

**NEW YORK  
CITY BAR**

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May 21, 2012

The Rt Hon David Cameron MP  
10 Downing Street  
London SW1A 2AA  
United Kingdom

Dear Prime Minister:

I am writing on behalf of the Association of the Bar of the City of New York regarding an inquiry into the murder of Patrick Finucane. For the reasons explained below, the Association urges your government to reconsider its decision to commit the matter to a review by a Sir Desmond de Silva QC and instead establish a transparent and independent public investigation under the 2005 Inquiries Act on the model of the successful inquiry into the killing of Baha Mousa in Iraq.

The Association is an independent non-governmental organization with a membership of more than 23,000 lawyers, judges, law professors, and government officials, from New York City and throughout the United States and 50 other countries. Founded in 1870, the Association has a long history of dedication to human rights, notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world.

At you may be aware, the Association has been monitoring human rights conditions in Northern Ireland for over 20 years. During this time, the Committee on International Human Rights has conducted three missions to Northern Ireland to consider, among other issues, the status of investigations into past crimes and, in particular, the murder of solicitor Patrick Finucane in 1989. We have issued several reports on these and related matters, and have met annually with government and police officials from Northern Ireland.

In this context we first commend you for meeting with the Finucane family on October 21, 2011, for your historic apology on behalf of the UK government for Patrick Finucane's murder, and for your acknowledgment of the collusion between the security forces and paramilitaries in that killing. We are also grateful to Owen Paterson, the Secretary of State for Northern Ireland, for meeting with us

in New York on March 22nd and taking the time to have an open, frank, and thoughtful discussion.

We are nonetheless dismayed at the means your Government has adopted to bring the Finucane matter to a close. It is the view of the Association that any inquiry into a prominent instance of official misconduct must, at a minimum, meet two threshold requirements: first, an investigation should adopt the means most likely to uncover the truth, wherever it leads; and, second, an inquiry must be independent, fair, and transparent to address the concerns of the public, the community particularly affected by the misconduct and the victims or their families. After following the Finucane case closely since 1989, we regret that the de Silva review fails on both of these counts. It is among the least likely of available mechanisms to uncover the truth and it will not be perceived as a serious attempt to investigate the matter. In these views we echo the United States Congress, the Irish government, numerous respected human rights organizations such as Human Rights First and, not least, the Finucane family.

The Association believes that a review of the matter by a single lawyer, however prominent and well-meaning, is among the least promising approaches for uncovering the full truth behind the Finucane murder. In our experience, these types of reviews have had an exceedingly poor track record in Northern Ireland's history, including assessments of the operation of emergency legislation by such noted figures as Lord Colville of Culross or investigations into abuses in the Holding Centers by Sir Louis Blom-Cooper. We see no reason why the de Silva effort will be any more successful. Indeed, we believe employing this model in this instance will fall short of the requirements announced in 2003 by the European Court of Human Rights in this very case. For this reason, the Association has long since gone on record in urging a public judicial inquiry under the 1921 Inquiries Act. Since that is no longer possible given the Act's repeal, the Association urges that, at a minimum, an investigation under the more recent 2005 Inquiries Act be undertaken. While we believe this legislation is flawed compared to the earlier statute, we nonetheless believe that it is superior to a review by a single government-appointed lawyer. In particular, the recent inquiry into the killing of Baha Mousa, led by Sir William Gage, provides a successful model for getting at the truth of wrongdoing by security forces. There is no guarantee such an inquiry would succeed. In our view, however, the current review all but guarantees failure. We are at a loss as to why an investigation under the 2005 Act may not be attempted.

Indeed, the de Silva review has already failed insofar as it is perceived, rightly in our view, as insufficiently independent or transparent. It plainly does not comport with previous promises or obligations of the UK government, including the recommendations of Judge Cory as affirmed in the Weston Park agreement, the ECHR judgment in *Finucane v. United Kingdom*, and the 2006 resolution of the U.S. Congress. It has also been rejected as inadequate by the Taoiseach and by those NGOs that have been following the case most closely, including Human Rights First and British Irish Rights Watch. The Finucane family itself sees the

review not just as unsatisfactory, but also as an outright betrayal of previous Government undertakings. If your Government has inherited an impasse in this matter, the current review makes matters more, not less, intractable.

Other objections to a public inquiry have long since been addressed or dismissed. One queries why the Finucane murder merits an inquiry out of the over 3,000 other political killings during Northern Ireland's troubles. At Weston Park both the UK and Irish government had determined that a small number of particularly high profile and controversial killings of individuals from both communities deserved special attention. All of these cases have been addressed, with the glaring exception of Finucane. Another objection concerns expense. Apart from the Government's previous commitment to a public inquiry, funding a review with no chance of success would appear to be a less advisable commitment of public resources. Still another objection relates to the difficulties of investigating a murder that occurred 23 years ago. This delay, however, is a direct result of consistent and repeated official attempts to prevent the truth about collusion in the murder from becoming public. It has also been argued that David Wright was dissatisfied with the outcome of the public inquiry into the murder of his son Billy Wright, but that is hardly relevant in a completely different case and ignores the success of other public inquiries. The Association believes that it is far too late in the day for these and related arguments against a genuine public inquiry to be seriously advanced.

We understand that the Finucane family has been granted leave to bring a judicial review in this matter. Whatever the success of their legal challenge, the Association calls upon your Government to close the de Silva review and institute an inquiry under the 2005 Inquiries Act on the model of the Baha Mousa investigation. Anything less, we respectfully submit, does not comport with the United Kingdom's previous commitments or obligations.

Very truly yours,

  
Carey R. Dunne

cc: President Barack Obama  
Secretary of State Hilary Clinton  
Assistant Secretary of State Michael Posner  
Representative Chris Smith  
Northern Ireland Secretary Owen Paterson  
Taoiseach Enda Kenny  
Taniste Eamon Gilmore  
Elisa Massamino, Human Rights First  
Kenneth Roth, Human Rights Watch