ICCL Statement to the Oireachtas Joint Committee on Justice, Home Affairs and Migration

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Joe O'Brien, Executive Director, Irish Council for Civil Liberties

My colleague Emily Williams and I thank the Committee for this opportunity to discuss the General Scheme of the Legacy of the Troubles Bill.

ICCL's interest and engagement with the pursuit of justice on issues relating to the Troubles goes back to the very foundation and indeed the partial reasoning for the establishment of the organisation 50 years ago in 1976.

While we welcome the political agreement that was the Joint Framework on Legacy of the Troubles, published just over a year ago now the Commitments by the Government of Ireland at the end of the document are inherently deficient and these shortcomings are reflected in this General Scheme.

The political and now legislative commitments on both sides of the Border remain fundamentally unbalanced. We welcome the proposed establishment of the Legacy Commission in Northern Ireland, and we support our colleagues in the CAJ, Relatives for Justice, the Pat Finucane Centre and Amnesty International in their proposals for improvements to it and the framework it will operate in.

However, our fundamental concern is that for those crimes committed in the Republic or supported by actions of people in the Republic there is no plan for a sufficiently robust and independent investigatory mechanism. There were numerous relevant crimes committed during the Troubles where there are still unanswered questions for the Irish State and its agencies.

The legislation as it is currently proposed is simply incapable of satisfying the requirement for an ECHR compliant, independent investigation in these cases. This should have been an opportunity for government to shed light in some long-darkened corners of what was done in the Republic during the Troubles and most importantly for those victims and survivors to feel that all State agencies and actors are being fulsome about the reality and truth of what did or didn't happen.

This legislation, if progressed as it is, will let us without any systematic legacy investigative process in the Republic. So, we continue to advocate for the establishment of an independent Historical Investigations Unit which would meet the required standard.

The other major shortcoming, which will be echoed by our partners here today is the national security veto, but especially the way it is constructed.

Two potential routes for the full facts of what happened in legacy cases to travel must be approved by the Minister for Justice. When there is a request for evidence from Irish State bodies, including An Garda Siochana, office holders or former office holders the Minister can intervene on the grounds that answering those questions could be prejudicial to 'sovereignty, security or other essential interests of the State'. There are somewhat narrower grounds for the potential for vetoing a family report by the Independent Commission on Information Retrieval.

Nevertheless, the Committee will appreciate concerns of victims that the veto has the potential to serve as a means of protecting and concealing wrongdoing, or failures and ultimately being used for institutional and reputational protection.

We believe the risk of these veto powers can be minimised, by requiring an independent judge to make these decisions rather than the Minister as to what information goes to the Legacy Commission or to families.

I am aware that my time is limited but we would like to come back in later to share experiences that I and others have had of dealing with the An Garda Siochana Troubles Legacy Liaison Unit and to make a point about the legislative context.

Thank you