European Court finds Britain guilty of human rights violations in Ireland

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The European Court of Human Rights has upheld complaints that British security forces in Northern Ireland were guilty of breaching the human rights of 12 people shot dead—mainly in the 1980s—including 10 IRA men.

Delivering its verdict on Friday May 3, the judges ruled that Article 2 of the Human Rights Convention, the right to life, had been violated by failing to investigate properly the four separate incidents in which the 12 had been killed. The British government was ordered to pay each family £10,000, plus up to £30,000 costs.

The first case involved the shooting dead of eight IRA men and a passer-by in an ambush by the elite military unit, the Special Air Service (SAS), in May 1987—less than two days after the Conservative government had announced a significant tightening of security arrangements in Northern Ireland following the death of Lord Justice Gibson and his wife in an IRA car bomb attack.

The SAS ambush was the largest number of Provisional IRA operatives killed by security forces in more than 20 years. The eight IRA men were in the process of attacking a Royal Ulster Constabulary (RUC) station, which they assumed to be empty, in Loughgall, County Armagh. Two of the men drove a JCB digger packed with 200lbs of explosives down the high street towards the station, followed by a van carrying five members of the IRA's East Tyrone Brigade. As the JCB was accelerated into the building, detonating the explosives, the men began firing into the station. But a hit squad of 24 SAS men was laying in wait inside the station who, along with the RUC's special support unit, had been preparing their ambush for six weeks. The security forces had tracked the IRA team from at least one hour before the attack; even watching them load up with weapons for the assault.

Within two minutes, all eight members of the IRA unit and one passer-by had been shot dead. Once the IRA van had come to a halt, the SAS team had unleashed some 600 shots, although sources claim that the actual total was much higher. Reports also indicate that several of the IRA men were killed by close range shots to the head. The three men in the van had not even been able to open the doors before they were shot.

Meanwhile, on the outskirts of Loughall, SAS snipers hiding in woods opened fire on a car they believed to be driving away from the scene, killing the innocent driver, Anthony Hughes, and severely wounding his brother, Oliver. At the inquest into the deaths the SAS admitted not giving any warnings before opening fire, but following an RUC investigation, the Director of Public Prosecutions (DPP) for Northern Ireland, concluded that no action would be taken against those involved.

The other three cases examined by the court were:

* The RUC's shooting of unarmed IRA members Gervaise McKerr, and Eugene Toman and Seán Burns in November 1982, as they travelled by car through a security checkpoint. The RUC claimed that they had opened fire on the vehicle after it had crashed through the checkpoint, but forensic tests suggested that police had fired 109 shots after the car had stopped. Three RUC officers were prosecuted for Toman's murder, but were acquitted on the grounds of insufficient evidence. Earlier the RUC and MI5 had been involved in a surveillance operation on an IRA explosives hoard in a hayshed near Lurgan, County Armagh. Two weeks after the checkpoint shootings, undercover RUC officers opened fire at the hayshed, killing Michael Tighe, 17, a Catholic with no connections to the IRA.

* Sinn Fein official Patrick Shanaghan, was killed by

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loyalist paramilitaries, said to be acting in collusion with the security forces, in August 1991 near his home in Castlederg, County Tyrone. In the year prior to his death, Shanaghan had been subjected to continuous harassment by the RUC who suspected him of being an IRA member. At the inquest into his killing, the RUC suppressed evidence suggesting its involvement in the murder.

* Pearse Jordan, an unarmed IRA member, was shot dead by the RUC on Belfast's Falls Road in 1992. Eye witnesses said they had seen police ram the stolen car Jordan was driving and then had shot him three times in the back as he attempted to run away. Again the DPP had ruled there was insufficient evidence to warrant prosecution of RUC officers.

The European Court ruled in favour of the victims' families and found that inquiries into the killings had been inadequate. Investigations into the SAS ambush had been flawed. There was no compulsion on the soldiers who fired the shot to give evidence at inquests and "public interest immunity certificates" had been used to conceal information. The court criticised the fact that it is the RUC who investigate cases where the security forces had either used lethal force or were suspected of collusion. They also criticised an inquest system in which decisions by the DPP are made in strict confidentiality, so that they are not required to explain their decision or given any indication of their reasoning when ruling out a prosecution.

Relatives of the dead immediately called for the British soldiers and police involved to be charged with murder and for a United Nations inquiry into the killings. "For 30 years, Britain has perpetuated the myth that their role in our country was as peacekeeper not protagonist," said Mark Thompson, of Belfast-based Relatives for Justice. "Today, that image and propaganda is in tatters." Hugh Jordan, the father of Pearse Jordan, said: "The next time I see a British minister on TV accusing other countries of being terrorist states, I would like to ask the question 'are they a terrorist state'?"

Commentators expressed the opinion that the court ruling could open the way for a series of legal actions against the British government over the deaths of more than 360 people, including 74 children, shot by security forces in Northern Ireland. Evidence is currently being taken on allegations of the British security forces operating a shoot-to-kill policy on Bloody Sunday January 30, 1972, when 14 innocent people taking part in a civil rights march were shot dead in Derry. But the Blair government, which is considering whether to appeal the ruling, sought to play down the findings. The court judgement did not support allegations of shoot-to-kill, nor had it ruled that the killings themselves were unlawful, John Reid, Northern Ireland Secretary said. The 300-page ruling was a criticism of "procedures and the investigations, not the deaths themselves," he argued.

The Conservative Party and the Unionists joined forces to attack the decision and uphold the right of the British state to murder with impunity. Andrew McKay, Conservative spokesman on Northern Ireland, said, "There can be no justification whatever to suggest that in any of these cases excessive force was used. Anybody who cares for the rule of law owes the RUC and the Army a tremendous debt of gratitude for their dedication and sacrifice in defending democracy in our country." Northern Ireland's Unionist first minister, David Trimble, described the court ruling as "perverse" whilst Peter Robinson, deputy leader of the Democratic Unionists, said it was "insane and offensive. The government should ignore it."

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