



House of Commons
Northern Ireland Affairs
Committee

**HM Government
support for UK victims
of IRA attacks that
used Gaddafi-supplied
Semtex and weapons**

Fourth Report of Session 2016–17

*Report, together with formal minutes relating
to the report*

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Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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Summary

Over the course of 25 years from the early 1970s, the Gaddafi regime in Libya supplied arms, funding, training and, in particular, Semtex to the Provisional IRA. This had the effect of extending and exacerbating ‘the Troubles’ in Northern Ireland, causing untold human suffering. This Report examines the failure of successive UK governments to pursue compensation from Libya on behalf of the many victims of Gaddafi-sponsored terrorism. Rather than leaving the victims to reach an agreement with the Libyan authorities themselves, we strongly recommend that the UK Government begin direct negotiations itself to agree a compensation package for these victims. Whilst there is almost £9.5 billion of frozen Libyan assets currently in the UK, we believe it would be preferable for the Libyan authorities to voluntarily agree a compensation package. However, time is running out for many of the victims, many of whom need support urgently. If, by the end of 2017, it is apparent that direct negotiations on compensation are not possible in the short to medium term, we believe the UK Government should itself establish and finance a reparations fund, ahead of the outcome of any government-to-government negotiations. This would also allow the UK Government to begin the task of determining how such a fund would be managed, and who would be eligible to benefit from it.

1 Colonel Gaddafi and the IRA

Libyan support for the Provisional IRA

1. In June 1972 Colonel Gaddafi announced on Libyan Radio:

We support the revolutionaries of Ireland, who oppose Britain and who are motivated by nationalism and religion [...] There are arms and there is support for the revolutionaries of Ireland [...] We have decided to create a problem for Britain and to drive a thorn in her side so as to make life difficult [...] She will pay dearly.¹

To this end, from the early 1970s through to the 1990s the Gaddafi regime provided material support for the Provisional IRA in the form of many tonnes of arms and ammunition, millions of dollars in finances, military training, and explosives. In particular, through a series of shipments, which took place in the mid-1980s, the regime supplied somewhere between 2.75 and 10 tonnes of Semtex—a highly powerful, malleable and virtually undetectable plastic explosive.²

2. The supply of Semtex greatly enhanced, with deadly effects, the Provisional IRA's bombing campaign from the late 1980s. On 8 November 1987, a bomb using Semtex killed 11 people during a Remembrance Sunday ceremony in Enniskillen. On 10 April 1992, a 45kg bomb using Semtex detonated outside the Baltic Exchange in the City of London, killing three people and injuring more than 90 others. On 20 March 1993, a bomb containing Semtex was detonated in Warrington, resulting in the death of two children, Tim Parry and Johnathan Ball. On 9 February 1996, the Provisional IRA broke its ceasefire when it detonated a bomb in the Docklands area of London, killing two people and injuring around 100. These are just a few examples of the destruction wrought through the support provided to the Provisional IRA by the Gaddafi regime. The former Foreign Secretary, the Rt Hon Jack Straw gave evidence to us saying: “in the 1980s and 1990s, Libya was probably the most serious state sponsor of terrorism in the world”.³ As a leading campaigner for victims, William Frazer, put it: “They created one of the most ruthless terrorist machines around the world”.⁴

The human consequences and our inquiry

3. The headline death toll and numbers of those injured by the terrorist campaign of the Provisional IRA during the ‘Troubles’ in Northern Ireland fail to convey the full impact that its campaign had on so many individuals, both in Northern Ireland and in Great Britain. We received heartrending evidence from people whose lives have been changed forever as a result of one of its attacks. Mrs Hamida Bashir, whose son was killed in the Docklands bombing in 1996, told us: “My words are sadly not sufficient to express the tremendous pain I feel as Inam was a lovely and kind boy”.⁵ Mrs Gemma Berezzag, whose husband was left blind, paralysed and brain-damaged in the same attack, told us: “My

1 McCue and Partners ([LSX0021](#)) para 26

2 McCue and Partners ([LSX0045](#)) para 18

3 Q458 (Rt Hon Jack Straw)

4 Q48 (William Frazer, Families Acting for Innocent Relatives)

5 Mrs Hamida Bashir ([LSX0012](#))

Zaoui is now very ill and getting very worse [...] but I will do my best to care for him as I love him and can't imagine my life without him".⁶ Mrs Berezzag passed away in 2016, having provided daily care for her husband for 20 years.

4. The Committee also received moving written and oral testimony from some of the victims and their families of the 1983 Harrods bombing in which six people were killed. Charles Arbuthnot described the impact of losing his sister, Jane, a Metropolitan police officer who attended the scene, and who was only on duty because she had swapped shifts to welcome her brother home from university.⁷ Susanne and Anthony Dodd, and Melanie Cubitt, told the Committee how the loss of their father—Stephen, also a Metropolitan police officer who had attended the scene—had profoundly affected their lives, and placed huge financial and emotional pressure on their mother.⁸ Pamela White and Martyn Holgate, police officers who had also attended the scene, and Mina Jadeja, who was Christmas shopping with her family that day, spoke of the physical and mental injuries they had sustained, and which subsequently ended their careers.⁹ Ms Jadeja told us: "I think this act of crime has had a very detrimental and negative impact on my life, whether it is emotional, physical, psychological or financial [...] I feel my life has been snatched away from me".¹⁰

5. Colin Parry, whose 12-year old son, Tim, died following the Warrington bombing in 1993, told us: "Describing the final moments of your child's life is beyond words [...] because, as a parent, there is no greater pain or loss than the death of your child".¹¹ In another incident, Jane and Ellen Sefton were killed by an under-car bomb in 1990 in Northern Ireland. Their daughter, Margaret, told us: "I sadly can't put into words the unimaginable loss I feel as my Mum and Dad were everything to me".¹² Their son, Peter, told us: "I have suffered terribly for 25 years from the effects of the murders of my parents. It has destroyed my marriage, my career and blighted my personal life".¹³

6. The testimonies we received represent only a small proportion of the massive human suffering brought about by the Provisional IRA during their campaign of terror. Over the years, the survivors and the families of those who were killed have received relatively little support from the Government. It has been particularly difficult for victims in Great Britain to access support because health and welfare services have traditionally not been as tailored to victims of terrorism as they are in Northern Ireland. Whilst many victims have been eligible for a payment from either the Compensation Agency in Northern Ireland, or the Criminal Injuries Compensation Authority in Great Britain, many were not aware of their eligibility, whilst the amounts distributed were modest, and a claim had to have been made within two years of the incident forming the basis for the claim.

7. In recent years, the UK Government's stance towards IRA victims has stood in contrast to that taken by the US Administration, which in the mid-2000s negotiated a compensation package from the Libyan Government for the US victims of Gaddafi-sponsored terrorism. The deal primarily benefited victims of the 1988 Lockerbie bombing,

6 Mrs Gemma Berezzag ([LSX0005](#))

7 The Arbuthnot Family ([LSX0009](#)) para 3

8 Q333 (Susanne Dodd); and Susanne Dodd ([LSX0020](#)), Anthony Dodd ([LSX0019](#)), Melanie Cubitt ([LSX0018](#))

9 Qq330 (Pamela White and Mina Jadeja); and Martyn Holgate ([LSX0034](#))

10 Q333 (Mina Jadeja)

11 Colin Parry ([LSX0035](#))

12 Margaret Sefton ([LSX0011](#))

13 Peter Sefton ([LSX0014](#))

but it has also been used to compensate a US victim of the Harrods bombing, who has received payments totalling \$7 million. Similarly, in the early 2000s, France and Germany secured compensation from the Gaddafi regime for terrorist acts perpetrated against their citizens. Rather than adopt a similar approach with the Libyan Government, both during and after the Gaddafi regime, successive UK Governments have maintained the policy that seeking compensation from Libya is a private matter for the victims to negotiate themselves. As the Docklands Victims Association told us: “we feel it is very inappropriate to expect those left severely traumatised to independently resolve this issue for all those left bereaved and severely disabled within the UK”.¹⁴

8. This apparent injustice is the reason why the Committee chose this issue as the subject of its first inquiry of the 2015 Parliament. We have sought to analyse how it was that the Government was unable to extract compensation from the Gaddafi regime, before it fell from power; why successive UK Governments have maintained a stance that this is a private matter for the victims to resolve; and what the options are now for achieving proper compensation from the Libyan authorities. In seeking to answer these questions, we are very grateful to the large number of individuals and organisations who gave oral and written evidence to the inquiry, which is available on the Committee’s webpage. We are also grateful to McCue and Partners for their extensive written evidence, and to the Docklands Victims Association for encouraging a number of victims to submit testimony to the Committee.

9. There is no doubt that the weapons, funding, training, and explosives that Colonel Gaddafi provided to the Provisional IRA over the course of 25 years both extended and exacerbated the Northern Ireland Troubles, and caused enormous human suffering. Whilst other countries have sought compensation from the Libyan Government for its role in fostering terror, the UK Government has not done so, instead leaving the matter for victims themselves to resolve. We pay warm tribute to the quiet dignity and determination of those individuals and organisations who have campaigned tirelessly over the years to rectify this injustice. As they grow older, time is running out for many of the victims, and so we hope this Report will encourage the next Government to adopt a fresh approach which secures the compensation these people deserve. We hope also that our successor Committee will continue to campaign on this issue in the 2017 Parliament, until there is a satisfactory resolution for the victims.

2 The Government’s relationship with the Gaddafi regime

10. In this Chapter we look at how the UK Government’s relationship with the Gaddafi regime evolved from the 1990s until his fall from power. We examine the extent to which the Government gave consideration to IRA victims during the period in which relations between the UK and Libya improved in the 2000s. We also consider the compensation agreement reached between the US and Libya, and why the UK victims were not able to benefit from it.

Libya’s ‘coming in from the cold’

11. Diplomatic relations between the UK and Libya were severed in July 1984 following the murder of PC Yvonne Fletcher outside the Libyan embassy in London. UK-Libyan relations deteriorated further over the course of the decade following evidence of the regime’s role in the Lockerbie bombing, and its support for the Provisional IRA. UN Security Council Resolution 731 in January 1992 urged the Libyan Government to cooperate in establishing responsibility for the bombing of Pan Am flight 103. Resolution 748 in March 1992, which was legally binding, required Libya to respond to UK and US requests in relation to Lockerbie, and cease all forms of terrorist action, including assistance to terrorist groups. The Libyan Government refused to cooperate and so, under the Resolution, the UN imposed sanctions on the country.

12. It was not until later in the 1990s that the Gaddafi regime began to distance itself from its sponsorship of terrorism. The Foreign and Commonwealth Office gave evidence to the Committee that, during a round of exchanges in 1995, Libya provided it with information, under Resolution 748, about the material and financial support it had given to the Provisional IRA. Accordingly, the UK Government stated that “whilst there remained gaps and omissions in the information [provided by Libya], we were satisfied that it largely met our expectations, and that it was a positive step towards Libya’s renunciation of terrorism”.¹⁵ The Libyan Government also confirmed that it had stopped providing support to the Provisional IRA. In his oral evidence, the former Cabinet Minister, Jack Straw, noted that these developments under the Conservative Government were “an essential precursor” to the start of negotiations that would eventually lead to the Good Friday Agreement/Belfast Agreement because it meant the organisation’s supply of explosives and weaponry had been cut off.¹⁶

13. The Labour Government of Tony Blair re-established diplomatic relations with Libya in 1999, when international sanctions were lifted. The Gaddafi regime agreed to hand over for trial two suspects wanted in connection with the Lockerbie bombing, and agreed to pay compensation to the families of the victims if the suspects were found guilty.¹⁷ It also accepted responsibility for the murder of PC Yvonne Fletcher, and agreed to pay compensation to her parents.¹⁸

15 Foreign and Commonwealth Office ([LSX0039](#))

16 Q491 (Rt Hon Jack Straw)

17 2008 Letter from the FCO to the Foreign Affairs Committee contained in KRW Law LLP ([LSX0017](#))

18 McCue and Partners ([LSX0021](#))

14. However, it was not until 2003 that relations between Libya and the west improved dramatically, when secret negotiations were opened with the regime which would eventually lead to its ‘coming in from the cold’. This resulted in an agreement that Libya would provide compensation to the families of the Lockerbie bombing victims, and in December 2003 the UK Government announced the decision by Gaddafi to reveal and destroy his inventory of weapons of mass destruction, under international supervision. Furthermore, the regime said it would actively cooperate with the UK and US in fighting terrorism. In his written evidence to the Committee, former Prime Minister, the Rt Hon Tony Blair told us: “These were obviously important developments, greatly in the national interest, and led to the deepening of relations with the regime and then to my visit in 2004”.¹⁹

15. The 2004 visit was the first time a British Prime Minister had been to Libya in more than 60 years. It was accompanied by the announcement that Shell had signed an agreement worth up to £550 million for gas exploration rights off the coast of Libya.²⁰ It was followed in 2007 with a longer visit, shortly before the then Prime Minister, Mr Blair, left office. At the time, Mr Blair was reported as saying of Gaddafi: “He’s very easy to deal with. To be fair to him there’s nothing that I’ve ever agreed with him should be done that hasn’t happened. That’s important”.²¹ At the same time, it was reported that BP would resume investment in the country.²²

16. Whilst it would not have been realistic to attempt to advance the issue of the treatment of the IRA victims during the hiatus in UK-Libya relations, in the year after the rapprochement with Libya, Northern Irish politicians and others did begin to raise the issue of compensation for IRA victims with the then Government. In April 2004, the then Ulster Unionist MP, David Burnside tabled a written parliamentary question to the Secretary of State for Northern Ireland, asking what representations he had made to the Prime Minister prior to his visit to Libya about the victims of terrorists supplied by Libyan arms and explosives. The Secretary of State’s response was:

The Government are aware of the recent calls by representatives of IRA victims and others that Libya should provide compensation for IRA victims. The Prime Minister discussed a range of issues with Colonel Gaddafi including international and regional security issues, including terrorism.²³

17. A further parliamentary question, two months later, by another Ulster Unionist MP at that time, Martin Smyth, asked the Foreign Secretary, Jack Straw, to raise the issue of compensation for the IRA victims at the UN. The then FCO Minister, Bill Rammell, replied that “There are no plans to raise this issue in the United Nations at this time”.²⁴ McCue and Partners also told the Committee they had corresponded with PM Tony Blair about this issue during this period.²⁵

19 Rt Hon Tony Blair ([LSX0038](#))

20 McCue and Partners ([LSX0021](#)) para 31

21 Guardian, ‘Blair arrives in Libya with praise for Gaddafi’, 29 May 2007

22 Ibid.

23 Taken from McCue and Partners ([LSX0021](#)) para 32

24 Ibid. para 33

25 McCue and Partners ([LSX0042](#))

18. With the passage of time it is not clear the extent to which these representations formed part of a wider campaign, and insofar as they did, whether they were taken into account by the then UK Government. In his written evidence, Tony Blair told the Committee “the issue of compensation for the victims of Libyan-sponsored IRA terrorism was not raised with me in government, as far as I am aware”.²⁶ Similarly, Jack Straw told us: “the issue of compensation [...] was not raised with me either, so far as I can recall”.²⁷ However, when we raised this with the current Foreign and Commonwealth Office (FCO) Minister for the Middle East and Africa, Tobias Ellwood MP, he told the Committee: “if the United States were able to secure essentially a political deal, then yes, I am curious to understand why Tony Blair felt that this was not coming on his radar or, indeed, he was not raising it”.²⁸

19. Notwithstanding the extent to which the then Prime Minister and Foreign Secretary were aware of the issue of compensation for the IRA victims, it seems the FCO did still raise the matter with the Libyan authorities. In December 2008, the former Foreign Secretary, David Miliband, wrote in a letter to the Foreign Affairs Committee: “we have taken regular soundings on Libya’s position since the restoration of diplomatic relations, notably in 2004, 2006 and most recently in November 2007, and through the US earlier this year. On all occasions, Libya has stressed that they believe the matter is firmly closed”.²⁹ It is not clear at what level such representations were made, and with what force. Jason McCue, a lawyer acting on behalf of many victims, told us the UK Government would likely have had an incentive not to press the issue, because it did not want to destabilise the Northern Ireland peace process at that time.³⁰

20. In its written evidence the FCO pointed to the fact that the requirement for Libya to pay compensation to the Lockerbie families was legally binding under the UN Security Council Resolutions, whereas no such requirement existed in relation to Libya’s support for the IRA. The FCO also noted that payment of compensation in relation to the death of PC Yvonne Fletcher had been preceded by an inquest into her death, which had concluded that Libyan nationals were directly responsible for her murder.³¹ It is not clear to us whether these are simply post-hoc justifications for the UK Government’s decision not to act at the time. It could, we believe, have pressed for the inclusion of the matter in a UN Security Council Resolution, or an inquiry could have been set up to establish conclusively the link between the Gaddafi regime and Provisional IRA terrorism.

21. It is not clear how far the Tony Blair Government was aware of the campaign to seek compensation for the victims of Gaddafi-sponsored terrorism, and how far that Government pursued the matter with the Libyan authorities. Whatever the reality of the situation was, we believe the UK Government missed a vital opportunity, during the period in which Libya was seeking a rapprochement with the west, to act on behalf of IRA victims by placing this issue firmly on the negotiating table to secure a compensation package.

26 Letter from Tony Blair to the Chair of the Committee, February 2016

27 Q459 (Rt Hon Jack Straw)

28 Q425 (Tobias Ellwood, Minister for the Middle East and Africa)

29 Letter from the Foreign Secretary to the Foreign Affairs Committee, quoted in KRW Law ([LSX0017](#))

30 Q19 (Jason McCue)

31 Foreign and Commonwealth Office ([LSX0039](#))

The McDonald writ and the US-Libya Claims Settlement Agreement

22. In April 2006, the law firm McCue and Partners (then known as H2O Law LLP) commenced civil proceedings against the Gaddafi regime in the US District Court for the District of Columbia for damages arising from its support for terrorism perpetrated by the Provisional IRA.³² The case was Mark McDonald et al v. The Socialist People’s Libyan Arab Jamahiriya et al. Mark McDonald is a US citizen who was severely injured in the Harrods bombing. The list of defendants also included 152 UK victims, largely gathered through the work of victims campaigner, William Frazer of Families Acting for Innocent Relatives (FAIR) over the preceding years. Many of those who gave evidence to our Committee were named in the writ, and saw it as the only means by which the Gaddafi regime could be held to account for its prior support for the Provisional IRA. Aileen Quinton, whose mother was killed in the Enniskillen bombing, told us: “the writ for me has much wider significance and is about accountability. It has highlighted the role of Gaddafi in the devastation caused by his IRA allies, when our government had no interest in doing so”.³³

23. We also received evidence from victims and their representatives whose names were not on the McDonald writ.³⁴ Pamela White, for example, spoke of the pain and distress she felt at being told that the fact that she was a police officer on duty prevented her from being included.³⁵ **We should emphasise that the conclusions and recommendations in this Report encompass all UK victims of Gaddafi-sponsored terrorism by the Provisional IRA, and not just those victims who were named in the McDonald writ.**

24. In a separate development less than two years later, in January 2008, the US Congress passed the annual National Defense Authorization Act—the legislation which funds the US military each year. In 2008, the Act included a provision (S. 1083), which allowed the victims of state-sponsored terrorism to collect court judgments from states which had sponsored terrorism, through the seizure of their assets in the US, or money from companies doing business with them. As a result, a number of cases were brought against Libya. McCue and Partners explained that, if Libya lost all the cases which were brought against it, the regime could have faced losses of \$3–6 billion.³⁶ This led to a massive divestment by the Libyan Investment Authority of its US holdings to avoid the risk of its assets being seized. Companies including ExxonMobil and Occidental Petroleum also faced claims against them on account of their Libyan operations.

25. Later in 2008, the Libyan Government approached the US Administration to commence discussions on a compensation package for the American victims of Libyan terrorist attacks which would also settle all outstanding legal claims pending in US and Libyan courts.³⁷ This culminated in August 2008 with the signing into law by President Bush of the Libya Claims Resolution Act. The Act provided that upon the receipt of adequate funds from Libya, the country would no longer be subject to exceptions to immunity from jurisdiction under the United States Code. Shortly afterwards, the two countries signed the US-Libya Claims Settlement Agreement 2008 (LCSA). This established a ‘humanitarian

32 McCue and Partners ([LSX0021](#))

33 Aileen Quinton ([LSX0023](#))

34 For example, Paul Tweed ([LSX0032](#)), Paris Panther ([LSX0004](#)) and Mina Jadeja ([LSX0008](#))

35 Q378 (Pamela White)

36 McCue and Partners ([LSX0021](#)) para 40

37 Ibid.

settlement fund' worth \$1.8 billion, \$1.5 billion of which would be allocated to the US Administration for distribution to its citizens, with \$300 million deposited with the Libyan Government for distribution to its nationals.³⁸

26. It is not clear who provided the financial backing for the Fund. In their written evidence, McCue and Partners refer to a statement made by the US Department of State that no funding would be provided by the US taxpayer and, that whilst the US Administration was not asking businesses to support the fund, there was no bar to them doing so.³⁹ Companies looking to do business in Libya would have had an interest in seeing the resolution of the two countries' pending legal claims against each other. Whether the Fund was capitalised by businesses, or the Libyan Government, or a combination of the two, in October 2008, the US Secretary of State certified that adequate funds had been received pursuant to the Agreement. Accordingly, President Bush issued an Executive Order requiring the termination of all pending lawsuits against Libya in the US.⁴⁰ This resulted in the dismissal of the McDonald case.⁴¹

27. In answer to a written parliamentary question in October 2008, the FCO stated that, during the course of the negotiations between the US and Libya, the UK Government had made representations to the US administration that the UK families of Lockerbie be included in the deal. It described their inclusion as recipients of the compensation package as “welcome news for these families”.⁴² The UK Government also claimed it had made representations for the inclusion of the UK claimants in the McDonald case, but “it proved not possible to include the [...] case claimants in the recipients of compensation under the US/Libya Agreement”.⁴³ The UK Government described the outcome as “regrettable”. The main reason it cited was that US law did not permit the US Administration to espouse the claims of foreign nationals. Additional factors in the US decision were how likely it was that the claims would fall within the jurisdiction of the US courts, and how likely they would have been to succeed.⁴⁴

28. From the evidence we received, it is not clear how much pressure the then Labour Government of Gordon Brown placed on the US Administration to include the UK claimants in the McDonald case. In a debate in Westminster Hall in October 2008, the then FCO Minister Bill Rammell said the UK Government had made “real efforts to raise their interests”.⁴⁵ However, Matthew Jury of McCue and Partners, told us that the firm’s counsel, Lord Brennan QC, and the US lawyers with whom they were working, had met the US Department of State in 2008, prior to the signing of the LCSA. At that meeting, they were advised that they knew nothing about the McDonald case.⁴⁶ Jason McCue told us: “I strongly believe that there was no pressure or real emphasis put behind it”.⁴⁷

29. In their evidence to the Committee, McCue and Partners further questioned the statement that US law prohibited the US Administration from espousing the claims of foreign nationals. They argued that no such law existed; rather it was purely a matter

38 <https://www.state.gov/documents/organization/109771.pdf>

39 McCue and Partners (LSX0021) para 51

40 <http://www.presidency.ucsb.edu/ws/?pid=84759>

41 McCue and Partners (LSX0021)

42 HC Deb, 6 October 2008, col 234–5W

43 *Ibid.*

44 *Ibid.*

45 HC Deb, 22 October 2008, col 98WH

46 Q9 (Matthew Jury, McCue and Partners)

47 Q32 (Jason McCue, McCue and Partners)

of US Administration policy—”it simply chose not to”.⁴⁸ Furthermore, the law firm contended that the case had excellent prospects of success, and that jurisdiction was not an issue challenged by the defendants. On the issue of policy, the Tony Blair told us: “[...] for the Americans this was never going to be made part of this settlement since they were focused on US citizens affected by Lockerbie and the Berlin discotheque bombing”.⁴⁹ As McCue and Partners also noted: “there was simply no benefit to the US if it did so. It only risked antagonising Libya, jeopardising US business interests and risking a comprehensive settlement for US victims”.⁵⁰ In his oral evidence to the Committee, the then UK Ambassador to Libya, Sir Vincent Fean, expressed his personal disappointment that the US Administration had not agreed to associate itself with the UK victims’ claims. He told us:

I find that deeply regrettable, because the United States had a large amount of influence on Libya at that time and, indeed, now, and joining with them would have increased the chances of success. However, the United States, for reasons that I do not really understand, did not wish to associate the UK victims with the US victims.⁵¹

30. As a result of the LCSA, the US victims in the McDonald case subsequently received compensation alongside the families of the Lockerbie victims. The US was not the only country to agree a compensation package with Libya. In 2004, it agreed to pay the French Government \$170 million in respect of the 170 people killed following the bombing of UTA Flight 772 in 1989. The previous year the French Government had threatened to veto the lifting of UN sanctions on Libya unless its offer of compensation was increased. Elsewhere, the German Government secured a \$35 million compensation payment for the German victims and families of those killed in the 1986 bombing of the La Belle Discotheque in Berlin. As Matthew Jury of McCue and Partners put it: “The point is that France, Germany and the US ensured that the suffering of their victims was addressed”.⁵²

31. Despite this, the then UK Government’s position remained that it would not enter into bilateral negotiations with the Gaddafi regime on the issue of compensation. In a letter to McCue and Partners in September 2008, the then Prime Minister, the Rt Hon Gordon Brown, wrote of Libya: “They are an essential partner in the fight against terrorism and it is in the UK’s interests for this operation to continue”.⁵³ In a follow-up letter in October 2008, he told the firm:

Libya has already answered the questions put to it by the UK Government about its involvement with the IRA. Those answers satisfied the then UK Government and Libya has made it clear to us that they consider the matter closed. It would be very strongly opposed to re-opening the issue and it is our considered assessment that Libya would not support or be prepared to discuss a bilateral settlement of these cases with the UK Government and doing so would entail substantial risks.⁵⁴

48 McCue and Partners ([LSX0021](#))

49 Rt Hon Tony Blair ([LSX0038](#))

50 Op. Cit.

51 Q258 (Sir Vincent Fean)

52 Q7 (Matthew Jury, McCue and Partners)

53 McCue and Partners ([LSX0021](#)) para 52

54 Ibid. para 56

32. Many of the victims and their representatives who gave evidence to the Committee expressed the frustration they felt at the former Government’s position.⁵⁵ Paul Tweed, a lawyer acting on behalf of a number of victims, told us: “the Americans were able to put their citizens first, so why on earth could Britain not have done likewise for theirs?”⁵⁶ Mina Jadeja contrasted the fact that a US citizen, treated in the adjacent ward to her following the Harrods bombing, had received a multi-million pound settlement under the LCSA, whilst the response she had received from the FCO was that it was her “personal problem”.⁵⁷ Mrs Hamida Bashir told us her son, and all those affected by Libyan support for the Provisional IRA had been “treated disgracefully and abandoned by their own government”.⁵⁸

33. The exclusion of the UK victims of Gaddafi-sponsored terrorism from the terms of the US-Libya Claims Settlement Agreement 2008 was another missed opportunity to resolve the issue of compensation. Although the then UK Government claimed it had made representations to the US for the victims’ inclusion, we received no evidence of the level they were made, and with what force. That said, even assuming that the UK Government had put its full weight behind the victims’ cause, it cannot be known now, almost 10 years later, whether it would have affected the US Administration’s position. Whatever its reasons were, it is deeply regrettable that, in 2008, the US appears not to have been willing to assist the UK in delivering justice for its victims. However, this does not absolve the former Labour Government for having failed to pursue the issue of compensation itself bilaterally with Libya with the same determination and vigour demonstrated by the Governments of France, Germany and the US. Had it done so, it might well have been equally successful.

Tony Blair’s relationship with Colonel Gaddafi after leaving office

34. After leaving office in June 2007, Tony Blair maintained a working relationship with Colonel Gaddafi up until he was overthrown in 2011. During that time they met in person six times.⁵⁹ In 2013, an email dated 8 June 2008 from the then UK Ambassador to Libya, Sir Vincent Fean, to Mr Blair came to light, which received widespread press coverage. Sir Vincent told us in his oral evidence to the Committee that it was a briefing note written on his own authority to bring Mr Blair up-to-date on events ahead of a planned visit to meet Colonel Gaddafi.⁶⁰ As part of the briefing, the email stated:

TB should explain what he said to President Bush [...] to keep his promise to intervene after the President allowed US courts to attach Libyan assets.⁶¹ He could express satisfaction at the progress made in talks between the US and Libya to reach a Govt to Govt solution to all the legal/compensation issues outstanding from the 1980s. It would be good to get these issues resolved, and move on [...] HMG is not involved in the talks, although some British

55 For example, see Margaret Sefton ([LSX0011](#)), the Arbuthnot family ([LSX0009](#)), Joyce Brown ([LSX0006](#)), Gemma Berezzag ([LSX0005](#)), Families Acting for Innocent Relatives ([LSX0022](#)), Pamela White ([LSX0026](#)), and the Docklands Victims Association ([LSX0003](#))

56 Q328 (Paul Tweed, Johnsons Law Firm)

57 Mina Jadeja ([LSX0008](#))

58 Mrs Hamida Bashir ([LSX0012](#))

59 Letter from Tony Blair to the Chair of the Committee, February 2016

60 Q254 (Sir Vincent Fean)

61 This is a reference to the National Defense Authorization Act discussed in para 22.

citizens might be affected by them (Lockerbie, plus some Northern Irish litigants going to US courts seeking compensation from Libya for IRA terrorist attacks funded/fuelled by Libya).⁶²

35. Mr Blair's continued working relationship with Colonel Gaddafi after leaving office, coupled with the email from Sir Vincent Fean, have been interpreted by some as suggesting that Mr Blair prevented the UK victims from receiving compensation under the 2008 LCSA by encouraging President Bush to sign the Executive Order, which led to the dismissal of the McDonald case.⁶³ However, in his written evidence to the Committee, Mr Blair stated:

I never tried to get the Americans to exclude the claims of IRA victims. I did not raise this issue with President Bush. The email from former Ambassador Vincent Fean to my office evidences no such thing, it was simply a reflection of government policy at the time. I was in favour of the USA having good relations with Libya for the same reason as I favoured the UK having such relations: it assisted in the fight against terrorism. [...] the attempt to implicate me in deliberately trying to stop IRA victims receiving compensation is utterly without foundation and wrong.⁶⁴

36. We have already deprecated the then UK Government's failure to pursue the issue of compensation when Libya was brought in from the cold in the early 2000s. However, it is not clear that Mr Blair's influence after leaving office was such that he could have made a material difference to the outcome of the US-Libya Claims Settlement Agreement 2008. Besides, he had ceased to be Prime Minister in June 2007. Negotiations between the US and Libya in 2008 took place on a bilateral basis, and whilst Sir Vincent Fean's email suggests that Mr Blair played some role in encouraging an agreement, it also suggests that it was not pivotal. We have already noted that the US Administration declined to include the UK victims in the terms of the LCSA.

The FCO's Libya Reconciliation Unit

37. The UK Government's position on compensation appeared to shift in September 2009, when Gordon Brown announced the establishment of a dedicated unit in the FCO which would support the victims' families in their efforts to secure compensation from Libya.⁶⁵ The Libya Reconciliation Unit had a dedicated staff of three officials based in London and Tripoli, whose role was to provide a central point of contact with the FCO; arrange meetings with the Libyan authorities; provide logistical assistance; and support the representatives of the victims in Libya.⁶⁶ The then Foreign Secretary, the Rt Hon David Miliband, said there would be full ministerial engagement and support for the new unit. However, he also stated that it remained the UK Government's position that it would be "unwise to turn this into a Government-to-Government issue".⁶⁷ He believed instead that a humanitarian appeal had a greater likelihood of success.

62 McCue and Partners (LSX0021) para 21

63 See for example, Daily Telegraph, 'Tony Blair helped Colonel Gaddafi in £1bn legal row', 4 August 2013

64 Rt Hon Tony Blair (LSX0038)

65 Foreign and Commonwealth Office (LSX0016)

66 HC Deb, 14 September 2009, col 2173W

67 McCue and Partners (LSX0021) para 69

38. McCue and Partners gave evidence that, whilst the then Government’s change in approach fell some way short of the UK victims’ requests, it remained a positive development.⁶⁸ Moreover, in October 2009, a delegation of British parliamentarians visited Tripoli to lobby the Libyan authorities. The group, comprising Lord Brennan QC, Lord Bew, Nigel Dodds MP, Jeffrey Donaldson MP, and Andrew MacKinlay MP, met Abdul Ati al-Obeidi, a senior minister in the Gaddafi regime and others, as well as receiving a briefing from the then Ambassador, Sir Vincent Fean.⁶⁹ As part of the discussions on compensation, the group also presented a proposal for Libya to participate in a humanitarian programme for peace and reconciliation for the benefit of everyone affected in the UK by Libyan-sponsored IRA terrorism.

39. In his evidence to the Committee, Andrew MacKinlay expressed his great frustration that the delegation had been handicapped by the fact that it could not claim to represent the UK Government: “The distinct impression I got was that the Libyan representatives expected us to put political and diplomatic pressure on them, but of course we had neither the capacity nor mandate to do so”.⁷⁰ Nevertheless, both Mr MacKinlay and Sir Vincent Fean told us there had been reasons to be optimistic following the visit. Mr MacKinlay explained that: “When we left Tripoli I felt that the door was still slightly open [...] had there been some enthusiasm shown by HMG, my feeling is that there was a possibility of reaching some settlement with the Libyan government”.⁷¹ In his oral evidence, Sir Vincent stated that: “Mr MacKinlay is right in saying that those exchanges [...] were not negative; they were interrogative. It was the beginning of a process: the clarification of what the United Kingdom, in the shape of the victims, wanted and what Libya could or could not offer”.⁷² Sir Vincent Fean also told the Committee he thought there was a possibility of a gesture from the Libyan authorities:

I was never sure, personally, that they would move to the level of compensation that Mr McCue and his team were seeking, but there was an issue to do with investment in Northern Ireland by the Libyan Investment Authority—infrastructure projects in Northern Ireland that were worthy, needed to be done and where the LIA had funds that could be devoted to that on a kind of win-win.⁷³

40. Other interlocutors with the Reconciliation Unit at this time expressed disappointment at the support they received from it. The Docklands Victim Association (DVA) highlighted a meeting it had secured with the Libyan Embassy for which the Unit would not provide an Arabic speaker to facilitate.⁷⁴ In the end, the Association had to ask Gemma Berezgag to help provide translation—an experience which she found extremely upsetting because of the harm that Libyan-sponsored terrorism had caused to her husband.⁷⁵ The DVA also expressed concern at the lack of staff continuity within the Unit.⁷⁶

68 Ibid. para 67

69 Andrew MacKinlay ([LSX0028](#))

70 Ibid.

71 Ibid.

72 Q272 (Sir Vincent Fean)

73 Q242 (Sir Vincent Fean)

74 Q52 (Jonathan Ganesh); Docklands Victims Association ([LSX0003](#)), and Mrs Gemma Berezgag ([LSX0005](#))

75 See para 3

76 Docklands Victims Association ([LSX0003](#)) para 6.6

41. We did not receive any evidence of the Reconciliation Unit’s activity after the delegation’s visit to Libya, although that is not to suggest that it was inactive. It continued to exist after the change of Government in 2010. In October that year, the new Prime Minister, David Cameron, wrote to McCue and Partners, expressing his enthusiasm for their campaign, stating: “The Government will be unequivocal in its attitude to Libya’s past sponsorship of terrorism while welcoming the progress that Libya continues to make in reintegrating into the international community”.⁷⁷ However, the campaign was suspended when, a few months later, civil war broke out in Libya as part of the Arab Spring. The Gaddafi regime was overthrown, and in October 2011 Gaddafi himself was captured and killed.

42. The establishment of the FCO’s Libya Reconciliation Unit represented an acknowledgement by the then UK Government that it could not continue to ignore the campaign for compensation by the UK victims of Gaddafi-sponsored IRA terrorism. However, its support for the parliamentary delegation which visited Libya in 2009 underlined the fact that only direct government-to-government negotiations would have carried sufficient weight in pressing the victims’ case. With the complete collapse of the Gaddafi regime in 2011, an eight-year window of opportunity, during which successive UK Governments could have sought to resolve this issue, had closed.

3 The Government’s relationship with Libya after Gaddafi

43. Following a civil war, the Gaddafi regime was replaced in 2011 by the Transitional National Council, which governed Libya for a short period until it was superseded, following elections to a new General National Congress in 2012. One of the GNC’s primary tasks was the creation of a permanent democratic constitution, which it failed to achieve, leading to fresh elections in 2014. In that year, the situation declined rapidly in Libya, and the country has since been in a state of low-level civil war. In August 2014, the British Embassy in Tripoli suspended operations and has not been able to provide consular assistance since then. The FCO also currently advises against all travel to Libya.

44. In this chapter we consider the efforts made by the UK Coalition Government which took office in May 2010 to pursue the issue of compensation after Gaddafi. We examine how the UK Government’s approach to the UK victims has shifted in recent years, and what steps the current Government is taking to engage with the new Government of National Accord in Libya.

Engagement between 2011 and 2014

45. Even after the collapse of the Gaddafi regime, campaigners and parliamentarians continued to place pressure on the Government to engage with the Libyan authorities on the issue of compensation, as well as engaging directly with the Libyans themselves. For example, in April 2011 representatives of McCue and Partners travelled to Libya to meet representatives of the incoming National Transitional Council (NTC). There, the Chairman of the NTC, Mustafa Abdul Jalil, signed a statement of reconciliation setting out that: “Within a reasonable timeframe that acknowledges the difficult situation currently on the ground in Libya it is our sincere desire to reach a morally just and appropriate settlement of the existing [UK] claimants in [the] McDonald et al v. Gaddafi [...] legal claim, on a parity and non-discrimination basis, in line with other US victim claimants in the same action [...]”.⁷⁸ The statement, which also expressed the “great compassion and sorrow” of the people of Libya towards those victims who had suffered as a result of the Gaddafi regime, additionally committed to the establishment of an appropriately resourced humanitarian fund for the wider class of IRA/Gaddafi victims, who were not claimants in the McDonald action.

46. We received conflicting evidence on the status of the statement signed in 2011, given that the National Transitional Council is no longer in place. The FCO told us the statement was not legally binding, and essentially represented a unilateral statement by the then Chairman of the NTC.⁷⁹ McCue and Partners, however, disputed this assertion, noting that at the time he signed the statement, Chairman Jalil was an internationally recognised head of state who had been welcomed to London by the then Foreign Secretary.⁸⁰ As there have been two elections since the NTC was in place, the FCO stated that it would be a matter for the new government of Libya to decide whether to use the statement as a basis for compensating the UK victims. The Minister for the Middle East and Africa, Tobias

78 Foreign and Commonwealth Office ([LSX0039](#)) Annex B

79 Foreign and Commonwealth Office ([LSX0016](#)) para 7

80 McCue and Partners ([LSX0029](#))

Ellwood MP, told us: “We can present documents that are in the past, but we should be realistic as to whether they will honour anything that has been written by previous administrations”.⁸¹

47. In the early days of its dealings with the post-Gaddafi authorities in Libya, it appeared that the Coalition Government was taking a more robust approach on the issue of compensation. For example, in an Oral Statement to the House in September 2011, Prime Minister David Cameron said: “We need to be clear that this will be an important bilateral issue between Britain and the new Libyan authorities. Clearly we have to let this government get their feet under the desk, but this is very high up my list of items”.⁸² In a letter to McCue and Partners two months later, the former Prime Minister also said: “I am clear that cooperation on these issues must not be subordinate to other security or commercial interests, or put on the back burner”.⁸³ To this end, the UK Government said that it did raise the issue with the Libyan authorities on numerous occasions in 2012. In response to a written parliamentary question the then FCO Minister, Baroness Warsi, said: “The Libyan authorities are in no doubt of the importance the UK attaches to resolving this and other outstanding bilateral issues arising from the actions of the Gaddafi regime”.⁸⁴

48. The evidence we received, however, suggests that little or no progress was made on the issue of compensation during this time, whilst the UK Government pursued other priorities with Libya. For example, in the period up to January 2013, there were an estimated 10 trade delegations to the country, intended to secure business for UK companies. In June 2013, the UK Government agreed to train 2,000 Libyan Armed Forces personnel, and in September it agreed a £62.5 million security, justice and defence programme aimed at equipping Libya to deal with the threat of terrorism.⁸⁵ The focus of the FCO’s Libya Reconciliation Unit also appeared to shift during this time to encompass a broader range of reconciliation measures, including knowledge-sharing on post-conflict issues, establishing links between Libyan and UK institutions and communities, and gestures of reconciliation.⁸⁶

49. Perhaps the starkest example of the contrast between the Coalition Government’s statements and its actions at this time was during the June 2013 G8 summit at the Lough Erne Resort in Fermanagh. The then Libyan Prime Minister attended the summit where he met the then First Minister and Deputy First Minister of Northern Ireland. Unsurprisingly, the UK victims found this deeply distressing given the Deputy First Minister’s former membership of the Provisional IRA. Aileen Quinton told us she found the situation “astonishing and, again, just showed how little our sensitivities mattered”.⁸⁷ The FCO did not provide advance notification of the visit to the victims, and declined their request for a meeting. Kenny Donaldson of Innocent Victims United told us the only means by which the victims were allowed to communicate with the Libyan Prime Minister was through a letter, which it was agreed the First Minister would hand to him at some stage.⁸⁸

81 Q177 (Tobias Ellwood, Minister for the Middle East and Africa)

82 HC Deb, 5 September 2011, col 33

83 McCue and Partners ([LSX0021](#)) para 89

84 HL Deb, 3 December 2012, col 108WA

85 *Ibid.*

86 McCue and Partners ([LSX0021](#)) para 97

87 Q82 (Aileen Quinton)

88 Q82 (Kenny Donaldson)

50. In early 2014, it became apparent that the Coalition Government’s position on seeking compensation from Libya was the same as that taken by previous governments. In response to a written parliamentary question tabled by Ulster Unionist Peer, Lord Empey, FCO Minister Baroness Warsi replied: “The Government is not involved in any negotiations with the Libyan government on securing compensation [...]. The Government considers individual compensation claims that are being pursued to be a private matter and best pursued directly with the Libyan government”.⁸⁹

51. In May 2014, it was reported that David Cameron had appointed his National Security Adviser, Sir Kim Darroch, to lead a renewed effort to build dialogue with the Libyan authorities on reconciliation initiatives relating to Gaddafi-sponsored terrorism. Whilst the reporting of this development was taken as a hopeful sign by the UK victims, the FCO explained that this was not a mandate to secure payment of individual compensation claims.⁹⁰ This was confirmed in a meeting McCue and Partners had with Sir Kim upon his return from Libya.⁹¹ That said, even if he had taken a different approach, as the FCO told us in its oral evidence: “Unfortunately, the timing was not good; Libya, at the time, was decaying into civil war and within a few weeks of his visit we had to close our embassy and withdraw our staff under fire”.⁹²

52. Whilst there was initial optimism that the Coalition Government would take a different approach on the issue of compensation after the fall of Gaddafi, that Government’s rhetoric did not translate into any tangible progress. This was, yet again, a missed opportunity. The fact that lawyers acting on behalf the UK victims were able to have the then Chairman of the National Transitional Council of Libya sign a statement in support of providing compensation early in 2011, suggests to us that, if the Coalition Government itself had taken up this issue at that time, it would have had a good chance of reaching an agreement.

The current Government’s position

53. At present, two political bodies in Libya claim to be the legitimate government of that country—the UN-backed Government of National Accord, based in Tripoli, and the Tobruk-based House of Representatives. Parts of Libya are outside the control of either body. Whilst the British Embassy in Tripoli remains closed and the FCO recommends against any travel to Libya, there has essentially been a hiatus in progressing the compensation campaign of the UK victims. That said, the current UK Government’s stance remains much the same as its predecessors. In June 2015, FCO Minister Baroness Anelay said in response to a written parliamentary question: “We do not intend to negotiate a compensation settlement with the Libyan authorities. Once stability returns and our Embassy reopens, we will again encourage the Libyans to engage with the UK victims”.⁹³ In its written evidence to us, the FCO stated that “whilst we will engage with the GNA [...] on the issue of compensation, rapid progress should not be expected given the scale of the problems ahead for Libya”.⁹⁴

89 HL Deb, 22 January 2014, col 136WA

90 Foreign and Commonwealth Office ([LSX0016](#)) para 9

91 McCue and Partners ([LSX0021](#)) para 127

92 Q168 (Jonathan Dart, Deputy Head, North Africa Department, FCO)

93 PQ HL868, 6 July 2015

94 Foreign and Commonwealth Office ([LSX0016](#)) para 13

54. During our inquiry, we pressed the FCO on why it would not espouse the claims of the UK victims through direct government-to-government negotiations. One of the main reasons the FCO gave us was that its policy on espousal was guided by a set of 11 criteria, based on general principles of customary international law. The criteria include the requirement that the claimants should have exhausted all other legal remedies. The FCO told us it did not believe this was the case in respect of the UK victims' claims.⁹⁵ It was for this reason that the FCO's policy was to offer only support and facilitation. However, McCue and Partners disputed this assertion, not least because there is currently no diplomatic presence in Libya, and the FCO recommends against any travel to the country.⁹⁶ Furthermore, the espousal criteria are not legally binding. The FCO itself admitted to us in its oral evidence that it could not see any legal reason why the UK Government could not espouse a claim by its citizens—it was simply a longstanding Government practice not to do so.⁹⁷ It is worth noting, even then, that the Government did espouse the claims of its citizens in respect of the case of PC Yvonne Fletcher and the UK victims of the Lockerbie bombing.⁹⁸

55. The victims who gave evidence to our inquiry were dismayed by what they regarded as the UK Government's intransigence on this issue. Aileen Quinton told us: "I still get shocked, even though I know it is the same message over and over again. It really is terrible that it is the victims that have to be fighting for justice".⁹⁹ Neil Tattersall, a victim of the Manchester bombing who is homeless, said: "I feel it is very unfair that they have had to independently resolve this matter and at their own personal expense".¹⁰⁰ Charles Arbuthnot told us: "they just need essentially to pull their finger out and get on with it, and have a bit more willpower to make things happen".¹⁰¹ Michael Gallagher of the Omagh Support and Self Help Group added that: "Not only is it their moral duty, but it will send a message to other rogue governments around the world that victims will come after you".¹⁰²

56. In January 2016, there did appear to be some sign that the Government of National Accord in Libya recognised the issue of compensation when, in an interview given to the Observer, the Deputy Prime Minister, Ahmed Maiteeg said that the new administration would now examine the claims. He was quoted as saying: "The right thing is that our justice minister will form a committee and take care of this matter. We have to study the case by our committee and see how far we go".¹⁰³ In his oral evidence to us, the Minister for the Middle East and Africa, Tobias Ellwood MP, described this as welcome news which the Libya Reconciliation Unit would follow up with the Deputy Prime Minister. However, Mr Ellwood also said: "we would not want to raise expectations too early that any settlement in [the] victims' favour is likely in the immediacy".¹⁰⁴

95 Foreign and Commonwealth Office ([LSX0039](#))

96 McCue and Partners ([LSX0042](#))

97 Qq116 and 147 (Jonathan Dart, Deputy Head, North Africa Department, FCO)

98 McCue and Partners ([LSX0042](#))

99 Q89 (Aileen Quinton)

100 Neil Tattersall ([LSX0025](#))

101 Q367 (Charles Arbuthnot)

102 Q305 (Michael Gallagher, Omagh Support and Self Help Group)

103 *Observer*, 'Britain made same mistakes in Libya as it did in Iraq', 24 January 2016

104 Q397 (Tobias Ellwood, Minister for the Middle East and Africa)

57. Over the next few years, the UK Government may well play a key role in the reconstruction of Libya, both in terms of financial and political support. If so, this would present an ideal opportunity for the Government to leverage a response in kind from the Libyans by finally resolving the issue of compensation for the UK victims of Gaddafi-sponsored IRA terrorism. This can only be achieved through direct government-to-government negotiations. Statements made by the Libyan Deputy Prime Minister acknowledge this is an issue that the Government of National Accord needs to consider. We believe that, with sufficient determination, the UK Government should be able to reach an agreement. But, as one of our witnesses said: “it requires somebody to bang on their door, not with a wet sponge, but [with a] bang”.¹⁰⁵

4 Compensation options

58. Various proposals have been put forward as to how compensation could be achieved if the UK Government were willing to engage in direct negotiations with the Libyan authorities. In this chapter we examine these options, including the leverage we believe the Government holds through the assets of various Libyan organisations and members of the former Gaddafi regime which are currently frozen in the UK.

Libya’s frozen assets

59. As the Gaddafi regime crumbled in 2011, the UN imposed financial sanctions on a number of individuals and entities involved or complicit in the commission of human rights abuses in Libya. The UN passed several resolutions that year freezing the assets of 38 individuals and 18 entities. These measures were legislated for in the EU through Council Regulation (EU) No. 204/2011, which is directly applicable in the UK.¹⁰⁶ In January 2016, this was replaced by Council Regulation (EU) 2016/44 to reflect changes which the UN had made to the sanctions regime over the years. The asset freeze prohibits the transfer, movement or dealing of funds, which must be frozen in situ. It also prevents the funds from being made available to the individuals and entities on the list of designated people and entities. HM Treasury estimated that the approximate value of funds frozen in the UK was £9,467,630,000. Any interest accruing on the assets is also subject to the UN’s sanctions.¹⁰⁷

60. Many of the witnesses to our inquiry argued that the UK Government should seek to release a proportion of the frozen assets to award compensation to the UK victims of Gaddafi-sponsored terrorism. Both the law firms representing victims—McCue and Partners and Johnsons Law Firm—advocated this approach, as did many of the victims themselves.¹⁰⁸ The Docklands Victims Association stated that: “A percentage should immediately be released to the victims of Gaddafi IRA Semtex within the UK”.¹⁰⁹ Families Acting for Innocent Relatives said: “an appropriate amount of this money should be used in compensation to victims of IRA terrorism”.¹¹⁰ The FCO’s records do not show whether the issue of compensation for the UK victims was raised during the negotiations on the UN resolutions, although the FCO told the Committee this was not to say that the issue was not considered at the time.¹¹¹

61. There are precedents for the use of frozen assets to compensate victims. For example, the Human Rights Centre at Queen’s University, Belfast, gave evidence that US \$225 million of former President Marcos’ assets seized in Swiss bank accounts had provided reparations for victims of human rights abuses in the Philippines. In Colombia, the assets of convicted paramilitaries have also been used to support a reparations fund for victims.¹¹² Elsewhere,

106 Foreign and Commonwealth Office ([LSX0039](#))

107 Ibid.

108 Q24 (Jason McCue); and Johnsons Law Firm ([LSX0032](#))

109 Docklands Victims Association ([LSX0003](#)) para 11.2

110 Families Acting for Innocent Relatives ([LSX0022](#)); See also Mina Jadeja ([LSX0008](#)), Neil Tattersall ([LSX0025](#)), Pamela White ([LSX0026](#)); Peter Sefton ([LSX0036](#)), and Vijay Modhwadia ([LSX0044](#))

111 Foreign and Commonwealth Office ([LSX0039](#))

112 Human Rights Centre, Queen’s University, Belfast ([LSX0013](#))

McCue and Partners pointed to the use of frozen assets by the US Administration to provide compensation for victims of Saddam Hussein’s regime, and in respect of victims of Iranian and Cuban terrorism.¹¹³

62. The FCO told the Committee that the EU Regulation prohibited the release of frozen assets in the UK without a licence from HM Treasury. The Treasury can only issue a licence, if it complies with a derogation or exemption set out in the EU Regulation. For example, funds may be released in order to pay for the basic needs or legal expenses of a designated person.¹¹⁴ Since 2011, a number of licences have been granted, releasing funding mostly for humanitarian causes in Libya.¹¹⁵ However, the FCO claimed that the current terms of the EU Regulation provided no grounds to permit a licence to be issued for the purposes of releasing frozen funds to compensate the UK victims.¹¹⁶ In other words, if the UK acted unilaterally to unfreeze the assets for use as compensation, it would be breaking EU law.

63. The UK Government could seek to amend the derogations set out in the EU Regulation, though this would necessitate changes both to the Regulation itself and to the UN Security Council Resolution on which it is based. To achieve this would require the agreement by the other four permanent members of the UN Security Council, as well as the unanimous support of the 27 other EU Member States.¹¹⁷ Whilst this option is theoretically possible, the FCO argued that “we do not believe we would secure the support necessary to effect such changes”.¹¹⁸ The FCO pointed to the fact that the UN Security Council had stipulated that when the assets were unfrozen, the intention was for them to be made available to, and for the benefit of, the Libyan people. Moreover, the timing in respect of agreeing any change to the EU Regulation is not propitious given the imminent commencement of negotiations on the UK’s exit from the EU.

64. Once the UK has left the EU, the UK Government could introduce legislation to seize some or all of the frozen assets—either whilst the sanctions regime was still in place, or once it had been lifted.¹¹⁹ However, the former option would still be in contravention of the UN Security Council’s Resolution, whilst the latter would go against the UNSC’s stipulation that the assets be used for the benefit of the Libyan people, assuming the UK Government was not successful in persuading the other permanent members of its case.

65. Another legislative route might be that pursued in the 2016–17 Session of Parliament by Lord Empey by means of a Private Members’ Bill which would have required HM Treasury to “take all actions necessary to prevent the release of the frozen assets” until “a settlement has been reached in respect of compensation to be paid to United Kingdom citizens affected by the supply of arms” to terrorist organisations in the UK.¹²⁰ The effect of Lord Empey’s Bill would not have been to seize the frozen assets, but to place a statutory duty on the UK Government to take every step it could to prevent the assets’ release until a compensation package from the Libyan authorities was agreed. The Bill was passed by the House of Lords, but there was insufficient time for it to be considered by the House of Commons before the end of the Session.

113 Q26 (Matthew Jury, McCue and Partners); and McCue and Partners ([LSX0021](#)) para 77 and 82

114 Foreign and Commonwealth Office ([LSX0039](#))

115 Peter Sefton ([LSX0036](#))

116 Op. Cit.

117 Q483 (Rt Hon Jack Straw), Foreign and Commonwealth Office ([LSX0039](#))

118 Foreign and Commonwealth Office ([LSX0039](#))

119 McCue and Partners ([LSX0042](#))

120 Asset Freezing (Compensation) Bill (HC Bill 107)

66. In its evidence to the Committee, the FCO was unequivocal that seizing the frozen assets was not an option that was on the table so far as it was concerned. The Minister for the Middle East and Africa, Tobias Ellwood MP, told us:

We pride ourselves on being a place where individuals, companies and, indeed, governments can place funds and assets knowing that it is safe to do so. We would change the reputation of Great Britain if we were to [set] a precedent and not honour the ownership of those assets.¹²¹

When we pressed him further on this, the Minister was absolutely emphatic, saying: “I am not pursuing the frozen assets. I am not. I make it very clear”.¹²² Previously, the Minister had also said: “Where the funds come from in Libya is going to be a decision for them to make”.¹²³

67. For the last six years in which the UK victims have sought compensation from Libya, almost £9.5 billion of assets from the Gaddafi regime have sat frozen within the UK’s jurisdiction. This has understandably been a source of great frustration to the victims and their representatives. It is bitterly disappointing that there is no evidence to suggest the then Government raised the issue of compensation at the time of the negotiations on the UN resolutions in 2011—not least because there are precedents for the use of frozen assets to compensate victims. As they currently stand, however, the UN Resolutions and the EU Regulation, which enforces them in the UK, provide no options for the UK Government to use the frozen Libyan assets for the purposes of compensation. The Government’s view is that any attempt to renegotiate the UN Resolutions and the EU Regulation is unlikely to be successful. Moreover, the Foreign Office has unequivocally ruled out the possibility of pursuing the assets frozen within the UK’s jurisdiction.

68. We have previously stated that the UK Government should enter into direct negotiations with the Libyans to seek a compensation deal. In the pursuit of justice and accountability, it would be preferable for the Libyan authorities to voluntarily agree a compensation package than for the UK Government to act unilaterally. In achieving this, we believe the frozen assets could still provide the Government with some leverage, which it can use in those negotiations whilst still abiding by the terms of the UN Resolutions.

Other reparation options

69. In addition to the payment of compensation by the Libyan authorities, there are other forms of reparation the UK Government could seek, including the acknowledgement of responsibility, apologies, investigations of those responsible, and memorials. As one witness told us, these “can help to publicly recognise the truth of the past and those responsible”.¹²⁴ However, as with the negotiation of compensation, one of the main difficulties in dealing with Libya at present is the likely timescale for negotiations which would result in such

121 Q405 (Tobias Ellwood, Minister for the Middle East and Africa)

122 Q443 (Tobias Ellwood, Minister for the Middle East and Africa)

123 Q100 (Tobias Ellwood, Minister for the Middle East and Africa)

124 Human Rights Centre, Queen’s University, Belfast ([LSX0013](#))

reparations, whether or not they include compensation. As the FCO argued in its written evidence: “rapid progress should not be expected given the scale of the problems ahead for Libya”.¹²⁵

70. Meanwhile, time is running out for many of the victims. For example, Aileen Quinton told us: “two of my brothers died last year, so whatever happens now is too late for them”.¹²⁶ In his evidence, Peter Sefton said: “This is ‘the last throw of the dice’ for many victims and survivors. The cynic in me says that HMG [is] happy to play these matters out until we are all dead”.¹²⁷

71. One option the Committee has considered to expedite the payment of compensation would be for the UK Government to act now, ahead of reaching an agreement with the Libyan authorities, by setting up a reparation fund using its own resources out of which payments could be made, with the expectation that some or all of the financing would be provided by the Libyan authorities at a later date. Such a fund could be used both to make payments to specific individuals, but also to finance projects designed to benefit the community as a whole. When we put this proposal to the FCO Minister he told us: “This is a question I raised with the Northern Ireland Secretary and at the moment I would not venture further than that. [...] it would be wrong for me to make any commitment like this or even to raise hopes from this perspective”.¹²⁸

72. The establishment of a reparations fund now would mean the UK Government could begin the task of preparing a comprehensive list of the victims, who we know are spread across the UK. The Government will also need to consider the criteria for eligibility to the fund. There are, for example, victims of the Troubles whose loss or injury was not the direct result of Libyan-supplied weapons, but who nevertheless suffered because Gaddafi’s support for the Provisional IRA was arguably crucial in deepening and prolonging the conflict.¹²⁹ There are also UK victims of the Gaddafi regime where there is no link to the supply of arms to the Provisional IRA. For example, since the fall of Gaddafi, it has been alleged that the dictator was responsible for the mid-air destruction of Libyan Arab Airlines Flight 1103 in 1992, which killed 157 people. Felicity Prazak, whose husband, Victor, was the only British citizen on board, has since campaigned for justice on his behalf.¹³⁰

73. Time is running out for many of the UK victims, who have already waited too long to see justice delivered. If, by the end of 2017, it is apparent that the situation in Libya remains such that direct government-to-government negotiations on a compensation deal are not possible in the short to medium term, we believe the UK Government should itself establish and finance a reparations fund ahead of the outcome of such negotiations. Such a fund would provide payments both to community projects, and individuals, whether as a one-off payment or as a pension. This would allow the UK Government to make progress on the job of establishing a list of eligible victims across the UK—a task that has the potential to further delay the payment of compensation,

125 Foreign and Commonwealth Office ([LSX0016](#))

126 Q78 (Aileen Quinton)

127 Peter Sefton ([LSX0014](#))

128 Qq422 and 423 (Tobias Ellwood, Minister for the Middle East and Africa)

129 For example, Keith Powell ([LSX0043](#))

130 Felicity Prazak ([LSX0037](#))

if it is not begun as soon as possible. Starting this work now would also have the advantage of enabling the Government to quantify the scale of compensation it should be seeking from the Libyan authorities.

74. This Report has shown how victims have been repeatedly let down by various Governments—Labour, Conservative, and Coalition. As one witness put it: “we are the forgotten ones [...] the ones who for reasons utterly beyond my comprehension, successive UK governments have chosen to overlook”.¹³¹ It is time for the UK Government to address this injustice, and to do so without further delay.

131 Colin Parry ([LSX0035](#))

Conclusions and recommendations

Colonel Gaddafi and the IRA

1. There is no doubt that the weapons, funding, training, and explosives that Colonel Gaddafi provided to the Provisional IRA over the course of 25 years both extended and exacerbated the Northern Ireland Troubles, and caused enormous human suffering. Whilst other countries have sought compensation from the Libyan Government for its role in fostering terror, the UK Government has not done so, instead leaving the matter for victims themselves to resolve. We pay warm tribute to the quiet dignity and determination of those individuals and organisations who have campaigned tirelessly over the years to rectify this injustice. As they grow older, time is running out for many of the victims, and so we hope this Report will encourage the next Government to adopt a fresh approach which secures the compensation these people deserve. We hope also that our successor Committee will continue to campaign on this issue in the 2017 Parliament, until there is a satisfactory resolution for the victims. (Paragraph 9)

The Government's relationship with the Gaddafi regime

2. It is not clear how far the Tony Blair Government was aware of the campaign to seek compensation for the victims of Gaddafi-sponsored terrorism, and how far that Government pursued the matter with the Libyan authorities. Whatever the reality of the situation was, we believe the UK Government missed a vital opportunity, during the period in which Libya was seeking a rapprochement with the west, to act on behalf of IRA victims by placing this issue firmly on the negotiating table to secure a compensation package. (Paragraph 21)
3. We should emphasise that the conclusions and recommendations in this Report encompass all UK victims of Gaddafi-sponsored terrorism by the Provisional IRA, and not just those victims who were named in the McDonald writ. (Paragraph 23)
4. The exclusion of the UK victims of Gaddafi-sponsored terrorism from the terms of the US-Libya Claims Settlement Agreement 2008 was another missed opportunity to resolve the issue of compensation. Although the then UK Government claimed it had made representations to the US for the victims' inclusion, we received no evidence of the level they were made, and with what force. That said, even assuming that the UK Government had put its full weight behind the victims' cause, it cannot be known now, almost 10 years later, whether it would have affected the US Administration's position. Whatever its reasons were, it is deeply regrettable that, in 2008, the US appears not to have been willing to assist the UK in delivering justice for its victims. However, this does not absolve the former Labour Government for having failed to pursue the issue of compensation itself bilaterally with Libya with the same determination and vigour demonstrated by the Governments of France, Germany and the US. Had it done so, it might well have been equally successful. (Paragraph 33)

5. We have already deprecated the then UK Government's failure to pursue the issue of compensation when Libya was brought in from the cold in the early 2000s. However, it is not clear that Mr Blair's influence after leaving office was such that he could have made a material difference to the outcome of the US-Libya Claims Settlement Agreement 2008. Besides, he had ceased to be Prime Minister in June 2007. Negotiations between the US and Libya in 2008 took place on a bilateral basis, and whilst Sir Vincent Fean's email suggests that Mr Blair played some role in encouraging an agreement, it also suggests that it was not pivotal. We have already noted that the US Administration declined to include the UK victims in the terms of the LCSA. (Paragraph 36)
6. The establishment of the FCO's Libya Reconciliation Unit represented an acknowledgement by the then UK Government that it could not continue to ignore the campaign for compensation by the UK victims of Gaddafi-sponsored IRA terrorism. However, its support for the parliamentary delegation which visited Libya in 2009 underlined the fact that only direct government-to-government negotiations would have carried sufficient weight in pressing the victims' case. With the complete collapse of the Gaddafi regime in 2011, an eight-year window of opportunity, during which successive UK Governments could have sought to resolve this issue, had closed. (Paragraph 42)

The Government's relationship with Libya after Gaddafi

7. Whilst there was initial optimism that the Coalition Government would take a different approach on the issue of compensation after the fall of Gaddafi, that Government's rhetoric did not translate into any tangible progress. This was, yet again, a missed opportunity. The fact that lawyers acting on behalf the UK victims were able to have the then Chairman of the National Transitional Council of Libya sign a statement in support of providing compensation early in 2011, suggests to us that, if the Coalition Government itself had taken up this issue at that time, it would have had a good chance of reaching an agreement. (Paragraph 52)
8. Over the next few years, the UK Government may well play a key role in the reconstruction of Libya, both in terms of financial and political support. If so, this would present an ideal opportunity for the Government to leverage a response in kind from the Libyans by finally resolving the issue of compensation for the UK victims of Gaddafi-sponsored IRA terrorism. This can only be achieved through direct government-to-government negotiations. Statements made by the Libyan Deputy Prime Minister acknowledge this is an issue that the Government of National Accord needs to consider. We believe that, with sufficient determination, the UK Government should be able to reach an agreement. But, as one of our witnesses said: "it requires somebody to bang on their door, not with a wet sponge, but [with a] bang". (Paragraph 57)

Compensation options

9. For the last six years in which the UK victims have sought compensation from Libya, almost £9.5 billion of assets from the Gaddafi regime have sat frozen within the UK's jurisdiction. This has understandably been a source of great frustration to the victims and their representatives. It is bitterly disappointing that there is no evidence to suggest the then Government raised the issue of compensation at the time of the negotiations on the UN resolutions in 2011—not least because there are precedents for the use of frozen assets to compensate victims. As they currently stand, however, the UN Resolutions and the EU Regulation, which enforces them in the UK, provide no options for the UK Government to use the frozen Libyan assets for the purposes of compensation. The Government's view is that any attempt to renegotiate the UN Resolutions and the EU Regulation is unlikely to be successful. Moreover, the Foreign Office has unequivocally ruled out the possibility of pursuing the assets frozen within the UK's jurisdiction. (Paragraph 67)
10. We have previously stated that the UK Government should enter into direct negotiations with the Libyans to seek a compensation deal. In the pursuit of justice and accountability, it would be preferable for the Libyan authorities to voluntarily agree a compensation package than for the UK Government to act unilaterally. In achieving this, we believe the frozen assets could still provide the Government with some leverage, which it can use in those negotiations whilst still abiding by the terms of the UN Resolutions. (Paragraph 68)
11. Time is running out for many of the UK victims, who have already waited too long to see justice delivered. If, by the end of 2017, it is apparent that the situation in Libya remains such that direct government-to-government negotiations on a compensation deal are not possible in the short to medium term, we believe the UK Government should itself establish and finance a reparations fund ahead of the outcome of such negotiations. Such a fund would provide payments both to community projects, and individuals, whether as a one-off payment or as a pension. This would allow the UK Government to make progress on the job of establishing a list of eligible victims across the UK—a task that has the potential to further delay the payment of compensation, if it is not begun as soon as possible. Starting this work now would also have the advantage of enabling the Government to quantify the scale of compensation it should be seeking from the Libyan authorities. (Paragraph 73)
12. This Report has shown how victims have been repeatedly let down by various Governments—Labour, Conservative, and Coalition. As one witness put it: “we are the forgotten ones [...] the ones who for reasons utterly beyond my comprehension, successive UK governments have chosen to overlook”. It is time for the UK Government to address this injustice, and to do so without further delay. (Paragraph 74)

Formal Minutes

Wednesday 26 April 2017

Members present:

Mr Laurence Robertson, in the Chair

Mr Gregory Campbell Jack Lopresti

Lady Hermon Nigel Mills

Danny Kinahan Jim Shannon

Draft Report (*HM Government support for UK victims of IRA attacks that used Gaddafi-supplied Semtex and weapons*)

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 74 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134

[The Committee adjourned.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 9 September 2015

Question number

Matthew Jury and Jason McCue, McCue and Partners [Q1–45](#)

Jonathan Ganesh, Docklands Victims Association, **William Frazer** and **Barrie Halliday**, Families Acting for Innocent Relatives [Q46–75](#)

Kenny Donaldson and **Aileen Quinton**, Innocent Victims United [Q76–92](#)

Wednesday 16 September 2015

Mr Tobias Ellwood MP, Parliamentary Under Secretary of State for the Foreign and Commonwealth Office, and **Jonathan Dart**, Deputy Head, North Africa Department, Foreign and Commonwealth Office [Q93–196](#)

Wednesday 14 October 2015

Andrew MacKinlay, former Member of Parliament for Thurrock [Q197–240](#)

Sir Vincent Fean KCVO, former HM Ambassador to Libya [Q241–287](#)

Wednesday 21 October 2015

Michael Gallagher, Omagh Support and Self Help Group, and **Paul Tweed**, Senior Partner, Johnsons Law Firm [Q288–329](#)

Wednesday 28 October 2015

Charles Arbuthnot, **Susanne Dodd**, **Mina Jadeja**, and **Pamela White** [Q330–396](#)

Tuesday 22 March 2016

Mr Tobias Ellwood MP, Parliamentary Under-Secretary of State, and **Jonathan Dart**, Deputy Head, North Africa Department, Foreign and Commonwealth Office [Q397–457](#)

Wednesday 26 October 2016

Rt Hon Jack Straw, former Secretary of State for Foreign and Commonwealth Affairs [Q458–512](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

LSX numbers are generated by the evidence processing system and so may not be complete.

- 1 Anonymous ([LSX0002](#))
- 2 Aileen Quinton ([LSX0023](#))
- 3 Andrew MacKinlay ([LSX0028](#))
- 4 Anthony Dodd ([LSX0019](#))
- 5 Charles Arbuthnot ([LSX0009](#))
- 6 Docklands Victims Association ([LSX0003](#))
- 7 Docklands Victims Association ([LSX0041](#))
- 8 Dr Hazlett Lynch ([LSX0033](#))
- 9 Families Acting for Innocent Relatives (FAIR) ([LSX0022](#))
- 10 Foreign and Commonwealth Office ([LSX0016](#))
- 11 Foreign and Commonwealth Office ([LSX0039](#))
- 12 Innocent Victims United ([LSX0024](#))
- 13 Joyce Brown ([LSX0006](#))
- 14 Keith Powell ([LSX0043](#))
- 15 Krw Law LLP ([LSX0017](#))
- 16 Margaret Sefton ([LSX0011](#))
- 17 McCue and Partners ([LSX0045](#))
- 18 McCue and Partners ([LSX0029](#))
- 19 McCue and Partners ([LSX0042](#))
- 20 McCue and Partners ([LSX0021](#))
- 21 McCue and Partners ([LSX0027](#))
- 22 Melanie Cubitt (née Dodd) ([LSX0018](#))
- 23 Mina Jadeja ([LSX0008](#))
- 24 Miss Pamela White ([LSX0026](#))
- 25 Mr Colin Parry ([LSX0035](#))
- 26 Mr Martyn Holgate ([LSX0034](#))
- 27 Mr Michael Kay ([LSX0001](#))
- 28 Mr Paris Panther ([LSX0004](#))
- 29 Mr Peter sefton ([LSX0014](#))
- 30 Mrs Hamida Bashir ([LSX0012](#))
- 31 Mrs Felicity Prazak ([LSX0037](#))
- 32 Mrs Gemma Berezzag ([LSX0005](#))
- 33 Neil Tattersall ([LSX0025](#))

- 34 Paul Tweed ([LSX0032](#))
- 35 Peter Sefton ([LSX0036](#))
- 36 Queen's University Belfast Human Rights Centre ([LSX0013](#))
- 37 Rt Hon Tony Blair ([LSX0038](#))
- 38 Susanne Dodd ([LSX0020](#))
- 39 Vijay Modhwadia ([LSX0044](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2016–17

First Report	Northern Ireland and the EU referendum	HC 48
Second Report	Promoting the tourism industry in Northern Ireland through the tax system	HC 50
Third Report	Electricity sector in Northern Ireland	HC 51
First Special Report	Northern Ireland and the EU Referendum: Government Response to the Committee's First Report	HC 924

Session 2015–16

First Special Report	Northern Ireland Affairs – First Special Report Northern Ireland: banking on recovery?	HC 344
Second Special Report	Northern Ireland Affairs – Second Special Report The administrative scheme for "on-the-runs"	HC 345