

COMMITTEE ON FOREIGN AFFAIRS

Subcommittee on International Organizations, Human Rights & Oversight Thursday, 22 October 2009, Washington DC

STATEMENT OF JOHN FINUCANE

“Mr. Chairman, Members of the Committee, my fellow speakers, ladies and gentlemen:

My name is John Finucane. My father was Patrick Finucane, the Belfast solicitor murdered by Loyalist paramilitaries in 1989. My family and I have campaigned since his murder for a fully independent, judicial public inquiry into the circumstances surrounding the killing. We have done so because of compelling evidence that my father’s murder was part of an approved British Government policy of widespread collusion between the State and Loyalist paramilitaries, which incorporated State complicity in all types of illegal activity, up to and including murder.

The campaign my family and I have conducted for the establishment of a public judicial inquiry into my father’s murder has lasted for over 20 years. We have had only one objective from the outset: to discover and uncover the truth behind my father’s murder.

From the very night my father was shot dead, 12 February 1989, my family knew the authorities were involved in some way but we didn’t know the details. We did know that my father had been subjected to constant threats from police officers during his professional career, threats that were never made to his face but rather to his clients while they were interrogated in the absence of their lawyer. Derogatory comments quickly escalated into threats. Threats quickly escalated into death threats, all of which came from the police.

Less than 3 weeks before he was killed a Government Minister, Douglas Hogg MP, made a statement in the British Parliament that marked Pat and other solicitors for murder. He said, **“I have to state ... that there are in Northern Ireland a number of solicitors who are unduly sympathetic to the cause of the IRA.”**¹ This comment was shocking and provocative at the time but what was to prove even more sinister was its foundation. Hogg said, at the time, that he based his statement on **“advice that he had received.”** He did not

¹Col.508, *Hansard*, House of Commons (London), Standing Committee B., 17 January 1989

reveal from whom. It was later revealed, however, that he had been told this by police in a private briefing the year before.²

Over many years, my family and I persisted in seeking all of the facts surrounding my father's murder. This followed much investigation, lobbying, speaking out at every opportunity and no little personal risk. My mother was forced to move from her home for several months as a result of death threats from Loyalist paramilitaries. Others have been attacked just for being part of the Finucane family. Even so, we have persisted.

After much delay, the British Government was eventually forced to announce, in 2001, that a judge of international standing would review our case and recommend a public inquiry if evidence of collusion was found. This was included as part of a larger, inter-governmental agreement made between Britain and Ireland as part of the peace negotiations. The judge appointed was Peter Cory, former justice of the Supreme Court of Canada. My family were not involved in the negotiations that led to the agreement. We did not feel a further examination was required to prove our case. We did not doubt the credibility or integrity of Judge Cory. We believed this was simply a delaying tactic by the British Government. However, Judge Cory did ultimately conclude that evidence of collusion existed and recommended a public inquiry in our case. In his final report, he said, **"...the documents and statements I have referred to in this review have a cumulative effect. Considered together, they clearly indicate to me that there is strong evidence that collusive acts were committed by the Army (FRU), the RUC SB and the Security Service. I am satisfied that there is a need for a public inquiry."**³

When his report was published – something that was delayed for some time by the British Government – Judge Cory stated that any appointed commission should have all powers normally associated with a commission of inquiry. The most important power is that a commission decides *itself* what matters should be considered and what should be made public. However, after the publication of the Cory Report, the British Government announced that a new law was required. The British Secretary of State at the time, Paul Murphy, said, on 23rd September 2004: **"[T]he Government has taken into account the exceptional concern about this case. Against that background, the Government has concluded that steps should now be taken to enable the establishment of an inquiry into**

² See *Cory Collusion Inquiry Report: Patrick Finucane* (Para 1.256 – 1.259) House of Commons, London, 1st April 2004

³ *Ibid.*, at Para. 1.293.

the death of Patrick Finucane... In order that the inquiry can take place speedily and effectively and in a way that takes into account the public interest, including the requirements of national security, it will be necessary to hold the inquiry on the basis of new legislation which will be introduced shortly.” He later explained that this was necessary because, **“...much of the material that would have to be examined in this inquiry is highly sensitive to national security issues. For example, many of the operational techniques that would be discussed in the inquiry would be used currently in the war against terror, for instance...”**

These ‘operational techniques’ were analysed further in a different investigation into my father’s murder. It was carried out by the former Commissioner of the London Metropolitan Police, Lord John Stevens, and the techniques in question were confirmed to be collusion. Lord Stevens summarised them in this way:

“My Enquiries have highlighted collusion, the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, and the extreme of agents being involved in murder. These serious acts and omissions have meant that people have been killed or seriously injured.”⁴ (Emphasis added)

This is not the only report written about the murder of my father. The case has been examined by dozens of organisations and individuals of international repute and all have concluded that the evidence in the case demands an independent public inquiry.

One series of reports was prepared by Human Rights First (formerly the Lawyers Committee for Human Rights) and charts the progress of the case for an inquiry into the murder of Pat Finucane over an entire decade from an international perspective. It is illustrative because it demonstrates the extent to which the case has grown in strength over the years and highlights the determination of the British Government to suppress the truth. The original examination of the case by Human Rights First took place in 1992 with a delegation led by Dr. Michael Posner. Subsequent reports were published in 1995 and 2003. With each new assessment, more information was uncovered and made public.

The first report found **“credible evidence that Finucane’s effective legal advocacy in politically sensitive cases resulted in his harassment and ultimately led to his killing. We**

⁴ Stevens Enquiry: Overview & Recommendations, 17 April 2003, para. 1.3

also found credible evidence suggesting collusion between elements within the security forces and loyalist paramilitaries in Finucane's murder."⁵ The report continued: "There is also evidence pointing to the involvement of the RUC in the form of knowing acquiescence or perhaps even instigation. Two independent sources told us that the RUC had a double agent in the Ulster Defence Association (UDA). According to these sources, the double agent informed the RUC that Finucane was a target, assuming they would prevent the murder from taking place."⁶

The Deputy Chief Constable at the time, Michael McAtamney, wrote to the Lawyers Committee complaining about the contents of the report. In a letter dated 25 January 1993, he said: "The shortcomings of the ... report are such as to lead me to the conclusion that it does not merit detailed comment and in its present form is not capable of being constructively amended. Among its many defects, there is a repetition of unsubstantiated allegations, as if these constituted evidence of Security Forces or official misconduct. One is left with the distinct impression of a mass of allegations resting on a limited, unrepresentative base of sources."⁷ The Northern Ireland Office gave a similar response. In particular, it rejected any allegation made about the possible involvement of the RUC: "We particularly believe that the report, especially in the section on Mr. Finucane's murder, is unfair to the security forces, and especially the Royal Ulster Constabulary.... Unsubstantiated allegations are no substitute for evidence, particularly in view of the very serious charges you lay at the RUC's door."⁸

This is, and was, typical of official reaction to the allegations being levelled at the police and the Britain. It is almost surreal to look back at these comments in light of what we know today, namely, that all of the allegations were true but denied as false and malicious. Ten years after they released the first report, Human Rights First published an up-to-date document, "Beyond Collusion", a collation of information gathered by many people over the intervening years. The report is introduced with the following statement: "**Over the last ten years, the Lawyers Committee has conducted a series of missions to Northern Ireland to investigate reports of official collusion in the murder. The evidence that has emerged over this period extends far beyond isolated acts of collusion by individual members of the security forces and implicates the very foundations of the [British] government's**

⁵ "Human Rights and Legal Defense" Lawyers Committee for Human Rights (New York, February 1993) at pages 2-3.

⁶ Ibid., page 3.

⁷ RUC HQ, Brooklyn, Knock Rd., Belfast, 25th January 1993. Reprinted, *ibid.*, Appendix B.

⁸ Northern Ireland Office, January 1993. Reprinted, *ibid.*, Appendix A.

security policy in Northern Ireland. There are many allegations that units within both the British Army and the RUC were involved at an institutional level in the murder and subsequent cover-up.”⁹ (emphasis added)

Recent correspondence between the British Government’s Northern Ireland Office and my family (via our legal team) underscores a continued policy of delay. I wish to place copies of this correspondence on the record of this hearing and ask that they be read into the record. I believe they show a lack of any real commitment on the part of the British Government to fulfil its agreement to hold an inquiry. One excuse after another is presented. In a letter from February 2006, the incumbent British Secretary of State for NI, Peter Hain, explained that we were wrong about the British Government’s intentions. He wrote, **“it is simply not the case that the Inquiries Act is the British Government’s way of changing the rules for this inquiry. The Act was a general reform measure, introduced ... following a three-month consultation exercise in 2004 and a study carried out ... in 2002.”**¹⁰ He went on to explain the necessity for restricting information was because, **“the volume of sensitive material is far too great... It is likely that any inquiry into your husband’s death will want to examine all the potentially relevant information held within Government and the law enforcement agencies and all the evidence collected by the different investigations carried out so far.”** (emphasis added) ¹¹

In Autumn 2006, the NI Secretary of State, Peter Hain, decided to cease work on preparations for the inquiry. We were first told of this in a letter from the Northern Ireland Office a year and a half *after* he made his decision. He decided to stop work because, **“in light of the Finucane family’s continuing opposition, it was no longer justifiable to continue to devote public money to preparations for an inquiry which the family would refuse to accept under the terms of the Inquiries Act.”** ¹² Correspondence received during the intervening period made no mention of Mr. Hain’s decision. We have since been discussing with the British Government how and when they propose to complete preparations for the inquiry and also how we will resolve the issues of transparency and independence. This has not been easy.

⁹ “Beyond Collusion: The UK Security Forces and the Murder of Patrick Finucane”, Lawyers Committee for Human Rights (New York, February 12, 2002) at p. (iv).

¹⁰ Letter Peter Hain MP (NIO) to Geraldine Finucane, 20 February 2006.

¹¹ Ibid.

¹² Letter Simon Marsh (PPS), NIO to Peter Madden, solicitor, 4th April 2008.

The current Secretary of State for Northern Ireland, Shaun Woodward, has been reluctant to discuss ways of moving the situation forward or even meet with my family. In a letter to my mother, Geraldine, shortly after he assumed his post in Northern Ireland, he dismissed the idea that meeting to discuss the inquiry could be beneficial. **“[Y]ou met Peter Hain in February [2006] and ... he subsequently wrote to you responding in detail to the concerns you raised... I have considered carefully all the points previously made and I share my predecessor’s view that an inquiry under the Inquiries Act would be independent.... [A]gainst that background it is not clear to me that a further meeting is likely to expose new points which have not been identified previously. [I]f that assumption is mistaken,... please let me know and in those circumstances I will ensure that we meet.”**¹³

Mr. Woodward did not mention in his letter that, in the meantime, no further work would be done on the inquiry. As I stated earlier, this was not revealed until April 2008. To date, the Secretary of State has not met with my family. It is only recently that they have conceded even a meeting between our respective legal advisors. The commitment to hold an inquiry has been postponed and delayed as much as possible using every possible excuse. The inquiry was even diverted into the work of the Consultative Group on the Past, which was entirely unnecessary, since the Group was tasked with searching for mechanisms to address the legacy of the conflict and the mechanism for resolving our case had been decided already by the two Governments. The inclusion of our case by the Consultative Group was not a development that my family welcomed and we met with the Group to express our concerns. It is disappointing that they did not respect our wishes in their final report as we have no wish to become part of any overall ‘truth commission’ forum.

Perhaps most worrying of all is the suggestion by the British Government, in their most recent correspondence, that an inquiry should not now be held at all, ‘in the public interest.’ They claim that the passage of time since the murder has rendered it of little relevance to the issues faced by Northern Ireland today. The fact that it is the Government that has caused the lion’s share appears to count for very little. Much of the delay was occasioned by the insistence of the British Government that a new law to control inquiries was required. They asserted that any inquiry would be capable of getting to the truth by using this new legislation but it is an assertion that does not stand up to scrutiny. The Inquiries Act 2005 prevents any inquiry from acting independently. It forces the tribunal, no matter how independent, credible

¹³ Letter Shaun Woodward MP (NIO) to Geraldine Finucane (Belfast), 31st October 2007.

or reputable its Chairpersons, to comply with decisions made by government ministers. The hands of the inquiry panel can be tied using “Restriction Notices” that can be served at any time during the inquiry. These orders are issued by the Government and prevent material from being made public. They can also order private hearings and withhold the final report and findings of the inquiry from the public *even if the tribunal of inquiry itself does not find it necessary to do so*.

My family is against holding an inquiry into my father’s murder under the Inquiries Act because we will not participate in a charade. We want what we asked for and what was agreed between the British and Irish Governments in 2001: an independent, public, judicial inquiry, composed of international judges that are in no way associated with Britain or the British Government. This is important, not just to my family, but society as a whole, in Ireland and internationally, because it would instil confidence in the inquiry, its work and its conclusions. A whitewash would do more harm than good, as was clearly seen in the original Bloody Sunday Tribunal, conducted by Lord Widgery in 1972.

If an inquiry into Pat Finucane’s murder is held under the Inquiries Act, it will constitute a breach of the inter-governmental agreement. The former Prime Minister of Ireland, Bertie Ahern, rejected the law and made it clear there would be no compromise on the issue. This position has been continued by the current Prime Minister, An Taoiseach Brian Cowen. The leader of the main opposition party in the Irish Parliament, Mr. Enda Kenny TD, has also promised full support. Judge Cory made it clear that he also does not consider the Inquires Bill to be compliant with what he recommended, saying, “[t]here was **only one standard for a public inquiry at the time of the Weston Park accord... If this Act had been in place at the time to set up an inquiry I don’t think that there is a judge who would take it on. Its provisions are too restrictive. Independence would be impossible.**”¹⁴

These views are shared even by senior members of the British Judiciary, including Lord Saville, who chaired the bloody Sunday Inquiry. He has stated recently that he, “**...would not be prepared to be a member of an inquiry if at my back was a minister with power to exclude the public or evidence from the hearings.**”¹⁵ The concerns of Lord Saville are shared by others, including Lord Woolf, the former Lord Chief Justice. During an interview, Saville told a major London newspaper, “**I take the view that this provision makes a**

¹⁴ “Attempt to limit Finucane inquiry criticised”, *The Irish Times* (Dublin) 14 March 2005

¹⁵ “Closing Doors: Ministers need to show greater regard for due process” (*The Times*) London, 26 February 2005

serious inroad into the independence of any inquiry. It is likely to damage or destroy public confidence in the inquiry and its findings, especially in any case where the conduct of the authorities may be in question.”¹⁶ These Houses of Congress have also endorsed the prompt holding of a public inquiry in accordance with the inter-governmental agreement. This was contained in House Resolution 740, passed by this House on 18th May 2006. A Resolution in identical terms was passed by the United States Senate on 24th May 2006. Senate Resolution 493 was supported by Senators Clinton, Biden and Obama, as well as many others.

What more blatant example could there be of the conduct of the authorities being in question than a case like that of Pat Finucane? Is there a more serious allegation that could be made against a country than conspiring in the murder of its own citizens? I believe the seriousness of the allegation and the weight of evidence supporting it is the real reason for the delay in establishing the inquiry into the murder of my father.

The circumstances surrounding the murder of Patrick Finucane are about much more than the killing of one man. They represent simply the best-known case of what could have happened to anyone and what did happen to many. Everyone in Ireland knows a victim of collusion; such is the widespread effect of the policy. They were members of our families: fathers, mothers, brothers and sisters. They were our sons and daughters. They were our friends and colleagues. We were all affected and so we all have a stake in the outcome of this inquiry because it is an important part of the overall Peace Process.

The thing I want most of all is to know the truth about my father's murder. I want to know who was responsible. I want to know why no-one warned him he was in danger. I want to know why he wasn't protected. I want to know who covered it up. My brother, Michael, who is with me here today, wants the same thing, as does our mother, Geraldine, and our sister, Katherine. All of my family and my friends and my father's friends, want this. If the British Government is serious about resolving the situation in Northern Ireland for good and building a lasting peace, then all we ask is this one simple thing. They cannot give me back my father; the least they can do is tell me the truth.

Thank you very much.”

¹⁶ Ibid.