**Northern Ireland and historic allegations. Former soldiers deserve protection from unjust pursuit.**

**Con.home**

**11 May 2018**

Paul Goodman

By [Paul Goodman](https://www.conservativehome.com/author/paul-goodman)

https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html

A Historical Murders Unit for Northern Ireland risks repeating the scandal of the Historic Allegations Team on Iraq – which saw Philip Shiner struck off the roll of solicitors over misconduct relating to false abuse claims against British troops.  But it would also have peculiar features of its own.  Some of the incidents likely to be investigated took place the best part of 50 years ago.  The Government has a duty to weigh how probable it is any retired soldier eventually hauled before the courts would get a fair trial, given the interplay between the passing of time and the fallibility of memory.

More fundamentally, there would be an injustice at the heart of the exercise.  British troops were professional soldiers serving in the armed forces, with their formal structure of records, chains of command, disciplinary codes and regiments.  Republican or loyalist terrorists were not: soldiers putting their lives on the line, in order to protect civilians of all religions and none, are not comparable to fanatics who sought to maim and murder on a sectarian basis.  There can be little doubt that the weight of investigations and potential prosecutions would fall on former British servicemen, in some cases long retired after risking their lives for their country.

This is would be an unfair treatment of the past with serious implications for the future – that’s to say, on recruitment to the armed forces.  That one might later be hauled before the authorities – to be cross-questioned amidst the order of a courtroom by lawyers with no experience of serving under fire about a split-second decision made years before, amidst the chaos of armed conflict – is not exactly an incentive to serve.  Michael Fallon [has called for](https://www.telegraph.co.uk/politics/2018/05/09/allowing-one-sided-witch-hunt-against-british-soldiers-craven/) any investigation not to probe old, unproven claims without new evidence, and to make a distinction between soldiers and terrorists.  He also supports a statute of limitations – a time limit on any enquiries.

This is the nub of the matter.  The former Defence Secretary has claimed that “the Cabinet has gone wobbly” on such a statute.  It isn’t hard to see why.  Karen Bradley wants to get an Executive back together again in the province.  She will also be mindful of the current tensions between the British and Irish Governments over Brexit and the border. The Northern Ireland Office is scarcely a spokesman for Sinn Fein – one of the main drivers of an investigation – but it must deal with the party: that’s part of its brief.  Downing Street, meanwhile, will be especially concerned about the position of the DUP.

That party is perhaps less focused on the likely injustices to former solders that would arise from any process than the prospect of it going after former IRA terrorists.  So the DUP is against a statute of limitations, it is sometimes claimed. This is not quite right.  The party’s position on such a statute is a bit like its stance on the Customs Union.  It wants Northern Ireland to be treated in the same way as the rest of the UK.  This opens up a potential way forward.  The Ministry of Defence is mulling how a statute of limitations with wider application might work – one that would reach back beyond the 1970s and possibly forwards to the Afghanistan and Iraq conflicts.

Such a time limit could be applied to Northern Ireland without it being specifically drawn up to apply there.  It would offer a way round [the Cabinet tensions of earlier this week](https://www.thetimes.co.uk/edition/news/clash-over-threat-to-prosecute-soldiers-for-troubles-murders-6vfzn2fg9), when Gavin Williamson, David Davis, Boris Johnson and Liam Fox all opposed the exclusion of a statute from a consultation that the Government is due to launch on historic allegations about the Troubles.  It would be very painful for the relatives of those murdered by loyalist and republican terrorists to see such a UK-wide statute introduced.  But such a course would be for the best.  Few things madden voters more than former servicemen being unjustly pursued.

28 comments.

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May being weak again, this is now getting beyond rediculas. It’s no wonder the forces cannot recruit when it gets zero protection from the govt and country they have been fighting for. Still i suppose there is one good thing to come out of all this, shortly the army will be so small that we will be unable to partipate in any conflict beyond a small skirmish at the local paintball arena.

There's a difference between just pursuit and unjust pursuit.   
  
The British state committed all sorts of horrible crimes in NI (no one has been locked up for bloody Sunday remember), but we drew a line under paramilitary crimes in 1998 so we should have drawn a line under it for the army too. This is just going to create all sorts of fishing expeditions and greedy lawyers.

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I think most people would feel uncomfortable with the prospect of someone sitting in a warm safe office, having never been at either end of a gun, trying to make judgments on the actions of men placed in unimaginable and dangerous circumstances so many decades ago.   
  
Of course, where there is evidence, anyone who is accused of a crime should be held accountable and have the chance to defend themselves. And the presumption of innocence must be maintained.   
  
But I can’t help thinking that here we have a case where the political circumstances of 2018 are being allowed to influence actions and judgments regarding events from the early 1970s.

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Sheer cowardice by the government. State the facts: the IRA are the vile creatures here and they have been pardoned and bought off. If 40 year old allegations are to be pursued, then reopen investigations into IRA atrocities and let's have those living the high life with our appeasement and indulgence banged up.

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Disgraceful by May and Bradley, pure appeasement.

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When Civil Servants are not directed by their Ministers. Mrs May the David Brent PM.

[HowardAWard](https://www.intensedebate.com/people/HowardAWard) *·* [*93 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061830702)

When, oh when are our spineless MPs go to send Graham Brady the sufficient number of letters to start the process of getting rid of this useless, leaderless, directionless incumbent 'leader' of our party?   
  
No leader with any ability, let alone a CONSERVATIVE leader would have allowed this nonsense to grow legs.

[Steerage](https://www.intensedebate.com/people/Steerage) *·* [*93 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061831091)

Time to draw a line under the past in both prosecutions and investigations.   
We can't however because of spineless and feeble acceptance of legal interpretations of ECHR Article 2 (Right to Life) at Strasbourg.   
The jurisprudence around it has grown like Topsy and needs reined in by negotiations at the Council of Ministers there.   
Get Foreign Office lawyers who fight rather than foot drag.   
Remind me which other European countries including Russia and Turkey fall in line with Strasbourg demands on ceaseless re-investigation of state actions, and do they retain membership of the Council of Europe?

[RobN10](https://www.intensedebate.com/people/RobN10) *·* [*93 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061831131)

NI veterans should be given protection against these political prosecutions.

[GeorgeWardell9](https://www.intensedebate.com/people/GeorgeWardell9) *·* [*93 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061831303)

What Shiner did was beyond disgraceful and people who have never fought in uniform should be wary of criticising soldiers. I would have agreed totally with Goodman had I not read Douglas Murray's analysis of the Bloody Sunday shootings in Londonderry which concludes that at least one of the soldiers involved in killing 13 Catholic men was a murderer whose guilt was covered up. From what Murray writes, it would be possible still to prosecute this man even half a century after the event. Whether that would be in the public interest when terrorist killers have been allowed to go free is debatable. But what that soldier did was a blot on the army's reputation which Irish republicans will not forget.

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[In2minds](https://www.intensedebate.com/people/In2minds) *·* [*93 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061831801)

It's off topic but what are we going to do about the returning Jihadis?

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Negotiation does not necessarily imply giving way on every count to satisfy the other side; with a view to what? The talks going on in Northern Ireland on Brexit as well as on the Northern Ireland Assembly will be used by elements of the Nationalists to resurrect old claims where they say they `seek justice`. It seems more likely that this will lead to yrt more calls for financial compensation when so often our government has seemed like a soft touch. Iraq and the scandalous behaviour of some lawyers shows just how ruthless this sort of lobby can be.   
I believe that HMG should draw red lines covering certain aspects of their discussions now. One of these should make it clear that in no circumstances will there be any more historic investigations into allegations made against the British Army and as a result we might offer to take no further any outstanding claims against the Police and IRA. The book should now be closed and these matters no longer considered as bargaining chips. The Statute of Limitations proposed should be implemented without delay and it should include operations up to the present day.   
It would not surprise me to learn that events of an even worse character took place during the two EWorls Wars and no one is suggesting that we start looking into them. If we go on otherwise, the government can kiss goodbye to any Armed Forces recruiting targets. Who in their right mind would wish to join a service that would fail to support him or her in future allegations that might be brought by someone whose avowed intention it had been to kill our people and who then sought to be compensated for taking up arms against them. The government is on the verge of shoddy behaviour and to allow such matters to be swept up into political negotiations on different matters is unacceptable

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It not a matter of a statute of limitations. Any discussion on that should be taken in a wider context. I would suggest the Attorney General announced that no charges will be levied at at members of the RUC or Armed Forces unless it can be demonstrated that they acted with absolute malice and as all deaths are thoroughly investigated any such intentions would have been clear at the time.

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[ElderlyOwl](https://www.intensedebate.com/people/ElderlyOwl) *·* [*93 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061833438)

The dithering by this government on this issue is a national disgrace. It shows the Prime Minister to be weak, preferring to support political expediency rather than those who provide the umbrella under which we, and our families, live in safety. Shame on you Theresa. JRM would sort this out. Time for a change.

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[Paul\_Hem](https://www.intensedebate.com/people/Paul_Hemingway) *·* [*92 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061834090)

Amazing how perspectives change after the events - we must always be careful not to judge from our own perspective today but from that of the time. When there were bodies on the street, when people drinking in pubs were blown up, when army musicians were butchered and our war heroes blasted within the confines of the house of commons, and all this was on the news, nobody minded a few of the people responsible being taken out without due process. If fact, public opinion wanted more of this - the SAS should go in and deal with the IRA leadership. They should be hunted down like the Israelis dealt with those responsible for the Munich outrage. That's what I thought at the time - until Mossad got the wrong man in Norway. Had to re-think then. But we must remember that it was only the greatest of restraint that stopped this from happening.....

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[Mohammed\_Amin](http://www.mohammedamin.com) *·* [*92 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061837884)

The fundamental flaw is trying to close the book on possible crimes by British troops without doing the same thing for the IRA or Loyalists.   
  
I set this out in January 2015 in my Conservative Home piece "When justice and reconciliation conflict – the case of Northern Ireland" which remains just as valid today. See [http://www.conservativehome.com/platform/2015/01/...](http://www.conservativehome.com/platform/2015/01/mohammed-amin-when-justice-and-reconciliation-conflict-the-case-of-northern-ireland.html)

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[jake6257](https://www.intensedebate.com/people/jake6257) *·* [*92 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061846496)

No, the best way is to leave it to the military courts. Only they have the ability to try a serviceman for his conduct in in action as only they have a chance of understanding the circumstances not some tozzer in a wig.

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[Don\_Collapso](https://www.intensedebate.com/people/Don_Collapso) *·* [*92 weeks ago*](https://www.conservativehome.com/thetorydiary/2018/05/northern-ireland-and-historic-allegations-former-soldiers-deserve-protection-from-unjust-pursuit.html?utm_medium=email&utm_campaign=Friday%2011th%20May%202018&utm_content=Friday%2011th%20May%202018+CID_4f48ea672686179586e096d0c54bf5b4&utm_source=Daily%20Email&utm_term=Northern%20Ireland%20and%20historic%20allegations%20Former%20soldiers%20deserve%20protection%20from%20unjust%20pursuit#IDComment1061856411)

Sadly I was out of office all day and unable to respond to this appalling tale. My every instinct is to tell May that if one old soldier gets hauled before one of these tribunals, set up purely in the interests if virtue signalling, I would never vote Tory again - and that I hold her and the wretched Karen Brady in deepest contempt. After all the goal posts were set by the egregious Blair who gave terrorists a letter of exoneration.

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Yes those from the Forces that were involved should be granted immunity from prosecution or even investigation! The Terrorists of both sides have been given immunity. It is appalling and scandalous that now some in that community are pursuing Soldiers!