



## *Essays for civil liberties and democracy in Europe*

### The “War on Terror”: lessons from Ireland

*Paddy Hillyard*

Marx made many comments about history. But one particular comment is important when reflecting upon the current war on terror. He pointed out that history repeats itself, first as tragedy and second as farce. This is an apt description for the current ratcheting-up of the anti-terror legislation by the United Kingdom parliament. It conveniently ignores the 105 odd “Acts of Coercion” in Ireland in the nineteenth century, which did little to quell the dissent and led eventually to the granting of independence. It tragically ignores the Special Powers Act, the Northern Ireland (Emergency Provisions) Acts and the Prevention of Terrorism Acts of the twentieth century. Most of these anti-terrorist measures were counterproductive. Many of the actions taken simply served to increase the levels of violence and alienation and prolonged the conflict before a political settlement rather than a military defeat could be obtained. Now history repeats itself as farce.

The new proposed terror laws will include outlawing ‘glorification’ of terrorism, an offence of acts preparatory to terrorism, laws against giving or receiving terror training, a law against the indirect incitement of terrorism, laws against bookshops selling extremist material, the reintroduction of internment in the guise of detention with suspects able to be held for up to three months, and the requirement that those applying for British citizenship must be of good character. Many of these proposals have been tried before in some form in Ireland. The aim of this short paper is to comment on some of the more important measures.

#### **Internment**

The single most disastrous measure in Northern Ireland was the introduction of internment in 1971.[1] Symbolically, it suggested to the nationalist population that their demands for a more fair and just society in Northern Ireland could no longer be carried forward through dialogue and persuasion. The rule of law had been abandoned. Nearly 2,000 people were interned over the period and less than 150 of them were Protestants. Practically, it led to hundreds of young men in working class nationalist communities joining the IRA and creating one of the most efficient insurgency forces in the world.

#### **Torture**

Internment was accompanied by the ‘torture’ of a selected number of internees. It involved the use of five techniques. Each internee was spread-eagled some distance from a wall and made to place their hands against the wall to hold their weight. A hood was placed over their heads and a high-pitched whine was played. If they fell down they were beaten and placed again in the same position. They were deprived of food and sleep. The Government set up a Committee of Inquiry to investigate the allegations under Sir Edward Compton.[2] He was not asked to comment on the legality of the techniques and make a vacuous distinction between ‘brutality’ and ‘physical ill-treatment’, deciding that the techniques fell into the latter rather than the former category. The confirmation that the techniques had been used and the attempt to

argue that the practices did not amount to brutality united the Catholic community behind the IRA. In 1975 Amnesty established an independent Commission and reported on a number of further cases into the ill-treatment of prisoners and internees.[3] The revelations further alienated nationalist communities.

When the images began to emerge from Abu Ghraib prison showing prisoners hooded, humiliated and tortured few people in Northern Ireland were surprised and expressed deep cynicism when the authorities claimed that the practices were not systemic but the unauthorised behaviour of a few individuals. The lesson from Northern Ireland is that these barbarian methods of interrogation were common practice within the British army and no doubt within other armies worldwide and approved at the highest level. To compound matters, the government now appears to be prepared to allow evidence obtained through torture in other countries to be admissible in criminal courts in Britain. All of this barbarism is supported by a number of academics justifying torture on the grounds of the greater good.

### Shoot-to-kill

The shooting dead in London of Jean Charles de Menezes, the innocent Brazilian going about his daily work, has drawn attention yet again to the use of lethal force by police officers. The contrast in thinking about the issue in Britain and West Belfast was neatly captured by the headlines in two newspapers. *The Sun* carried the headline; 'One down and two to go' while *Daily Ireland* carried the stark headline 'Executed'.

For years there were allegations that there was a 'shoot-to-kill' policy particularly targeted on the IRA and other Republicans. It was always denied. Stalker (then Assistant Chief Constable of Greater Manchester Police), who investigated the deaths of six young men at the hands of the RUC in the 1980s pointed out in a letter to *The Times*: 'I never did find evidence of a shoot-to-kill policy as such'. However, he then went on to say that 'there was a clear understanding on the part of the

men whose job it was to pull the trigger that that was what was expected of them'. [4] In other words, there was a policy but Stalker was not allowed to see the evidence for it. Moreover, it has long been suspected that the security services colluded with loyalist paramilitaries in the assassination of republicans. The report by Judge Cory into the murder of Pat Finucane provides prima facie evidence that this was indeed the case. [5] It therefore came as no great surprise when it was revealed following the shooting of Menezes that a shoot-to-kill policy for suicide bombers had been introduced and disseminated to all police forces by the Association of Chief Police Officers without informing either parliament or the public.

### Stop and Search

Early in the conflict, the powers of stop and search, arrest and detention were extended throughout the United Kingdom. Again there is ample evidence of the counter-productive nature of these developments. [6] Thousands of innocent people experienced humiliating situations on the streets, at ports and airports and in detention facilities. Very few were subsequently charged as a result of the arbitrary use of the powers and those that were charged were not charged with terrorist but with ordinary criminal offences. The powers created 'suspect communities' within Northern Ireland and, more importantly, a 'suspect community' in Britain. [7] Anyone who was Irish, or had a connection with Ireland or had Irish relatives and friends, became a suspect. Sometimes it was simply an accent, looks or passport that gave rise to suspicion in the minds of the public or the police.

The problem with arbitrary and draconian police powers is that they alienate the very communities from which the police require good intelligence. People are not going to report incidents or crucial information to the police when either their last contact has been at best unpleasant and at worst humiliating and abusive or that they have heard how a neighbour or relative has been treated. Good intelligence is essential to prevent acts of terror, yet the authorities still appear to lack

an understanding of the crucial role of good police community relations in this endeavour.

### **Banning freedom of expression**

The policies developed to deal with Irish political violence included measures directed at specific organisations. Various organisations were banned and new criminal offences were introduced, such as being a member of a proscribed organisation or collecting money for the organisation. In addition, a broadcasting ban was introduced to prevent members of illegal organisations speaking on radio or TV. These policies did little or nothing to destroy the organisations. On the contrary, they were pushed into greater secrecy and the broadcasting ban prevented open and political discussion of their aims and objectives further retarded a political rather than a military solution to the problem.

The arrest and conviction in September of the Syrian born journalist Taysir Alouni in Spain on the grounds of that he had collaborated with members of Al-Qaida has worrying parallels with the attempt in Northern Ireland to prevent the freedom of the press. It will have a very negative impact on reporting worldwide and make it even more difficult for the public to obtain a non-western perspective on events in Muslim countries. One of the key pieces of evidence used against Alouni was that he had taken \$4,000 to Mohammed Bahaiah, an Al-Quaidi leader. He denied that he knew that Bahaiah was an Al-Quadia leader and he argued that he carried the money as act of Muslim good manners. As he put it: I took it, and that is not a bad thing...If you refuse you are looked upon badly. What is more, I was interested in these people because of the information that I needed.[8]

The use and possible misreading of cultural expectations to secure convictions also occurred in the notorious Birmingham Six miscarriages of justice case. The six had planned to go the funeral of James McDade, who had blown himself up in a bomb attack. The fact that the six planned to go to his funeral in Belfast was exploited by the prosecution to suggest IRA connections and

sympathies rather than a strong Irish cultural practice of respecting the dead even where the person is not particularly well known to the mourners.

### **Transformation of the ordinary criminal justice system**

The criminal justice system in Northern Ireland was radically transformed in order, it was argued, to deal more effectively with those suspected of political violence.[9] Juries were abolished and the rules of evidence were substantially changed with limitations on the right to silence and a lowering of the burden of proof. At the same time, a range of different strategies were used in different periods in the conflict to obtain evidence, ranging from the use of brutal interrogation techniques [10] to the widespread use of supergrass [11] and informers. In effect, there were two criminal justice systems operating in Northern Ireland: one for those suspected of terrorist activities and another for those suspected of “ordinary decent crime”

The development of a separate criminal justice system to deal with political violence has corrupted the ordinary criminal justice process in three significant ways. First, powers and procedures, for example, relating to the length of detention under anti-terrorist legislation were subsequently incorporated into the ordinary criminal law. Secondly, anti-terrorism legislation was constantly used to deal with ordinary criminal behaviour. Thirdly, the whole criminal justice system became discredited as the rule of law was replaced by political expediency and the Northern Ireland judiciary did little to uphold the independence of the law.

### **Accountability**

Another major lesson to be learned from the Irish experience is that all organisations involved in dealing with political violence, from the secret services to the units handling public order on the streets, must be independently and democratically accountable. The last thirty years in Northern

Ireland is strewn with examples of organisations and agencies acting beyond the law or else mobilising the law for their own political ends.[12] These range from the brutal methods of interrogation, through the ‘bloody Sunday’ débâcle to the widespread collusion between the security services and paramilitary killers.

## Conclusions

The lessons from Ireland are clear. Widespread violation of human rights in the so-called ‘war against terrorism’ is counterproductive. It erodes democracy by undermining the very principles on which social order is based and alienates the communities from whom the authorities need support in dealing with political violence. Moreover, it is vital that those involved in dealing with political violence must be independently accountable to democratic scrutiny and the rule of law. The threat from political violence is real as witnessed in Bali, Madrid, Washington, New York, London, Kabul, Basra or Baghdad. But we must avoid at all costs flaming the passions that lead people to become involved in political violence. This makes it even more imperative that those in power do not abandon the rule of law and the prevention of terrorism becomes, as it did in Ireland, the terror of prevention.

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## Footnotes

- 1 See McGuffin, J. (1973) *Internment* (Tralee, Co Kerry: Anvil Press).
- 2 Report, C. (1971) *Report of the Enquiry into Allegations against the Security Forces of Physical Brutality in Northern Ireland arising out of the Events on 9th August 1971* (London: HMSO).
- 3 International, A. (1975) *Report of an Inquiry into Allegations of Ill-Treatment in Northern Ireland* (London: Amnesty International).
- 4 The Times, 14 February, 1988
- 5 See; Cory Collusion Inquiry Report: Pat Finucane, HC. 470, HMSO, 2004.  
[http://www.nio.gov.uk/cory\\_collusion\\_inquiry\\_report\\_\(with\\_appendices\)\\_pat\\_finucane.pdf](http://www.nio.gov.uk/cory_collusion_inquiry_report_(with_appendices)_pat_finucane.pdf)
- 6 See for example: Boyle, K., Hadden, T. and Hillyard, P. (1975) *Law and State: the case of Northern Ireland* (London: Martin Robertson) and Hadden, T., Boyle, K. and Hillyard, P. (1990) *Ten Years on in Northern Ireland* (Cobden Trust: London).
- 7 Hillyard, P. (1993) *Suspect Community: People's Experience of the Prevention of Terrorism Acts in Britain* (London: Pluto Press).
- 8 See ‘When a reporter got too close to the story, *The Media Guardian*, 3 October, 2005.
- 9 Commission, D. (1972) *Report of the Commission to Consider Legal Procedures to Deal with Terrorist Activities in Northern Ireland* (London: HMSO).
- 10 For brutal police methods see: Taylor, P. (1980) *Beating the Terrorists? Interrogation in Omagh, Gough and Castlereagh* (Harmondsworth: Penguin).
- 11 Greer, S. (1995) *Supergrasses: A Study in Anti-Terrorist Law Enforcement in Northern Ireland* (London: Clarendon Press).
- 12 See fore example, Ní Aoláin, F. (2000) *The Politics of Force: Conflict Management and State Violence in Northern Ireland* (Belfast: Blackstaff Press).

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