual via Cisco WebEx

STATEMENT SUBMITTED FOR THE RECORD

Submitted by:

Legacy Gender Integration Group

**Response to UK Command Paper and Intended Legislation**

**Legacy Gender Integration Group**

Dealing with the past requires affirmative efforts to be taken by the UK Government to ensure rights are protected as guaranteed under laws, treaties, and regulations that cover this jurisdiction. The Legacy Gender Integration Group<sup>1</sup> wishes to articulate the urgency of fulfilling these obligations and specifically, the legal necessity for the UK Government to withdraw its legislative efforts initiated in line with its *Command Paper 498 Addressing the Legacy of Northern Ireland's Past*. The Command Paper claims that “The current system for addressing the

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<sup>1</sup> The Legacy Gender Integration Group is a network of women working in civil society and academia in Ireland, the UK and the US working to improve the integration of gender in efforts to deal with the past. It was launched to provide guidance on the design and operation of legacy institutions agreed under the Stormont House Agreement (2014). It continues to advocate for legislation, policy development, and implementation of gender-integrated approaches to addressing the past from relational and rights-based perspectives. Its publications include: Ahmed, Y., Duddy, S., Hackett, C., McCallan, M., McKeown, G., Murphy, A., O'Rourke, C., Patterson-Bennett, E., and Wing, L. *Gender Principles for Dealing with the Legacy of the Past: Implementation Guidance*. Belfast: Irish Department of Foreign Affairs and Trade, 2020, 1-20; Ahmed, Y., Duddy, S., Hackett, C., Lundy, P., McCallan, M., McKeown, G., Murphy, A., O'Rourke, C., Patterson-Bennet, E., and Wing, L. with Philipp Schulz. “Developing Gender Principles for Dealing with the Legacy of the Past.” *International Journal of Transitional Justice*, 10, 2016, 527-537; Ahmed, Y., Duddy, S., Hackett, C., Lundy, P., McCallan, M., McKeown, G., Murphy, A., O'Rourke, C., Patterson-Bennett, E., and Wing, L. “Gender Principles for Dealing with the Legacy of the Past: The Legacy Gender Integration Group.” *Accord: Insight 3 An International Review of Peace Initiatives*. August, 2016, 38; Ahmed, Y., Duddy, S., Hackett, C., Lundy, P., McCallan, M., McKeown, G., Murphy, A., O'Rourke, C., Patterson-Bennett, E., and Wing, L. *Gender Principles for Dealing with the Legacy of the Past*. Belfast: Irish Department of Foreign Affairs and Trade, 2015, 1-16; Ahmed, Y., Duddy, S., Hackett, C., Lundy, P., McCallan, M., McKeown, G., Murphy, A., O'Rourke, C., Patterson-Bennett, E., and Wing, L. *Workshops Report: Gender Principles for Dealing with the Legacy of the Past*. Belfast: Irish Department of Foreign Affairs and Trade, 2015, 1-28.

events of that dark and difficult period of our national history is not working for anyone,”<sup>2</sup> a statement that flies in the face of local experiences. And yet, despite that reality, the Government seeks to ”end judicial activity in relation to Troubles-related conduct across the spectrum of criminal cases, and current and future civil cases and inquests”<sup>3</sup> and “through an approach that moves away from the pursuit of criminal justice outcomes.”<sup>4</sup> It states that it will comply ”fully with international human rights obligations” and respond “to the needs of victims, survivors and society as a whole.”<sup>5</sup> Yet, if the Government eliminates access to justice such as the opportunity to take a case to court, to seek a Coroner's Inquest, a judicial review, a judicial appeal, or have the violation of individual right to life and other criminal activity investigated merely because of where, when and who the person this would be a travesty of injustice and a violation of international laws, domestic laws, the Belfast Agreement, and the United Nations Charter. Such legislation would foster distrust for and alienation from the UK Government as well as contribute to re-traumatization and societal strife. Across these islands as well as in the U.S. there has been virtual cross-community and cross-party consensus against this proposed legislation, except by the party in Government in the UK.

## **Gender**

The passing of such legislation will be unlawful, unresponsive, cruel, and will affect not only the present generation but future generations as well—but not equally. One of a number of elements of this differentiability involves gender as significant gender harms will be exacerbated rather than redressed if such legislation is implemented. It would contravene international law, treaty obligations, and recognised international best practices including:

- UN Convention on the Elimination of Discrimination Against Women, 1979 (UN CEDAW)
- UN Committee on the Elimination of Discrimination against Women Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland CEDAW/C/GBR/CO/8, 14 March 2019
- UN CEDAW General Recommendation 30 (2013) on Women in Conflict Prevention, Conflict and Post-Conflict Situations
- UN CEDAW General Recommendation 33 (2015) on Women’s Access to Justice

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<sup>2</sup> *Addressing the Legacy of Northern Ireland’s Past, Secretary of State for Northern Ireland, Command Paper 498, July 2021, p.6.*

<sup>3</sup> *Ibid* p.21.

<sup>4</sup> *Ibid* p.22.

<sup>5</sup> *Ibid*, p.22.

- UN CEDAW General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, 2017
  - Reparations
    - § 46. Provide effective reparation to women victims/survivors of gender-based violence.
    - § 47. States parties should establish specific reparation funds, or include allocations for gender-based violence against women within existing funds, including under transitional justice mechanisms.
- Treaty obligations of the United Nations' systems
  - Article 13 European Convention on Human Rights
  - Article 2(3) UN International Covenant on Civil and Political Rights
- UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on his mission to the United Kingdom of Great Britain and Northern Ireland in 2016 (A/HRC/34/62/Add.1)

Furthermore:

- The legislation is unworkable and does not have the support of victims and survivors
- It is in breach of the Good Friday Agreement commitment to ‘complete incorporation into Northern Ireland law of the European Convention on Human Rights, with direct access to the courts, and remedies for breach of the convention’
- It is in breach of binding international law and the Human Rights Act 1998
- It undermines the effective use of existing mechanisms that appear to be threatening to the Government as they are working too well in exposing past human rights abuses
- The Independent Commission on Reconciliation and Information Recovery lacks independence and the powers to carry out effective investigations
- The immunity provisions are unlikely to be in compliance with the European Court of Human Rights
- The proposals on oral history, memorialisation and academic research on the conflict would appear to be designed to provide legal and political cover for what many regard as an indirect route to impunity

**The Legacy Gender Integration Group supports related statements by:**

[Amnesty International USA and UK statement submitted for the record for Feb. 15 \[2022\] Tom Lantos Human Rights Commission Hearing on “Northern Ireland: Accountability at Risk”<sup>6</sup>](#)

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<sup>6</sup><https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/Amnesty%20International.%20written%20statement%20for%20Feb.%202015%20TLHRC%20hearing%20on%20Northern%20Ireland.pdf>

**In conclusion:**

State mechanisms for ensuring truth recovery and reconciliation that are implemented according to international and domestic laws and in line with best international practices in postwar settings includes utilizing a gendered lens and is crucial to not only address the past but also to create a foundation for a just and peaceful future of equals. It is a vital way that the State acknowledges, ““You exist. Your experience of deprivation is real...This nation and its laws acknowledge you.””<sup>8</sup> Without this, evidence from around the world demonstrates that the past will continue to dominate the present. But we need not only look abroad, we can listen to the overwhelming cross-community and cross-jurisdictional consensus that instead illustrates that following the law, best practices, and listening to the needs of victims in the local context requires this—that is the way forward.

**The Legacy Gender Integration Group respectfully requests the U.S. government to:**

1. Call on the UK government to abandon their unilateral approach to dealing with the legacy of the “Troubles” and revert to the Stormont House Agreement which, with further work, provides a way forward capable of discharging the UK’s human rights obligations.
2. Make public statements opposing the UK authorities’ plans and urging them to deal with the past in a victim-centered, rights-respecting and gender-inclusive manner, informed by the Gender Principles for Dealing with the Legacy of the Past.
3. Work with the two governments, civil society and victims to deliver accountability and to implement the [Gender Principles for Dealing with the Past](https://www.ulster.ac.uk/__data/assets/pdf_file/0018/74070/Legacy-Gender-Integration-Group_Workshops-Report_Developing-Gender-Principles-for-Dealing-with-the-Legacy-of-the-Past_18-11-2015.pdf).<sup>9</sup>

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<sup>7</sup> <https://healingthroughremembering.org/2021/12/01/stories-network-response-to-nio-proposals-on-dealing-with-the-past-2021/>

<sup>8</sup> Matsuda, M. “Looking to the Bottom: Critical Legal Studies and Reparations.” *Harvard Civil Rights-Civil Liberties Law Review*, Vol. 22, 1987, 390.

<sup>9</sup> [https://www.ulster.ac.uk/\\_\\_data/assets/pdf\\_file/0018/74070/Legacy-Gender-Integration-Group\\_Workshops-Report\\_Developing-Gender-Principles-for-Dealing-with-the-Legacy-of-the-Past\\_18-11-2015.pdf](https://www.ulster.ac.uk/__data/assets/pdf_file/0018/74070/Legacy-Gender-Integration-Group_Workshops-Report_Developing-Gender-Principles-for-Dealing-with-the-Legacy-of-the-Past_18-11-2015.pdf)