

HOUSE OF REPRESENTATIVES - COMMITTEE ON FOREIGN AFFAIRS

**SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS**

**Recent Developments in the investigation of the murder of
Human Rights Attorney Patrick Finucane**

Testimony of Michael Finucane, Wednesday, 15th May 2013

Mr. Chairman, Members of the Foreign Relations Committee, distinguished Guests, Ladies and Gentlemen...

On behalf of my entire family, I would like to thank this Committee for its invitation to testify today about the case of my late father, Patrick Finucane. As is now a matter of public record throughout the world, Patrick Finucane was a lawyer practising in Northern Ireland during the period of civil conflict that extended throughout 1968-1994. He specialised in the criminal defence law and developed particular expertise in defending people charged with offences under emergency laws introduced by the British Government during the conflict. As a result of his innovative approach to his work and the successes that flowed from it, he became a target for Loyalist paramilitary elements who perceived him as partisan and an enemy of the British State. This much has been known for some time, as a result of certain incidents that took place during Pat's lifetime and some of the evidence that has been revealed since his murder.

The significance of the circumstances surrounding his murder in February 1989 remain as prominent as ever but the investigation of them has not been progressed by the British Government in anything like the manner required.

We now know that the perception of Pat Finucane as being sympathetic to his clients' beliefs and even that he engaged in unlawful activity on their behalf was fostered actively by the British Security Service (MI5) encouraged by the Royal Ulster Constabulary Special Branch (RUC SB) and the British Army's undercover bureau, the Force Research Unit (FRU). These agencies of the State sought to besmirch Pat's name and professional reputation, to encourage support for the claim that he was a member of the Provisional IRA or working on their behalf. What is more, we now know, beyond any doubt, that all of these agencies were aware that Pat Finucane's life was in serious danger on at least three occasions before he was murdered but that they decided not to warn him.

We know this and much else besides as a result of the review conducted by Sir Desmond de Silva QC who was appointed by the British Government to review the case in 2011. It is this review that provides the impetus for this hearing although the work of De Silva is not what was originally promised in this case. A comprehensive mechanism was promised by the British Government to investigate the case of Pat Finucane but it has not been delivered. The case was supposed to have been the subject of a public judicial inquiry but the British Government has declined to establish one, despite agreeing to do so during negotiations as part of the NI Peace Process, in 2001.

From the time Pat Finucane was murdered in 1989, suspicions abounded that the State might have had a hand in his murder. These concerns began initially as a result of threats made against Pat by RUC detectives in police holding centres during the 1980s. The threats were relayed by clients of Pat's law practice who would say, with increasing regularity that the men conducting the interviews were denigrating and threatening him. Initially, Pat regarded such remarks as an interrogation technique and while inappropriate, they were not to be taken seriously. However, this view changed shortly before his death.

During a debate in the British parliament in January 1989, a junior government minister, Douglas Hogg, stated that “... **there are in Northern Ireland a number of solicitors who are unduly sympathetic to the cause of the IRA.**” His statement was challenged immediately by another MP, Seamus Mallon, who recognised it for the inflammatory accusation it was. It visibly affected those on the ground also. In its aftermath, Pat considered arming himself in an attempt to heighten his personal security although he ultimately decided against it. Within three weeks of the remarks made by Hogg, Loyalist gunmen burst into our home and shot my father dead in front of my mother, my brother, my sister and myself.

In the twenty four years since the murder, my family and I have campaigned relentlessly for a public judicial inquiry into the circumstances. In the earliest years, we were met with denial and refusal by the British Government and were told that accusations of collusion between the State and Loyalist paramilitaries in the murder were without foundation.

In January 1993, the Northern Ireland Office wrote, in response to a draft report prepared by the US Lawyers Committee for Human Rights, that their analysis “**scarcely justifies your conclusion that there is ‘sufficient evidence of the security forces’ prior knowledge of the murder plot and encouragement of it’, to justify an independent public inquiry.**” The Royal Ulster Constabulary, responded by saying, “**[t]he shortcomings of the draft report are such...that...in its present form it is not capable of being constructively amended... A particularly serious disservice is done to the agencies responsible for the administration of justice and law enforcement...**”¹

Similar sentiments of denial and obfuscation have characterized virtually every official response to the murder of Pat Finucane, including that of Prime Minister Tony Blair, who wrote, following a meeting with my family in 2001, that he was “**not convinced a public inquiry would reveal anything new.**”

¹ Human Rights and Legal Defense in Northern Ireland, Lawyers Committee for Human Rights (New York, 1993) Appendices A & B

It is now clear that these responses from various State agencies – police, army, intelligence and Government – were nothing less than blatant lies. The State was clearly culpable in the murder of Pat Finucane. It simply could not afford to admit to its involvement in a crime as heinous as the murder of one of its own citizens who was, at the same time, an officer of its own courts.

We know this now, definitively, as a result of the review carried out by Sir Desmond de Silva QC and the material he published. It is clear now that British State agencies knew Pat Finucane was a target for murder many years before he was killed but decided not to do anything to warn or protect him. Although Pat Finucane was murdered in 1989, his life had clearly been in serious danger as early as 1981. Various state agencies were aware of the threat. They even held a meeting to discuss the threat, in late August 1981, but nothing was done to warn him of the imminent danger he was in. On the contrary, a decision was taken not to warn him because, ***“[i]t was agreed that it was very unlikely that Finucane could be trusted to keep his own counsel”***; the consequent risks to an intelligence source providing the authorities with information would be “enormous”. As a result, the authorities decided not to warn my father that his life was in immediate danger. The decision was taken, ultimately, by the head of RUC SB and was described as ***“entirely pragmatic, but ... obviously a difficult and courageous one for him to make since ... he was ultimately responsible for law and order.”***² These events were repeated several times over the period 1981-1988 before my father’s eventual assassination in early 1989.

These are the facts behind the murder of Pat Finucane. Until now, they have not come to light but the strength of suspicion over the case – suspicion that was prove to be completely justified, despite official denials – demands a comprehensive response. In the absence of any other appropriate mechanism, a public judicial inquiry became the demand made by my family. It was resisted for

² Report of the Patrick Finucane Review, Sir Desmond de Silva QC (TSO, London, 2012) at pp.307 - 309

many years until, in 2001, the British and Irish Governments agreed to establish an inquiry into the case if an independent judge of international standing recommended there should be one. That judge was former justice of the Supreme Court of Canada, Peter Cory, and he recommended a public inquiry in 2004, following the publication of a comprehensive report. Thus began a long process of delay and denial by the British Government as, faced with the honouring of their promise of an inquiry, they wretched on the commitment.

The undertaking to establish an inquiry in the case of Pat Finucane was one given by the British Government during negotiations between the Northern Ireland political parties and the British / Irish Governments at Weston Park in 2001. These negotiations were a follow-on from the principal agreement reached in 1998 in Belfast, where the structures for establishing a post-conflict society were mapped out initially. It was realised, however, that certain cases required particular attention. One of these was the murder of Patrick Finucane. Allegations of British State involvement had become too serious to ignore further and this led to the agreement for an independent assessment and the appointment of the independent judge.

After the report, it should have led to the establishment of a public judicial inquiry. Instead, there has been to a prolonged period of obstruction and delay, where the British Government has, among other things, changed its domestic law in relation to public inquiries in order to provide for ministerial control of the information that will be made public.

This step was unprecedented in the history of British law. It has prompted widespread condemnation from not only Judge Cory, who reviewed the case of Pat Finucane and others, but also senior British judges who stated they would refuse to participate in an inquiry where a politician stood behind their backs controlling their every move. Nonetheless, the British Government insisted that this was the only way in which an inquiry could proceed.

Despite wanting to see the establishment of a public inquiry, my family could not agree to participate in such a loaded exercise. We declined to involve ourselves in an inquiry that could be so easily manipulated and was so obviously designed to circumvent the truth. For their part, the British Government stopped all preparations for an inquiry, citing the non-cooperation of my family as the reason for doing so. Then, in 2011, a decision was taken as to the manner in which the British Government would finally address the case of Patrick Finucane.

It would not be through the mechanism of a public inquiry despite the earlier promise to hold one. Instead, a review of the case would take place, with a government-appointed lawyer installed to scrutinise official documents associated with the case and produce a report. My family would not be permitted to see any of the documents nor would we be allowed to hear witnesses called to give evidence or ask them any questions. In short, we would be allowed to do nothing more than accept the findings of the reviewer, without being able to assess any of the evidence for ourselves.

My family was invited to 10 Downing Street in October 2011 to be told that this review process was to be established. We had been in discussions with the British Government for over a year prior to this visit. When we were invited by the Prime Minister to come to Downing Street, we expected that to be told that the commitment given previously by the Government would be honoured and that a public judicial inquiry would be established without any further delay. As is now a matter of record, this did not happen. We left Downing Street feeling deceived and humiliated, which is exactly what had happened. The Prime Minister of the UK Government told us, in essence, that he would not fulfil the commitment given and that he was going back on the promise made by his predecessor.

We had always known that the promises of the British Government should not be regarded as gospel. However, we dared to believe in the possibility that with the onset of peace in Ireland, the British Government might make good on its

commitment. Not only were we proved wrong in this, we were forced to endure a process of public embarrassment that was cruel and unnecessary.

The review conducted by Desmond De Silva reveals a great deal of information for the first time but it is nowhere near being a complete answer. It is based on a reading of documents without any questioning of their authors. Indeed, only eleven witnesses were spoken to by De Silva and twelve written submissions were received. No former politicians were interviewed, nor were a number of key intelligence personnel, including the former head of military intelligence in Northern Ireland, who was in charge at the time of my father's murder.

As if this was not bad enough, on the day the De Silva report was published, Tom King, now Lord King, led the public response on behalf of the Government. He was Secretary of State for Northern Ireland in 1989 when my father was murdered. Not surprisingly, he rejected calls for a public inquiry, claiming the matter had now been fully investigated.

It is difficult to conceive of someone with a greater conflict of interest than the former Secretary for Northern Ireland in 1989. The dangerous suspicion that lingers around his defence of the government's position is that those responsible for the policy of collusion remain in positions of significant influence and will continue to get away with it. As a key witness at any potential inquiry held, Lord King's rejections of the calls for an inquiry merely add insult to injury. As a notorious figure in a British political scandal from the 1960s once put it, "well he would, wouldn't he."

It has been long-believed that the issue of British State collusion with Loyalist paramilitaries was a deep-rooted, officially sanctioned policy of selecting targets based on their degree of opposition to the State. The more troublesome the individual, the more likely the State was to deploy its killers-by-proxy to erase the 'problem'. If the report of De Silva has any value at all, it is to be found in the

extent to which it confirms, beyond any doubt, that this was the approach of the State in Northern Ireland throughout the 1980s and possibly beyond. Certainly, a lawyer like Pat Finucane who was much too effective at his job would make himself a target for State reprisal. The extent of collusion was therefore such that the British State could kill anyone it wanted to with complete and absolute deniability. This was British State collusion: a modern holocaust for Northern Ireland. The one question that has not yet been answered is, how many perished as a result of it? Certainly, Pat Finucane was not the only victim.

Perhaps the most succinct description of the case of Pat Finucane to emerge in recent years is contained in a letter written by a senior British security advisor, Ciarán Martin, to the current Prime Minister, David Cameron. He said:

“Even by Northern Ireland standards the facts are grisly. Moreover, in terms of allegations of British state ‘collusion’ with loyalist paramilitaries, this is the big one... whilst we know of no evidence of direction or advance knowledge of the murder by ministers, security chiefs or officials, exhaustive previous examinations have laid bare some uncomfortable truths. Paid state agents were directly involved in the killing, including the only man ever convicted of involvement in it... Lord (John) Steven’s conclusions paint a picture of a system of agent running by the RUC’s Special Branch and the Army’s Force Research Unit that was out of control.”

In relation to senior government involvement in efforts to cover up collusion in the solicitor’s murder, he went on, ***“[s]ome of the evidence available only internally could be read to suggest that within government at a high level this systematic problem with Loyalist agents was known, but nothing was done about it. It’s also potentially the case that credible suspicions of agent involvement in Mr. Finucane’s murder were made known at senior levels after it and that nothing was done; the agents remained in place.***

These two points essentially aren't public. In a follow up letter, Mr Martin said: ***"... this was an awful case and as bad as it gets and was far worse than any post 9/11 allegation."***³

The contents of this letter were not public until a recent court hearing in Belfast brought them to light. My family has had to resort to litigation against the British Government in order to force them to reveal information of this nature. We should not have to do this. We should be reading this material in the context of a public inquiry, the one that was promised in 2001 and the one that has been required since 1989.

On behalf of my family, I ask for the support of this Committee, the support of the House and Congress to persuade the British Government to honour its long standing promise to establish a public judicial inquiry into the murder of Pat Finucane.

Thank you very much."

Michael Finucane

Washington D.C.

Wednesday, 15th May 2013

³ Correspondence of Ciarán Martin, reported in The Detail, 23 April 2013 :
<http://www.thedetail.tv/issues/195/finucane-case/judge-orders-downing-street-to-hand-over-finucane-documents>