

Submission by the Council of Europe Commissioner for Human Rights

under Rule 9.4 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements in the cases of

McKerr v. the United Kingdom

(application no. 28883/95, judgment of 4 May 2001)

Finucane v. the United Kingdom

(application no. 29178/95, judgment of 1 July 2003)

Kelly and Others v. the United Kingdom

(application no. 30054/96, judgment of 4 May 2001)

Shanaghan v. the United Kingdom

(application no. 37715/97, judgment of 4 May 2001)

McCaughey and Others v. the United Kingdom

(application no. 43098/09, judgment of 16 July 2013)

Introduction

1. This submission by the Council of Europe Commissioner for Human Rights (hereinafter: “the Commissioner”) is addressed to the Committee of Ministers of the Council of Europe, in accordance with Rule 9.4 of the Rules of the Committee of Ministers,¹ in the context of the supervision of the execution of the judgment of the European Court of Human Rights (hereinafter: ‘the Court’) in the *McKerr* group of cases. This group of judgments relates to a number of shortcomings in the investigation of deaths during the Troubles in Northern Ireland leading to procedural violations of Article 2 of the European Convention on Human Rights (hereinafter: ‘the Convention’).
2. According to her mandate, the Commissioner fosters the effective observance of human rights; assists member states in the implementation of Council of Europe human rights instruments, in particular the Convention; identifies possible shortcomings in the law and practice concerning human rights; and provides advice and information regarding the protection of human rights across the region.²
3. The present submission aims to assist the Committee of Ministers in its examination of the execution of the aforementioned group of judgments. This submission specifically focuses on the Northern Ireland Troubles (Legacy and Reconciliation) Bill (hereinafter: ‘the Bill’), which the UK government introduced to Parliament on 17 May 2022. The Bill has potentially far-reaching implications for the handling of so-called ‘legacy cases’ involving killings and other serious violations. The Commissioner has followed the UK government’s approach to such legacy issues closely, including through an exchange of letters with the then-Secretary of State for Northern Ireland in September 2021,³ which related to the command paper *Addressing the legacy of Northern Ireland’s past*.⁴ Both in the context of that exchange and subsequent developments, including the publication of the Bill in May 2022, the Commissioner has continued to closely monitor proposals, and has engaged with different stakeholders in Northern Ireland. Furthermore, the issue of legacy in Northern Ireland was one of the key topics during the Commissioner’s recent visit to the United Kingdom (27 June to 1 July 2022).⁵ The visit included two days of meetings in Belfast, which were held with various interlocutors, including the Northern Ireland Human Rights Commission, the Commissioner for Victims and Survivors (CVSNI) and the Victims and Survivors Forum, and non-governmental organisations and academics working on legacy issues. The Commissioner subsequently had an online meeting with the Parliamentary Under Secretary of State of the Northern Ireland Office, Lord Caine. In all these meetings, the Bill was addressed in detail. Ahead of the visit, the Commissioner’s Office also met with representatives of the Northern Ireland Office.
4. Since the report following the aforementioned Commissioner’s visit to the United Kingdom will be published only after the upcoming examination of the *McKerr* group by the Committee of Ministers, this submission aims to share some of the issues raised with the Commissioner during her visit, as well as the Commissioner’s own observations on elements of the Bill. Section I of this submission deals with the consultation about the Bill and its public reception. Section II addresses the review mechanism that is proposed in the Bill. Section III discusses the closure of current mechanisms for dealing with legacy cases. Section IV deals with the provisions on conditional immunity in the Bill, as well as its interlinkage with truth-finding and reconciliation. Section V highlights some other issues of interest from the visit, while section VI presents the Commissioner’s conclusions.

¹ [Rules of the Committee of Ministers](#) for the supervision of the execution of judgments and of the terms of friendly settlements (adopted by the Committee of Ministers on 10 May 2006 and [amended on 18 January 2017](#)).

² [Resolution \(99\)50](#) on the Council of Europe Commissioner for Human Rights, adopted by the Committee of Ministers on 7 May 1999.

³ See [‘UK government’s legacy proposals must not undermine human rights and cut off victims’ avenues to justice in Northern Ireland](#)’, 23 September 2021.

⁴ [Command paper 498](#) of 14 July 2021.

⁵ For the Commissioner’s initial statement following the visit, see [‘United Kingdom: backsliding on human rights must be prevented’](#), 4 July 2022.

I. Consultation and public reception of the Bill

5. During her visit, many interlocutors, especially victims, their family members and survivors, told the Commissioner of the distress and anxiety that the introduction of the Bill had caused them. This was in part due to concerns about the specific elements of the Bill (discussed in the subsequent sections). However, this also related to the approach taken by the UK government and the way it had moved forward on the matter of legacy in recent years, culminating in the Bill. Victims highlighted the state of uncertainty that they had lived in since the government had started indicating a change in approach to legacy issues in March 2020. This uncertainty only increased with the introduction of the command paper in July 2021. Despite the Bill differing in some respects from the command paper, many interlocutors found that it largely represented a continuation of the approach they had unequivocally rejected. They frequently talked about the Bill as negatively affecting their mental health, including re-traumatisation, because of the prospect of having to engage with new processes after decades of fighting for justice and truth, while in their view these new processes are unlikely to deliver the results they seek. Interlocutors expressed deep concern about the impact on the peace settlement under the Belfast/Good Friday Agreement if the Bill would be implemented. They also considered that, for reasons set out in other sections, the Bill was a potential source of societal tensions and negative intergenerational impacts.
6. This distress and anxiety was further fuelled by a perception that the concerns of key actors in Northern Ireland, especially victims, had been systematically ignored. Many interlocutors complained of what they saw as an almost complete lack of proper consultation before the Bill was published. The Commissioner notes, in this regard, that the Chief Commissioner of the Northern Ireland Human Rights Commission (NIHRC) has stated that the Bill came as a surprise to her institution, and that any exchange that there had been with the UK government “was certainly not a consultation and it was barely a discussion.”⁶ That the NIHRC would not have been consulted properly in advance of the legislation is a concern given its genesis in the Belfast/Good Friday Agreement and its specific statutory role to give human rights advice to the Secretary of State. Similarly, the Commissioner heard that exchanges by the Secretary of State and Northern Ireland Office with members of the Victims and Survivors Forum were at most of a cursory nature. She notes that these exchanges have been characterised by the CVSNI as being “a transfer of information and not a consultation.”⁷ The CVSNI is a statutory body to promote the interests of victims and survivors, and the Forum is a diverse body representing the breadth of victims’ and survivor’s experiences of the Troubles, which is therefore of particular importance for any policy or legislative developments affecting the interests of victims and survivors in Northern Ireland. During the visit, the Commissioner received no indication that other civil society victims’ groups had been consulted prior to the publication of the Bill.⁸
7. Apart from the specific issues with the Bill and the lack of consultation, many interlocutors also indicated that they believed that the Bill’s primary purpose was to shield veterans who have served in Northern Ireland from investigation and prosecution. This followed from repeated public statements and promises by senior government officials to this effect.⁹

⁶ NIHRC Chief Commissioner, providing [oral evidence](#) on the Bill to the Northern Ireland Affairs Committee of the UK House of Commons, 7 June 2022, Q374.

⁷ Commissioner for Victims and Survivors Northern Ireland, providing [oral evidence](#) on the Bill to the Northern Ireland Affairs Committee of the UK House of Commons, 7 June 2022, Q417.

⁸ This appears to stand in contrast with the way in which other groups of stakeholders were consulted by the government. For example, the Northern Ireland Veterans’ Commissioner noted consultation had been “satisfactory and very open”, while a representative of the Northern Ireland Retired Police Officers Association said they were “very happy with the level of engagement”, [oral evidence](#) on the Bill to the Northern Ireland Affairs Committee of the UK House of Commons, 15 June 2022, Q452 and Q453.

⁹ See, for example, the comments of the Secretary of State for Northern Ireland during the second reading of the Bill in the House of Commons: “No longer will veterans, the vast majority of whom served in Northern Ireland with distinction and honour, have to live in perpetual fear of getting a knock at the door for actions taken in the protection of the rule of law many decades ago. With the Bill, our veterans will have the certainty they deserve and we will fulfil our manifesto pledge to end the cycle of investigations that has plagued many of them for too long.” [Hansard](#), Vol 715, debate on the Northern Ireland Troubles (Legacy and Reconciliation) Bill of 24 May 2022, column 177.

8. As to the overall reception of the Bill in Northern Ireland, the Commissioner notes that, like with the command paper, virtually all victims groups, and the vast majority of human rights actors, as well as parties across the political spectrum in the Northern Ireland Assembly, have rejected its approach. The NIHRC has stated clearly that it does not consider the Bill to be compatible with the UK's human rights obligations, and that there is also no way in which it can be amended to make it so.¹⁰ Different analyses that the Commissioner has seen by key human rights organisations also support this view.¹¹

II. The ICIR review mechanism

9. The Bill foresees the establishment of an Independent Commission for Reconciliation and Information Recovery (hereinafter: 'ICRIR'), through which a range of cases related to the legacy of the Troubles, including those involving killings, would be channelled. This would be done to the exclusion of (most) other current ways of dealing with legacy cases (see section III below). During her visit, the Commissioner heard of several concerns about the ICRIR reviews.
10. In terms of the independence of ICRIR and the review process, interlocutors shared concerns, first of all, about the fact that ICRIR Commissioners would be appointed directly by the Secretary of State for Northern Ireland. The Bill also gives the Secretary of State powers to set guidance to ICRIR on, for example, immunity proceedings (including the granting of immunity), the identification of sensitive information, the holding and handling of information, and the collection and retaining of biometric information. The Secretary of State is also charged with providing resources for ICRIR, carrying out a review of the ICRIR's work and deciding on the termination of its work before the end of the five-year period set out in the Bill. Many interlocutors noted that this keeps the ICRIR closely tied to the Secretary of State, which is particularly problematic since its caseload would also include cases in which agents of the state are alleged to have been involved in killings.
11. Significant concerns were also expressed about the adequacy of the review foreseen in the Bill. There was consensus among interlocutors that the proposed review does not contain all the same elements as current investigations. They believed the Bill to be geared towards carrying out 'desk reviews' of cases, which they considered unlikely to uncover any further information than had already been exposed. While the Bill provides the possibility to exercise police powers during the review, interlocutors noted the lack of clarity about when and how this would be the case, and were doubtful about the extent to which such powers could and would actually be deployed. While reviews may have added value in some cases, interlocutors stressed that this was certainly not the case in all instances requiring fully Article 2-compliant investigations.
12. Concerns were also raised about the Bill's limits on disclosure of official information. Notwithstanding its provisions on disclosure of relevant information, stakeholders pointed to the Bill's national security clauses. National security barriers to disclosure have traditionally been a bottleneck in other mechanisms dealing with legacy issues. It was also highlighted that the basis for reviews (requests by family or referral by the Secretary of State for Northern Ireland or others mandated to do so in the Bill) would not guarantee that all cases of alleged killings would be addressed on the state's own motion. They furthermore stressed that the review system aims

¹⁰ NIHRC [written evidence](#) to the UK Parliament's Joint Committee on Human Rights (NIB0003), especially paragraph 1.2: "The NIHRC is clear that the Bill is incompatible with Articles 2 (right to life) and 3 (freedom from torture of the European Convention on Human Rights (ECHR)). This Bill is fatally flawed, it is not possible to make it compatible with the ECHR."

¹¹ See, for example, Law Society of Northern Ireland, '[Statement on the Northern Ireland Troubles \(Legacy and Reconciliation\) Bill](#)', 30 June 2022; Ronan Cormacain, '[Northern Ireland Troubles \(Legacy and Reconciliation\) Bill: A rule of law analysis of its compliance with international law](#)', Bingham Centre for the Rule of Law, 17 June 2022; Anurag Deb, '[The Northern Ireland Legacy Bill: Reconciliation or restriction?](#)', UK Human Rights Blog, 31 May 2022; Committee on the Administration of Justice, '[Academic and human rights experts publish initial response to the Northern Ireland Troubles \(Legacy and Reconciliation\) Bill](#)', 24 May 2022; Amnesty International, '[Northern Ireland Legacy Bill: Victims' rights sacrificed to shield perpetrators](#)', 17 May 2022; Rights & Security International, '[RSI advises UK Parliament to scrap Northern Ireland legacy legislation](#)', 23 June 2022.

at non-duplication of earlier processes, but that questions remained about what this meant for existing caseloads and cases that had not so far been investigated fully in line with the procedural obligations under Article 2.

13. Concerns were also raised about the fact that ICRIR essentially would become a gatekeeper to any prosecutions, including in view of the problems set out above. This gatekeeper function would manifest in two ways. First, by prosecutions only being able to go ahead if these are referred by ICRIR following a review. And second, because of its role in giving immunity from prosecution (see section IV below). This, they noted, could have a significant impact on the fulfilment of the requirement under Article 2 of the Convention that investigations should be able to lead to the identification and punishment of those responsible for killings.

III. Closure of other mechanisms

14. Aside from concerns about the ICRIR reviews themselves, concern about the Bill also originated from the fact that, by and large, other avenues for seeking truth and justice will be shut down. While criminal prosecutions remain theoretically possible, this is heavily dependent on decisions made by ICRIR, as noted above. Other proceedings, such as inquests (unless at an “advanced stage”), so-called ‘call-in’ investigations (such as Operation Kenova), complaints through the Police Ombudsman for Northern Ireland, and civil claims would come to an end (in some cases as from the first reading of the Bill).
15. In her September 2021 letter, the Commissioner already highlighted the importance of the interaction of different mechanisms in ensuring justice, truth and reconciliation. With regard to justice, it was noted throughout the visit that other mechanisms than prosecutions, such as inquests, Police Ombudsman investigations and civil proceedings have often been instrumental in uncovering information that could subsequently be used to ensure accountability. Furthermore, the various mechanisms have been able, to some extent, to cater for the different needs of victims, since these will not be the same for all. At the end of her visit, the Commissioner noted in this respect that “unilaterally shutting down options that many victims and families value greatly as part of their way of dealing with the past ignores their needs and wishes, and is causing many of them deep distress.”
16. Interlocutors also particularly expressed their opinion that, after many issues along the way, including in relation to delays caused by lack of resources or disclosure problems, many of the existing mechanisms were actually starting to deliver. Recent years had seen the conclusion of some high-profile inquests uncovering important facts, the production of numerous Police Ombudsman reports and the progression of many civil cases. The Commissioner noted a distinct concern that these various mechanisms would be shut down precisely at the moment when they were starting to deliver. Various victims noted that this undermined their hope that they would be able to find a measure of closure in their cases for which they had strived for such a long time.

IV. Conditional immunity, truth-finding and reconciliation

17. A key concern with the 2021 command paper was the introduction of a statute of limitations, which would act as a *de facto* amnesty. In her September 2021 letter, the Commissioner warned that this would create impunity for actions during the Troubles. While the Bill does not include the statute of limitations contained in the command paper, the introduction of a conditional immunity was a source of concern for the Commissioner’s interlocutors. In addition to prosecutions being dependent on referrals by ICRIR (see paragraph 9 above), the Bill introduces a conditional immunity for prosecutions. During the visit, serious doubts were raised about the compatibility of such immunity with the Court’s case-law.
18. Such concerns particularly related to the fact that immunity is granted if the ICRIR finds that statements of a person having requested immunity are true to the best of that person’s knowledge and belief. Interlocutors found this both an extremely low and a very subjective bar

for immunity from prosecution. They expressed serious doubt over how the veracity of statements would be checked and whether this would go beyond already available information. They also noted that the Bill makes such granting mandatory. The process of granting immunity furthermore does not appear to make any provision for informing victims about a request for immunity in cases that affect them, nor for an opportunity to provide information challenging the veracity of the statements made by the person claiming immunity.

19. While the UK government has stressed the role of immunity as a tool for closure and reconciliation, victims were deeply concerned that this would actually have the opposite effect. They told the Commissioner about the fact that perpetrators and victims often live in close proximity and that in many cases victims know exactly who was responsible. They talked about being taunted by perpetrators. If perpetrators would be able to get immunity, victims believed that this would only embolden them. Moreover, it would allow perpetrators to present their 'truth' and thus shape the narrative of the Troubles, including by being able to talk publicly about events when there is no longer a risk of prosecution. Victims, on the other hand, would have "no comeback" as they would not be able to challenge that narrative. Some interlocutors called the Bill, especially due to its immunity clauses, a "perpetrator-centred, not a victims-centred" instrument.
20. Specific issues of the process of granting immunity aside, it was also noted that the possibility of prosecutions would at any rate end once the deadline for making requests for reviews of deaths ends after five years, or as soon as the Secretary of State decides the ICIR's activities should be terminated. This, many interlocutors noted, would thus provide for a de facto general amnesty after five years at most.
21. The Commissioner notes that the UK government is clearly aware of the issues arising out of the conditional immunity scheme. Upon being introduced in the Parliament, the Bill was accompanied by a memorandum setting out the government's position on the Bill's compliance with the Convention. The memorandum notes that "[t]here does appear to be scope for exception to the general principle, although its scope and limits are not fully worked out in the case law." In particular, the government refers to the balancing of legitimate interests of the state and the interest of individual members of the public, the entirely exceptional character of amnesties, and the Court has "countenanced the possibility of an amnesty being compatible with Article 2 in some particular circumstances, including where a reconciliation process is in existence."¹² It further highlights other conditional immunity schemes, such as the South African Truth and Reconciliation Commission, and precedents in Northern Ireland.¹³
22. Interlocutors however, did not consider that the conditional immunity scheme would be compliant with Article 2 of the Convention. They highlighted that the existing case law overwhelmingly emphasises the principle that amnesties for grave human rights violations are incompatible with international law, including the Convention. Even within the framework of the theoretical openings the Court's case law leaves for amnesties, doubt was expressed that these could be satisfied in the situation in Northern Ireland. While incidents continue to occur and the ongoing presence and activity of paramilitaries groups remain a concern, there is no 'hot conflict' or immediate hostilities that would be ceased due to taking this step. The peace settlement in Northern Ireland has been in place for almost three and a half decades. The threat posed by paramilitarism is also unlikely to be affected by any immunity granted. An overwhelming necessity for the sake of peace that would justify an amnesty appears to be missing.
23. As regards the need for an amnesty to foster truth and reconciliation, interlocutors pointed to the overwhelming rejection of the proposals and the clear need for victims to retain different avenues to justice, including for the purpose of reconciliation. They saw no clear reason to

¹² UK government, [Northern Ireland Troubles \(Legacy and Reconciliation\) Bill, European Convention on Human Rights Memorandum](#), 16 May 2022, paragraphs 43-47.

¹³ *Ibid.*, paragraphs 48-55.

believe that immunity would foster reconciliation, and important questions remained whether such a step would not in fact harm reconciliation by creating more uncertainty and tension. Again, the Commissioner stresses the significant concerns expressed by interlocutors about the UK government's motives for instituting a conditional immunity mechanism, and specifically about the fact that this was taken by many as a measure to shield state actors from scrutiny, rather than fostering reconciliation. The Commissioner's interlocutors also firmly rejected parallels with the South African Truth and Reconciliation Commission, whose operation fundamentally differed from the approach taken in the Bill. While the Bill contains provisions on memorialisation, there was distinct scepticism about both the role and the success of this element. Various interlocutors noted that, given the UK government's overall control over the process, it was questionable whether there would be buy-in from the general public and others, such as academics, to allow the memorialisation activities to bear fruit.

V. Other issues

24. For the sake of comprehensiveness, the Commissioner highlights some other elements from her discussions which may be of relevance to the Committee of Ministers. First, the Commissioner is deeply concerned about the framing of the work of lawyers and human rights groups in the context of the Bill. She was told of repeated pronouncements by senior government representatives, made in the context of the introduction of the Bill, disparaging legal challenges as 'vexatious' or otherwise insidious are deeply troubling.¹⁴ The Commissioner recalls that making legal challenges is an important way of ensuring accountability and fighting impunity, and that ensuring there is space for this is crucial for any human rights compliant approach to dealing with the legacy of the past.
25. In this regard, the Commissioner also notes that her discussions about the Bill often intersected with discussions about the repeal and replacement of the Human Rights Act 1998 through the Bill of Rights Bill. As she noted following her visit, the Bill of Rights Bill would make significant changes to the way in which people can bring cases to UK courts and have their rights under the Convention effectively enforced, and thus impact on access to remedies. The Commissioner has highlighted that this would alter the interpretation of Convention rights by the UK courts and thus widen the gap between the protection of those rights in UK courts and the case law of the European Court of Human Rights. In this respect, she notes that one of the areas that would particularly be affected would be the interpretation of the UK's positive obligations,¹⁵ including in relation to Article 2 of the Convention. At the end of her visit to the UK, the Commissioner also reiterated the potential impact of the Bill of Rights on the peace settlement in Northern Ireland under the Belfast/Good Friday Agreement, and others have highlighted this concern as well.¹⁶
26. Although outside of the immediate scope of the examination of the cases at hand, interlocutors also expressed concern about how the Northern Ireland Troubles Bill would impact on the UK's compliance with its procedural obligations under Article 3 of the Convention. They noted that not all incidents that could amount to torture or inhuman or degrading treatment or punishment, which also form an important part of the legacy of the Troubles, come within the scope of the Bill, and therefore would remain unaddressed.

¹⁴ See, for example, BBC, '[Plans to protect veterans from "vexatious claims"](#)', 18 March 2020. The Command Paper (note 4 above) speaks of "unfair investigations" against veterans, paragraph 41. Also see the statement of the Law Society of Northern Ireland (note 11 above), calling "for attacks on lawyers by members of the Government in relation to this Bill, and other matters, to cease immediately. Solicitors provide vital support to victims and survivors of the Troubles to access truth and justice and should not come under attack for doing their jobs."

¹⁵ Bill of Rights Bill, Section 5.

¹⁶ See, for example, the Chief Commissioner of NIHR in her [oral evidence](#) to the Joint Committee on Human Rights of 11 May 2022, HC 215, highlighting the importance of the commitment and will to enforce human rights to the peace process and Belfast/Good Friday Agreement.

27. Finally, a recurring concern was the speed at which the Bill was being passed through Parliament, which interlocutors unanimously considered to leave too little time for the detailed scrutiny it needed.

VI. Conclusions

28. In her September 2021 letter about the UK government's command paper, the Commissioner stressed that attempts to set out a different approach, which were unlikely to meet the requirements of the execution process, would only further remove the prospect of full implementation of the judgments at hand. In view of the issues mentioned above, many of the Commissioner's earlier concerns with regard to the command paper remain in place, especially the lack of a victims-centred approach, the risk that it would create impunity, and its impact on truth finding and reconciliation. The Commissioner shares many of the concerns expressed by her interlocutors about the compatibility of different elements of the Bill with Convention standards. This applies in particular to the independence and effectiveness of the ICRIR reviews and the legitimacy of providing perpetrators with immunity from prosecution. Without prejudice to any views to be taken by the Committee of Ministers or any future findings by the Court, the Commissioner is of the opinion that, by introducing the Bill, the UK government has embarked on a course of action that runs a very significant risk of eventually being found by domestic courts and/or the European Court of Human Rights not to be compliant with the Convention. This would therefore not only further delay the full implementation of the group of judgments under examination. It would also fail to deliver on the government's wish to "draw a line" under the legacy of the Troubles and, most importantly, would continue to deprive victims and families from the full enjoyment of their rights under the Convention. This is all the more concerning because the package of measures to which the UK government previously committed could be considered as a good basis for a human rights compliant way forward in legacy cases.
29. The UK government has presented its proposals in the light of the inability of current mechanisms to deliver for either victims or society at large. However, just as with the command paper, the Commissioner finds that there is still a distinct lack of reflection about why existing mechanisms may have been unable to deliver, and particularly on the role of the government itself in this, for example in relation to resourcing of such mechanism and the prompt disclosure of relevant information to allow those mechanisms to process cases effectively. In this context, she also notes a lack of focus on the prospect of remedying such problems without taking avenues off the table that many victims highly value. This is particularly important since the various mechanisms that would be shut down by the Bill appear to be overcoming some of the previous barriers, and are starting to deliver in terms of both justice and information recovery.
30. The Commissioner also notes that the Committee of Ministers has emphasised that any approach to legacy must be able to garner trust and confidence from the public. On the basis of her visit and further monitoring, the Commissioner concludes that there is minimal support for, and public confidence in, the Bill and in its mechanisms in Northern Ireland. The Commissioner notes that this has further been damaged by the perception that the main purpose of the Bill is to shield veterans from investigations and prosecutions, rather than achieving reconciliation. This, according to the Commissioner, is a very understandable perception, given the repeated statements by government officials emphasising the need to protect veterans from 'vexatious' claims or from otherwise being pursued through criminal law measures. In meetings with government representatives, it was indicated that there is an expectation that, once the system is in place, and the ICRIR is filled with qualified and competent people, trust in the new system will develop. However, the Commissioner notes that, while there will never be complete agreement on any approach, in this case the baseline of trust is so low that it is difficult to see how the mechanisms in the Bill will come to garner more confidence during its implementation.