

CHAPTER 12

THE POLITICS OF THE
TRANSFORMATION OF POLICING

John Doyle

INTRODUCTION

The issue of policing in Northern Ireland was both highly contested and of the foremost political salience for all the political parties involved in the peace process, and also for their communities. The contributions in the first two sections of this book demonstrate not only the centrality of this issue for all the actors involved but also the enormous difficulties that had to be overcome, both to find and then to implement a workable agreement. Prior to the peace process, on no other matter was there such a complete and apparently unbridgeable divide between the two communities as there was on policing. Based on this reality and the subsequent proposals to ‘remake’ policing in Northern Ireland, commentators from across the political spectrum have portrayed the peace process as being built upon the basic premise that nationalists agreed to local power-sharing in the context of a constitutionally reformed UK, while in return they were given reforms in the areas of civil and human rights, including policing.¹ This perspective has the effect of reducing the transformation of policing in Northern Ireland to the status of a concession to nationalists; it was forcefully resisted by unionists, but finally agreed once all sides believed that they had secured their constitutional preferences. Contrary to the view of policing as a lower-order concession, this chapter argues that the negotiations on policing were not at one step removed from the core disputes on sovereignty and state power; rather, the transformation of policing, as much as the new institutions of government, reflected the consociational character of the 1998 Belfast/Good Friday Agreement and its institutionalised linkages between Northern Ireland and Ireland.²

The attitudes of both communities to policing during the years of conflict in Northern Ireland demonstrate that this issue was inseparable from the wider constitutional question and from conflicting definitions of citizenship. Initially, in the late 1960s, the demands of the civil-rights movement focused on voting rights, equality of access to employment, housing and policing—specifically seeking the abolition of the police reserve unit referred to as the ‘B-Specials’.³ For unionists, on the other hand, the police, including the B-Specials, were defenders of the state against what they saw as an attempt at radical insurrection. The aggressive response of the police to the civil-rights protests from autumn 1968 onwards, radicalised and entrenched Irish nationalist hostility to the police and marked the beginning of international concerns with the RUC’s human-rights record. The initial shock at the high level of inter-communal violence in Northern Ireland led to the deployment of British troops there in 1969. The escalating crisis saw the British government take full control of security, including policing, in 1972, leading to ‘direct rule’ from London and the end of the devolved Unionist government and parliament in Northern Ireland. Unionists opposed the loss of local control over policing, but in all other respects continued to support the RUC as ‘their’ police force. In this, as in other respects, the overall political divisions between unionists and nationalists were reflected in the debates on policing.

This chapter analyses the critiques of policing in Northern Ireland made by nationalists during the conflict, as represented by Sinn Féin and the Social Democratic and Labour Party (SDLP), who between them secure the votes of almost 100 per cent of the nationalist community.⁴ It frames their position under three headings:

- counter-insurgency and the demand for politically impartial policing;
- human rights issues; and
- the unrepresentative make-up of the RUC.

The chapter then analyses the arguments made by unionists in defence of the RUC—primarily examining the attitudes of the major unionist political parties, the Ulster Unionist Party (UUP)⁵ and Democratic Unionist Party (DUP). This is done in some detail, as while nationalist critiques have been well documented and follow a familiar international pattern in divided societies experiencing conflict, less attention has been paid to the nuance of the nature of

unionist defences of the RUC. Both of these diametrically opposed sets of views, in their different ways, centre on the constitutional issue and demonstrate how the divisions on policing are bound up with divisions on the nature of the state in Northern Ireland and on the meaning of citizenship. The chapter then deals with the public debates on the *Report* of the Independent Commission on Policing for Northern Ireland,⁶ the subsequent legislation and the agreements which saw both nationalist parties endorse the new policing arrangements. The nature of these public debates and Agreements highlighted the extent to which the transformation of policing in Northern Ireland is fully bound up with progress in the wider peace process, and the arrangements on recruitment, control and oversight of policing reflect the underlying principles of the 1998 Belfast/Good Friday Agreement.

NATIONALIST PERSPECTIVES ON POLICING DURING THE CONFLICT

Nationalist critiques of the RUC during the conflict in Northern Ireland can be conceptualised into three key areas. First, the RUC was seen as a counter-insurgency force, committed to upholding not only the Union with Britain but the dominant position of unionists in Northern Ireland society. This view was true for moderate nationalists as well as republicans, and in the case of moderate nationalists—who strongly opposed the use of political violence—was based on the perception that policing practice went beyond what was necessary, or functional, for counter-insurgency and was designed to uphold Unionist privilege. The second key area of criticism, stemming from this, was of the RUC's human-rights record, with concerns centring on what were considered to be heavy handed and indiscriminate counter-insurgency practices. Third, nationalists opposed the RUC based on the unrepresentative nature of its membership, which during this period had less than 8% of officers from a Catholic background, and even fewer from the nationalist community in Northern Ireland.⁷ This inequality was seen to reinforce, and reflect, the unionist ethos of the RUC and to contribute to making the force inherently incapable of policing the nationalist community. These criticisms are a consistent and key component of the public positions of the two major nationalist political parties in Northern Ireland—Sinn Féin and the SDLP.

Counter-insurgency and the demand for politically impartial policing

Sinn Féin's core perspective on policing during the conflict centred on their opposition, and indeed condemnation, of the RUC as an instrument of repression and counter-insurgency, whose primary aim was to uphold British sovereignty over Northern Ireland. For Sinn Féin, this view of the RUC was reflected in its title, both the use of the word 'Royal' linking it to the British Crown and the use of the geographical descriptor Ulster (favoured by unionists) rather than the more neutral Northern Ireland. The terminology used in Sinn Féin statements and publications in the 1970s and 1980s reflected this perception of the force, with the police usually referred to as 'Crown Forces'.⁸ While this view of the RUC as a force with a counter-insurgency mission was logical and consistent from the perspective of Sinn Féin—supporters of the insurgency—this form of critique of the RUC was widespread in the nationalist community. Leading moderate nationalists also frequently criticised the force for the political bias of its operational decisions and the behaviour of individual officers on the ground.⁹ Having no confidence in the willingness of either a unionist or a British government to change the RUC's approach to policing, the SDLP, shortly after its foundation, highlighted the need for fundamental police reform. Institutionalised input from the Irish government was a key demand of nationalists, and they also pursued this position at the inter-party and inter-governmental talks at Sunningdale in 1973.¹⁰

The RUC was fundamentally criticised by moderate nationalists for going beyond what was required for effective counter-insurgency and upholding the constitutional order (which was its legal duty) by effectively distorting its policing mission with an anti-nationalist bias. In a 1976 pamphlet, Fr Denis Faul, a leading critic of Sinn Féin, went so far as to call the RUC 'an anti-Catholic paramilitary force'.¹¹ One of the most frequently cited examples of biased practices was the very different ways that public protests were policed in nationalist and unionist areas. For example, during the Ulster Workers Council strike of 1974 organised by loyalist paramilitaries, which effectively led to the collapse of the then power-sharing government, the security forces made no credible attempts to remove road blocks or to arrest hooded paramilitaries on 'picket lines', who were clearly seeking to intimidate those who supported power-sharing into not going to work.¹² In contrast, the

wide-scale protests and rioting in nationalist areas during the IRA hunger-strike of 1981 saw 29,657 plastic bullets being fired by police—leading to 7 deaths.¹³ Protests, riots and road blockages organised by unionists opposed to the 1985 Anglo-Irish Agreement and against the re-routing of Orange Order marches saw a much more measured response. Even when major public institutions such as the port of Larne were closed by protests, the police did not attempt to move the protesters.¹⁴ Similar protests around Orange Order parades in 1995 and 1996 were again policed very differently in the two communities.¹⁵

Repeated examples of this type of differentiated policing of nationalist and unionist public protest reinforced nationalist opinion that the RUC was not simply keeping the law, but was upholding in a partial manner unionists' relative power over nationalists. John Hume, when challenged at the time of the ceasefire as to whether the SDLP attitude to the RUC over the years of conflict had been a mistake, countered:

The basis of order in any society is agreement on how you govern. When that is absent...the police are going to be seen as being on one side or the other—which is what happens in Northern Ireland...Until such time as the political problem was resolved our position was that we fully and unequivocally supported the police in upholding the rule of law. Our only qualification was that they should do so impartially.¹⁶

The crucial point for Hume is that the RUC did not police impartially and therefore did not meet the basic criteria for SDLP endorsement.

For nationalists, the dominance of the counter-insurgency imperative within the RUC meant that all other forms of policing were subordinated to this primary aim. This was especially true of the Special Branch—described as a 'force within a force' in the Policing Commission's report¹⁷—however, it impacted on all aspects of policing. For example, petty criminals and youths involved in anti-social behaviour were frequently recruited to provide low-level intelligence in nationalist areas.¹⁸ Their criminal activities were not interrupted provided they could fulfil this intelligence-gathering function. More generally, the gulf between the nationalist communities and the RUC was so wide that the RUC had little capacity to engage in low-level policing in nationalist areas, and the communities in those areas had little reason to see the RUC as a force capable of playing this role.

The SDLP repeatedly argued that the RUC's heavy handed counter-insurgency approach was counter-productive as well as indefensible and that it was the primary reason for the party's refusal to endorse the force. In the aftermath of the shoot-to-kill controversies in the 1980s, SDLP Deputy Leader Seamus Mallon asked

can the Irish Government assume maximum trust when dealing with the chief constable, a deputy chief constable and an assistant chief constable all of whom a senior police officer...felt obliged to interview under criminal caution.¹⁹

He answered his own question with a 'resounding' no and called for an end to co-operation between the Garda Síochána²⁰ and the RUC until there were significant changes at RUC senior management level. He went on to say that progress on policing could be measured only by whether the RUC could gain sufficient confidence in mainstream nationalist communities to allow people to join and live as integrated members of the community with the community's support, and that this was a long way from being achieved

The hostile attitude of the broad nationalist community was highlighted by Seamus Mallon shortly after the ceasefires when he referred to

the inability—the refusal, as it were, of a broad nationalist community in the north of Ireland to give its support and allegiance to a system of policing in Northern Ireland.²¹

His analysis cut to the heart of the problem when he argued that

Such an inability or refusal has existed since the very foundation of the state. It cannot be solved by simplifying the issue, by getting Catholics into the police service. It is much broader, deeper and more fundamental than that. It is about nationalist identification with the process of policing and allegiance, not just to the police as one part of the instrument of administration but to the administration that is partly responsible for administering policing.²²

Here, Mallon was encapsulating the nationalist critique of policing as bound up by the contested nature of the state in Northern Ireland,

and nationalists' refusal to give their support to the political and constitutional status quo. As long as nationalists were excluded from the effective governance of Northern Ireland, and as long as British policy refused to acknowledge the contested nature of the state and relied on a security-led approach to trying to manage the conflict, then no broad nationalist support for policing was possible.

Human rights issues

Throughout the conflict both the SDLP and Sinn Féin made repeated and vocal criticisms of the RUC's human-rights record. The issues consistently raised by nationalists over the years were allegations of ill treatment and even torture during interrogation, summary executions, the reckless use of plastic bullets and police collusion with illegal loyalist paramilitary groups. The position the nationalist parties took was reinforced by the actions of external actors; for example, in the early 1970s the Irish state brought the UK to the European Court of Human Rights over the treatment of people in police custody, while the Carter administration in the USA banned the sale of firearms to the RUC, citing human-rights concerns.²³

Local critiques of the RUC often drew on material from international human-rights organisations, such as Amnesty International and Human Rights Watch. These reports assisted the nationalist community in effectively calling for inquiries into human-rights abuses, which the British government found more difficult to ignore than purely local protests.²⁴ For example, in the early 1980s when the RUC was accused of a targeted assassination policy, which resulted in the deaths of six people including one civilian, international pressure led the British government to set up an investigation under John Stalker (deputy chief constable of the Greater Manchester Police in England).²⁵ Nationalists had sought an international investigation as they did not trust any senior British police officer to act independently; however, it is widely agreed that John Stalker attempted a rigorous inquiry, only to have his actions blocked by senior RUC management and officers. He was removed from the enquiry by the British government shortly after submitting his interim report, and after allegations of corruption were made against him (these were later proved to be groundless). The investigation was taken over by another senior British police officer (Colin Sampson, chief constable of the West Yorkshire Police), who ultimately reported on the matter in 1987.

Following the inquiry, the report of which was never made public, Attorney General Patrick Mayhew stated in 1988 that there would be no further prosecutions of any police or MI5 officers as a result of this inquiry, as to prosecute would not be in the interests of ‘national security’.²⁶ Consequently, only relatively junior officers were reprimanded for issues related to obstructing the original Stalker enquiry. For nationalists the inadequacy of this response²⁷ was reinforced by new allegations of collusion between the RUC and illegal loyalist paramilitary groups that surfaced shortly after the Sampson report was completed, forcing the British government to bring in a third senior police officer (John Stevens, the deputy chief constable of Cambridgeshire Police) for yet another external investigation. Nationalist dissatisfaction with this third investigation, which had included an investigation into the killing of leading nationalist civil-rights lawyer Patrick Finucane, led to a lengthy and ultimately unsuccessful campaign for an international public inquiry into his death.²⁸

Human-rights abuses were extensively documented and analysed,²⁹ and local protests by nationalists received strong international endorsement, all of which in turn impacted on nationalist critiques of the RUC and reaffirmed their belief that the RUC could not merely be reformed but had to be reconstituted. While nationalist campaigns on human-rights issues, bolstered by international pressure, resulted in investigations into these issues and in some minimal reforms, none of these measures were successful in persuading members of the wider nationalist community that the RUC was a legitimate police service deserving of their support. Indeed, the conduct of these investigations into human-rights abuses, and the limited and partial response to their findings, tended to re-inforce nationalist alienation from the police rather than mitigate it—the events around the ‘Stalker Enquiry’ being an example of the pattern of interaction between the pressure for action on human-rights abuse and the desire on the part of the British state (and the unionist community) to defend its counter-insurgency policy.

An unrepresentative force

The small proportion of nationalists from Northern Ireland who were members of the RUC was also a target of criticism from the SDLP and Sinn Féin. They regarded the under-representation of nationalists both as a result of what they saw as the anti-nationalist ethos of the RUC, and also as a way in which that ethos was maintained. In 1998,

when the Good Friday Agreement was signed, nationalists made up between 44% and 48% of the working-age population in Northern Ireland, but only 7.5% of RUC officers were 'Catholic', and as noted above, fewer still were likely to be Irish nationalists.³⁰ Nationalists argued that a police service that so under-represented its community could, by its very nature, never deliver policing in a manner acceptable to that community; although as Mallon argued, above, the issue was not one of numbers *per se*, but rather that nationalists' refusal to join or support the police was a clear indication of the need for change.

Nationalist critiques also linked the make-up of the RUC to what they regarded as its 'unionist' ethos. The RUC reflected a unionist culture and identity; police stations displayed photographs of the British monarch and flew the Union Jack, and police officers were embedded in and had strong links with unionist communities. Nationalist communities were politically, culturally and geographically perceived as the 'other', re-enforcing the gulf between the police and the nationalist community.

Community distrust, the repeated release of credible reports of human-rights abuses related to the counter-insurgency imperative and the low representation of their community within the RUC ensured that nationalist rejection of it as a legitimate police organisation was strong throughout the period of the conflict in Northern Ireland, and this remained the position of both major nationalist parties in the aftermath of the ceasefires.³¹ Nationalists therefore entered the period of the peace process with a strong sense that policing was a key issue of concern in post-ceasefire negotiations. Ulster unionists however, drew on a very different narrative of support for the RUC and a rejection of nationalist critiques. An understanding of this alternative discourse on policing is crucial to recognising why the issue was so difficult to negotiate following the publication of the Patten Commission's *Report*.

UNIONIST PERSPECTIVES: A CITIZEN'S DUTY TO SUPPORT THE POLICING OF THE STATE

Unionists, like Irish nationalists, also saw issues of policing and security as absolutely central to their political agenda. Unionist political parties were, and are, unanimous in their broad support for the police and in their rejection of nationalist critiques. A number of key themes are common to unionist interventions on policing throughout the conflict

and into the early period of the peace process. Unionist parties rejected nationalist complaints about the pro-British ethos of the RUC. They insisted, rather, that the ethos of the RUC should reflect British sovereignty, and further argued that it was the duty of every citizen (and every party) to support the RUC and to encourage people to join. There was no acceptance of human rights critiques and unionists regularly called for more ‘hard line’ security tactics, such as capital punishment, assassination of IRA members and internment without trial. All of this took place in a context in which over 3,500 people lost their lives in the conflict between 1969 and 1998, and the police and British Army suffered considerable casualties: over 300 police officers and over 700 British soldiers were killed.³² This inevitably heightened tension and polarised political opinion. The low percentage of nationalist and Roman Catholic recruits to the RUC was dismissed as being caused by the nationalist community’s support for terrorism or by IRA intimidation. Finally, most unionists sought to restore control of the police—which had been transferred to London in 1972—as they feared that international pressure, or a desire by Britain to reach a political agreement with the Irish government, would shape RUC strategy in a way that weakened its capacity, in their view, to defend the Union.

A duty of citizenship

Unionist politicians perceived Sinn Féin to be directly involved in an armed insurgency, and so they had no expectation that Sinn Féin or the party’s support base would back the RUC. Criticisms of nationalist views on policing therefore focused on the more moderate SDLP, which was the largest nationalist party until 2001. Criticism of the SDLP for its failure to support the RUC unambiguously, or to encourage nationalist recruitment, spans the entire unionist political spectrum and the entire time period of the conflict.

Unionist politicians repeatedly argued that they would not take part in governmental power-sharing with the SDLP without the party’s full support for the RUC. This was usually linked to an insistence that supporting the police was a requirement of accepting British sovereignty over Northern Ireland. David Trimble, exemplifying this insistence, said in 1976 that ‘no one has the right to be in a government unless they can give full allegiance to the Province and publicly support the security forces’.³³ As the British and Irish governments sought to open talks on the governance of Northern Ireland in the late 1980s, the

then DUP Deputy Leader, Peter Robinson insisted that ‘any party sharing responsibility for government should offer their full support to the security forces in Northern Ireland and encourage followers to support and even join them’.³⁴ Even the most moderate ‘pro-Union’ party—the Alliance Party—ruled out power-sharing with the SDLP unless it fully supported the RUC.³⁵ The then party leader, John Cushnahan, in a letter to Prime Minister Margaret Thatcher in 1987, threatened to review Alliance support for the 1985 Anglo-Irish Agreement unless the SDLP called on Catholics to join the RUC.³⁶

In a conference speech later that year, Cushnahan ‘deplored’ the SDLP refusal to ‘wholeheartedly support the police’ and said this was a major block to political progress.³⁷ Again, after the 1994 ceasefire, leading UUP MP William Ross argued that unless the SDLP members took their seats on the Police Authority and sought to persuade nationalists to support the RUC, it could not play a ‘responsible part’ in Northern Ireland.³⁸ The unanimity of unionist discourse on this issue is striking. Nationalists were not being offered power-sharing ‘in return’ for supporting the police. Nationalists had, in unionist eyes, an absolute duty to support the police. If nationalists refused to offer that support then they had, in the unionists’ view, excluded themselves from any right to hold public office. It is also an indication of the scale of nationalist alienation from the RUC that the SDLP could not endorse the service, despite the party’s strong desire to agree on power-sharing with unionists.

The extent to which SDLP critiques of policing were seen as a breach of the party’s duty of citizenship is further illustrated by the degree to which unionists held SDLP members responsible for the deaths of security force members—despite the party’s strong and consistent opposition to the IRA campaign. John Carson (UUP) stated in the House of Commons in 1976 that ‘political maggots, namely Canavan, Mallon and Cooper are responsible for the deaths of UDR men’.³⁹ UUP leader Jim Molyneaux, said ‘vindictive accusations against the security forces are treated as an incitement to murder Army, UDR and RUC personnel...those who engage in such vile propaganda are every bit as guilty as those who pull the trigger’.⁴⁰ SDLP deputy leader Seamus Mallon was attacked by the DUP’s Willie McCrea as

the man who has contributed more to the murder of innocent members of the security forces than practically any other person in the SDLP community...by his words [he] is stained with the blood of innocent people.⁴¹

Indeed, responsibility for the murder of members of the security forces was shared ‘*equally*’ by those who pulled the trigger and by those politicians and church leaders who by their constant vilification have endangered the lives of every member...’, according to Frank Millar.⁴² Unionists who directed such attacks at the SDLP were not simply arguing that the party was *morally* responsible for RUC deaths; they were insisting that it was the duty of all citizens to support the police. This was the embodiment of Northern Ireland’s constitutional status as part of the United Kingdom. In unionist eyes, if the SDLP rejected this duty it was engaged in a constitutional insurgency against the state and was therefore lending support to the IRA’s armed campaign.

Unionist perspectives on the role of the police in upholding the political status quo extended to the operational level. UUP Deputy Leader Harold McCusker, MP, in what represented a typical example of this perspective, attacked the deployment of the RUC against unionist protestors’ attempts to break through police lines where the police had re-routed Orange Order marches away from nationalist districts:

hundreds of policemen have been deployed, not against republican thugs but against Protestant bands and their supporters. How is that for getting your priorities wrong?...The real choice confronting any police force should be between the law abiding and the law breakers, between those who uphold the constitution and those who would subvert it, between the terrorists and their agents and the rest of us.⁴³

Unionists in the protests described by McCusker were clearly breaking the law by attacking police lines once the police had made a decision on public order grounds to re-route the march. However, in McCusker’s eyes the protestors were not ‘law breakers’—as they, unlike nationalists, were ‘upholding the constitution’. Thus, in unionists’ perspectives, it was attitude to the constitutional status quo and not the manner of protesting that divided ‘law breakers’ from the ‘law-abiding’.

‘Hard-line’ security rather than a human-rights focus

During the conflict, the widespread human rights-based criticisms of the RUC from groups and individuals who were not supporters of an Irish nationalist agenda did not open up any space within the major

unionist parties for 'non-political' critiques of policing, based on legal values or even arguments that such abuses strengthened the IRA. The unionist parties attacked human rights groups as being engaged in a campaign, deliberately or through naiveté, to undermine the state. UUP leader James Molyneaux sharply criticised human-rights groups 'who come to the rescue' whenever the security forces would get the upper hand on the IRA.⁴⁴ The Catholic Bishops Commission for Justice and Peace was called 'the Irish Roman Catholic Commission for Republican Victory in Northern Ireland' by Unionist MP Jim Kilfedder.⁴⁵ Robert Bradford, a UUP MP, argued that whenever the security forces came up with a strategy that was successful in 'hindering the IRA...the opposition [of human rights groups and lawyers] magically emerges'.⁴⁶ UUP leader David Trimble queried the motives of human-rights groups, claiming that they had only emerged to oppose 'supergrass' evidence⁴⁷ when such evidence was used against republican organisations, and so this led him to 'wonder about their motives'.⁴⁸ After the ceasefire, UUP spokesperson on security Ken Maginnis, MP, continued to assert that even some of those involved in the law supported the gun and the bomb.⁴⁹

The unionist suspicions of the motivations of human-rights groups were accompanied by a rejection of the substantive criticisms made of the RUC. There was cross-party unionist opposition to any disciplinary action over the 'shoot-to-kill' operations investigated by John Stalker.⁵⁰ Jim Wells argued that 'you can never kill an IRA terrorist and be in the wrong...let the police force...go out in the clear confidence that they can eradicate these gunmen and not have to face the courts'.⁵¹ With this level of support even for the controversial operational decisions of the RUC and British Army, there is no evidence of any willingness on the part of unionist political elites to compromise on the issue of policing. In their view, the duty to defend the state is fundamental and prior to the right to protection from the state.

Not only was there was widespread unionist support for those RUC tactics that were criticised by human-rights groups, but politicians from the two main unionist parties also called, throughout the conflict, for what might be termed 'hard-line' security policies. There was near unanimous support, for example, for capital punishment and the use of ambush tactics against the IRA. Robert Bradford said 'when capital punishment is applied...at least one terrorist has been deterred'.⁵² Bradford later suggested that the Cromwellian period was one of the few 'peaceful' periods in Irish history.⁵³ The DUP called the

shooting of two IRA members in Derry in 1984 ‘an early Christmas present’⁵⁴ and also called for capital punishment and the placing of minefields along the Border.⁵⁵ William Ross supported a ‘shoot-to-kill’ strategy, saying: ‘who the devil ever shot to miss?...I regret that the job is not done often enough’.⁵⁶ There is very little recognition that such security policies reinforce support for militant republicanism and support for the IRA. When this issue was put to Ernest Baird in the context of the gospel passages on peacemakers, he responded with a full defence of aggressive security, saying, ‘if you also read the Old Testament there are some terrible things that God told his people to do, things even the SAS might not contemplate in South Armagh’.⁵⁷ UUP security spokesperson Ken Maginnis, MP, was absolute in his support for aggressive security strategies on the ground, and uncompromising in his defence of the security forces in the aftermath of controversial shoot-to-kill operations. He referred to such operations as a ‘success’⁵⁸ and has supported in principle the idea of ambushing armed IRA members rather than trying to arrest them.⁵⁹

The political wisdom of such security force activity is one of the few issues on which there is a minority view openly expressed by any significant section of unionist politicians. Independent MP Robert McCartney, though later an opponent of the peace process, questioned the tactical wisdom of aggressive and illegal security-force actions. While supporting strict security policies he argued that an overly aggressive military strategy which did not distinguish between IRA activists and ‘ordinary’ nationalists would only increase support for the IRA.⁶⁰ The Alliance Party also argued that no military solution could be found in Northern Ireland unless there was political agreement first, in order, in that party’s view, to isolate the IRA from the community that supported it,⁶¹ and Alliance was often critical of calls for hard-line security policies.⁶² However, when the British Army shot eight IRA members and a passing civilian in an ambush in Loughgall, even Alliance was unambivalent in its support for the security forces, with party leader John Cushnahan calling it a ‘successful security operation’.⁶³

The extent of unionist rejections of human-rights-based critiques of the RUC meant that human-rights discourse did not provide a ‘neutral’ or non-political language for discussing police reform. Human-rights critiques were seen purely as instrumental attacks on the police by the two main unionist parties, and debates on these issues were always based on the core political divisions in Northern Ireland.

Rejection of the unrepresentative argument

As can be seen from the above discussion, there was no recognition that nationalists were alienated from the RUC due to its ethos or actions. Low levels of Catholic recruitment were explained, by unionists, as being due to IRA intimidation⁶⁴ or due to the subversive nature of the nationalist community.⁶⁵ These two explanations are at least potentially contradictory, and unionists were often not clear as to which was the dominant explanation.

Occasionally unionist politicians argued that there was a 'silent' pro-British, Catholic minority and that the lack of Catholics in the police could mainly be explained by IRA intimidation. UUP leader James Molyneux spoke in the 1970s and 1980s of the 'many' Roman Catholics who are not nationalists yet who support the RUC and/or reject the IRA.⁶⁶ His successor as UUP leader, David Trimble, argued in 1996 that 25 to 40% of Roman Catholics wanted to remain part of the United Kingdom.⁶⁷ This line of argument was reinforced by the use of survey data from the police authority or other sources, which appeared to show that a significant proportion of Roman Catholics were satisfied with the RUC. However, such surveys need to be read cautiously. The late John Whyte repeatedly warned researchers in Northern Ireland (or those of any zone of conflict) of the dangers of using survey data, as he argued respondents tend to give a more moderate or pro-officialdom answer rather than offering their real views.⁶⁸ Graham Ellison highlights the fact that one of the most quoted surveys (the 1992 NI Social Attitudes Survey) records Sinn Féin support at 2.8%, at a time when the party's electoral support was between 16% and 17%.⁶⁹ It is difficult to assess whether researchers conducting the 1992 Social Attitudes Survey did not operate in the communities where Sinn Féin was strong, or if, in general, people surveyed about their views during times of conflict are more reluctant to express strong opinions. With such under-representation of the Sinn Féin support base it is difficult to give such surveys any credence. For this reason alone, the decision of the policing commission to hold so many public meetings across Northern Ireland, where members could directly hear the perspectives of large numbers of the public, was a wise one.⁷⁰

The occasional public statement from unionist politicians over the years, claiming that there existed a silent 'loyal' Catholic grouping, is overwhelmed by the much larger number of unionist statements that

are clear-cut in extending the definition of subversive to the entire nationalist community (or even to the Catholic community). In 1985 Ken Maginnis said:

you believe in... [Roman Catholics'] decency, you want to get on well with them. But they come from the same community the IRA comes from, and from which it recruits. Therefore it is dangerous to get too close to them.⁷¹

The following year he focused on the relatively high rates of vote transfers, under the PRSTV system,⁷² between the SDLP and Sinn Féin, to argue that 85 per cent of nationalists were lending support to the IRA campaign.⁷³ In the House of Commons in 1991, David Trimble quoted as a form of precedent the practice of treating all 'enemy aliens' as suspects during wartime.⁷⁴ The possibility that some 'aliens' might actually sympathise with their host country was outweighed by the strategic and security imperative, and so all 'enemy aliens' were to be treated as suspect. The implication was that all nationalists were 'enemy aliens' and similarly were to be seen as a threat. Ian Paisley, speaking just prior to the ceasefires in 1994, said he could not 'trust the future of Ulster to any Roman Catholic and I say that unashamedly'.⁷⁵

This depiction of the entire nationalist community in Northern Ireland as being subversive would suggest that nationalist views were a more important explanation than IRA intimidation for the low numbers of nationalists in the RUC. This perspective also strengthened unionist resistance to any suggestion that police reform was essential to meet nationalist concerns, as, to use a phrase from the UUP's William Ross, a lack of nationalist support for the RUC was not in itself an argument for reform of the police, as it would be 'unreasonable' to expect the RUC to get the support of 'law-breakers'.⁷⁶

Despite these attacks on the nationalist community for refusing to support the RUC, individual Catholics who broke with their community and joined the RUC, or became members of the Police Authority, were frequently treated with suspicion. While unionists attacked the SDLP for not allowing its members take seats on the Police Authority, John McCrea of the Orange Order attacked proposals to have individual nationalists appointed, saying they would be a security risk.⁷⁷ Following controversy over the rerouting of Orange Order parades attempting to march through nationalist

areas of Cookstown in 1985, Alan Kane (DUP) attacked one of the most senior Catholic RUC officers, Chief Supt. Leo Dolan, saying that Dolan, as 'a Roman Catholic, a former neighbour of Owen Carron's family...is no friend of the Protestant people'.⁷⁸ Willie McCrea said Dolan was

an ardent Roman Catholic who has shown his hatred of Protestant parades in the past. His removal should be forthcoming in order to ensure proper relations exist between the RUC and the people of Cookstown.⁷⁹

Following a similar incident associated with a parade in Portadown in August 1995, the Portadown branch of the UUP issued a formal statement attacking another senior Catholic officer, Bill McCreech.⁸⁰ In 1996 Peter Robinson called on Chief Constable Hugh Annesley to weed out 'Catholic moles' in the RUC who Robinson accused of making 'nationalist' comments to the media following newspaper coverage of sectarian harassment within the RUC.⁸¹ This type of attack on individual Catholic officers again points to a strong tendency in unionism to treat the entire Catholic community as politically suspect and incapable of being trusted police officers. It reinforces the sense that the role of the police is to uphold a unionist vision of the constitutional order and not simply to uphold the law.

'Ulsterisation' of security

The majority of unionist politicians argued throughout the conflict that control of security should be returned to a unionist-controlled parliament,⁸² and in the absence of such local authority saw the effective primacy of locally recruited security forces commanded by local officers as a good second best. UUP leader David Trimble, for example, said

the IRA will only be defeated when they see that their ultimate goal is unattainable. That day will only come when the IRA see the control of security in the hands of Ulstermen, because the Provos know Ulstermen cannot afford to run away from the situation.⁸³

This type of 'asymmetric' conflict, where one side sees it as an 'all-or-nothing' conflict while the other side may have options, has international parallels.⁸⁴ The US could pull out of Vietnam with very little threat to its domestic position. The South Vietnamese govern-

ment had no such luxury. If it lost, its position was terminal. Unionists consciously analysed their position within an asymmetric model. For example, the Orange Order, comparing Northern Ireland to Israel said, 'Having been betrayed before they [the Ulster people] are very alert now, for as Louis Gardner wrote, "Ulster, like Israel, can only lose once"'.⁸⁵ In a very similar vein Clifford Smyth quotes Admiral Hugo Hendrik Bierman of the then South African Navy: 'in the nature of this protracted war our enemies have the opportunity to attack time and again and to lose, whereas we shall have but one opportunity to lose'.⁸⁶

Raymond Ferguson (UUP) argued that ordinary unionists would not feel secure until control of security was returned to Ulster hands.⁸⁷ In the late 1970s and early 1980s his colleague, Robert Bradford, emphasised the hegemonic importance of the 'Ulsterisation' of security:

with one stroke the House [of Commons] could remove the objective [of Irish unity] from the IRA—or at least its hopes of attaining the objective. The House could return to the people of Northern Ireland a devolved government,⁸⁸

and again 'the will to win will emerge only when Ulster politicians have the right and the possibility of taking security decisions in their own parliament'.⁸⁹ Ian Paisley said in 1982 that 'only those who are fighting for their homes can really fight for their country'.⁹⁰ Two years later he returned to this theme, arguing that

we did beat terrorism for almost 50 years...because we had a government that was determined to beat terrorism and because the people fighting terrorism had a stake in this land. When you are fighting for your home, when you are fighting for your heritage and when you are fighting for your family, by the grace of God you will fight.⁹¹

During the conflict there was no likelihood of control over security being devolved from London to unionist hands. The debate on 'Ulsterisation' of control did allow unionists to blame the British government for the failure to defeat the IRA and to argue that a unionist-controlled police force could succeed. The support for devolution of control of policing also reflected a strong and deep-rooted support within Unionism for devolved government and local control of security. Later in the peace process this tension between mutually

incompatible choices—seeking to exclude nationalists while also wresting control back from London to Northern Ireland—was finally resolved in favour of devolution, but at the cost of sharing power with nationalists and in the context of fundamentally reconstituted political institutions. More generally, the above discussion of unionist views during the conflict is repeated not to draw up old disputes or to demonise those involved, but rather to highlight the very significant shift in positions that was required to reach the agreement on the transformation of policing.

THE PEACE PROCESS AND THE
TRANSFORMATION OF POLICING

The nationalist community saw police reform as one of the most important issues in the peace process. It did not believe any peace deal could be enduring if it did not deal with policing, because nationalists believed that policing was at the heart of the conflict.⁹² The highly politicised nature of policing, the legacy of human-rights concerns in Northern Ireland and the highly unrepresentative make-up of the RUC ensured that no nationalist party could endorse the police and retain political support. It was also impossible for the RUC to provide policing in nationalist areas without community support. The centrality of policing to the wider peace process was reflected in public debates that began in the immediate aftermath of the ceasefires. The importance of this issue was also clear (as can be seen in the chapters by Policing Commission members in this volume) in the public meetings held by the Commission and in those published submissions made by a wide range of nationalist organisations.⁹³ The two nationalist political parties highlighted the issue of policing in regular statements. The SDLP made it very clear that it would not endorse a tokenistic reform programme. A survey of party members indicated that over 94 per cent of them sought ‘radical reform’ of the RUC after the ceasefires.⁹⁴ Sinn Féin ran a high-profile, public campaign under the slogan ‘Disband the RUC’, and its members supported this approach.⁹⁵

Initially, mainstream Unionism’s position on policing led it to dismiss any requirement to even consider RUC reform as part of the process of a political settlement for Northern Ireland. In 1991 Paisley listed as one of the key ‘unacceptable’ elements of the earlier Brooke talks-process the idea that the RUC was part of the problem.⁹⁶ After the IRA ceasefire, unionists were very vocal in rejecting any public

debate on the reform of the RUC.⁹⁷ Even symbolic changes in the name and uniform were rejected by all unionist parties other than Alliance.⁹⁸ The UUP, DUP and UKUP all opposed even the minor administrative changes contained in the 1997 Police Bill.⁹⁹ Ken Maginnis went so far as to say that the very limited legislation ‘smacks of thinking and planning that falls not short of treachery’.¹⁰⁰

Rejecting any changes in the symbols used by the RUC, Unionist MP Robert McCartney argued

that if a person lives in a part of the United Kingdom where his or her place within it is absolutely certain, such as Cornwall or Devon, symbols are not, perhaps, so important, but if a person lives in a part of the United Kingdom that is constantly under threat, along with one’s identity, symbols take on a significance that they would not otherwise bear.¹⁰¹

UUP security spokesperson Ken Maginnis, in the same debate, said:

the RUC is criticised because it holds on to its traditional symbols: the badge, the royal prefix, the allegiance to the Crown, the flying of the Union flag on pre-ordained days on public buildings such as police stations, but all of these are what makes the RUC a British police service, not the French gendarmerie, the German polizie or the Spanish civil guard. It is what gives a disciplined force its *esprit de corps*, its sense of identity and comradeship which has enabled it to endure and survive...I do not believe that the official trappings of the RUC give offence to anyone other than those who seek to be offended. Their campaign is not to create a neutral working environment but a neutered RUC, bereft of identity and effectiveness from a lack of self-confidence.¹⁰²

There was no recognition, at this stage, that nationalists could not accept this *esprit de corps*, which was defined in exclusively unionist terms; indeed, by defining the nationalist community as the ‘other’ against which the *corps* was pitted, its very essence was the exclusion of Irish nationalism.

Likewise, changes in the oath of allegiance (to the British monarch) were rejected as symbolising a shift away from absolute support for the constitutional status-quo. Maginnis again said,

we are told that because it is an oath to the Queen it is unacceptable to some members of one tradition in Northern Ireland. I think we all recognise that the oath to the Queen shows loyalty to the state; the constitution.¹⁰³

In a similar vein, Peter Weir said that the British government was 'only concerned...with increasing the nationalist community's confidence in the police service, and that is a recipe for disaster'.¹⁰⁴ Hugh Smyth argued that politically motivated RUC reform would 'wreck the confidence of the unionist community'.¹⁰⁵ Ian Paisley said the police force should not be reformed, as 'the RUC has stood between us and those who would destroy us'.¹⁰⁶ Even the Alliance Party supported only very limited calls for reform, with a policy statement in 1995 rejecting the idea of major structural changes in the RUC and focusing instead on changes at the governmental level and in dealing with individual complaints.¹⁰⁷ The Alliance Party Election Manifesto in 1997¹⁰⁸ talks of RUC reform in very minimalist language, with no discussion on the overall ethos and ideology of the Northern Ireland police, and likewise Alliance's submission to the Patten Commission made no serious criticism of the RUC and restricted its suggestions to symbolic changes in name and uniform.¹⁰⁹

Given the strength of these opposing perspectives, it was not surprising that all parties agreed, during the negotiations leading up to the 1998 Agreement, that a solution to policing could not be negotiated at that time and that an independent commission should be established to make recommendations on policing, which would be 'broadly representative' and have 'expert and international representation'.¹¹⁰ As part of a trade-off to get the British government to accept such an independent commission, a related 'review' of the criminal justice system was to be carried out by a mechanism set up by the British government itself—though with an 'independent element'. This requirement was added at nationalist insistence and later on had a significant impact in producing a much more far-reaching review than had been anticipated by many observers.

There was no agreement during the 1998 talks on the specifics of policing policy, but the terms of reference for an independent commission to be established were set out in the Good Friday Agreement, which stated:

Its proposals on policing should be designed to ensure that policing arrangements, including composition,

recruitment, training, culture, ethos and symbols, are such that in a new approach Northern Ireland has a police service that can enjoy widespread support from, and is seen as an integral part of, the community as a whole.¹¹¹

The SDLP, Sinn Féin and the Irish government had put considerable resources into achieving the strongest possible terms of reference for a commission on policing. Surprisingly, the UUP negotiators did not seem as focused on this issue. Nationalist negotiators were prepared for a last minute backlash from the UUP to reverse the text of the terms of reference for a policing commission, but it did not materialise. The UUP was hugely focused on limiting the North–South institutional linkages. Its negotiators were very influenced by an analysis of the collapse of the 1974 power-sharing institutions, which (over) emphasised the importance of the all-island Council of Ireland in explaining unionist opposition to that agreement. On policing, the UUP seemed to assume that a British-government-appointed commission would largely favour the status quo. The terms of reference were, however, fundamental to the direction given to the Independent Commission on Policing for Northern Ireland as finally established. Indeed Sinn Féin, despite a cautious response to the later *Report*, did not press for any last minute strengthening of the terms of reference in the final days of negotiations.

The other difficulty for unionists was that RUC reform was an area that could have been imposed by the British government without their consent. Trimble acknowledged this in the aftermath of the Agreement, saying ‘even had agreement not been reached in the Talks a much more draconian series of reforms were planned for the RUC’.¹¹² However, if unionist leaders realised that change was inevitable, they made few serious attempts to deal with the political problems that change would cause. The Sinn Féin leadership devoted a lot of time and energy to regular meetings with its membership and wider support base, to prepare them first of all for a ceasefire announcement and then for the various concessions made in talks. Yet there was no similar process of engagement by the UUP leadership with its own supporters to convince them of the need for compromise, in advance of either the Good Friday Agreement itself, or the publication of the Commission’s *Report*.¹¹³

RESPONSES TO THE COMMISSION'S REPORT
AND THE LEGISLATION

In the immediate aftermath of the publication of the *Patten Report*, public debate was dominated by unionist rejection of its proposals. The DUP was, at that point, still in opposition to the 1998 Agreement and predictably opposed the *Report*, but UUP leader and First Minister David Trimble also attacked it in very trenchant terms, calling it the 'most shoddy piece of work I have seen in my entire life' and referring to the name change for the RUC as a 'gratuitous insult'. Trimble said his party would study the report carefully before making any judgement, but then said that the only fundamental change needed to the RUC was the recruitment of many more Catholic officers, while the only thing necessary to achieve that was 'to put an end to the intimidation and social exclusion of Catholics who join the police force'. He also expressed opposition to the proposed integration of the controversial RUC Special Branch into the mainstream of the new police service. Referring to this as the 'emasculatation of Special Branch', he said it was 'above everything else, what the republican movement wants'.¹¹⁴

Nationalist parties, possibly because of the hostile unionist reaction, were very subdued in their responses to the *Report*. Nonetheless, both nationalist parties were relatively positive in their initial statements. While this might have been expected from the SDLP, Sinn Féin's Martin McGuinness also hinted that a positive response could come in time. Responding to media queries as to whether the *Report* met their 'definition' of disbanding the RUC, he said: 'If we create a new policing service, we will have effectively disbanded the RUC'.¹¹⁵ As for the SDLP, Seamus Mallon said the party wanted an immediate ban on plastic bullets and a much shorter time-scale for the achievement of religious balance in the force, but he also said that the *Report*,

taken in totality and implemented faithfully and speedily, contains the basis for the objectives of the Good Friday Agreement to be attained in terms of achieving a police service which can attract and sustain the whole community's support.¹¹⁶

Ulster Unionist Party opposition to the *Report* over the following months focused on a number of key themes. The most high-profile of these were opposition to the name change and to the dropping of the 'Royal' prefix; however, the UUP also opposed the proposals on 50:50

recruitment of Catholics and others, on neutral symbols and flags, on control of the Special Branch, on the International Oversight Commissioner and Sinn Féin members sitting on police boards.¹¹⁷ Other unionist parties, organisations and high-profile individuals also joined in the debate in opposition to the *Report*, including the Orange Order and former RUC chief constable Jack Hermon.¹¹⁸ The Police Authority, abandoning political neutrality, also publicly and strongly attacked the proposals for 50:50 recruitment and the name change.¹¹⁹

In the wake of these responses, the British government announced a three month period of debate on the *Report*, to finish on 30 November 1999. By the end of that period the SDLP had endorsed the *Report*, calling for the full implementation of its 175 Recommendations. That party did, however, repeat its disappointment that plastic bullets were not to be banned and said the 10-year deadline to reach a target of 30 percent Catholics in the new police service was ‘hardly a radical target’.¹²⁰ Sinn Féin, while continuing to send positive signals, did not endorse the *Report*. In an initial response, party leader Gerry Adams said that he ‘might...encourage young republicans to join the proposed force’, saying ‘if we do come to a conclusion that the *Patten Report* does contain the ingredients of a new policing service and that the RUC will have gone, of course Sinn Féin will come out in a very positive way’. He said it was

not merely a question of whether Catholics should join a new policing service...It is a question of whether republicans and nationalists, and particularly working class republicans and nationalists, would join such a policing service and have peer approval for doing so. Ultimately, this will be the acid test by which the Patten Commission and its Recommendations will be judged.¹²¹

Later, in a formal response, the party said that it could not ‘at present’ urge nationalists and republicans to join a police service on the basis of the *Patten Report*.

Sinn Féin is not convinced at present that the *Patten Report* goes far enough, and we are therefore unable at present to take up the call to encourage people from nationalist and republican communities to join any emerging police service...We recognise there are many good things in the *Report*.¹²²

On the specifics of the *Report* Sinn Féin welcomed the proposals for accountability but said that they could have gone further. It also welcomed the proposed closure of interrogation centres, but said that the *Report's* target of achieving 30 per cent Catholic members in ten years was inadequate, and that the *Report* should have proposed an end to emergency laws and the use of plastic bullets. In a further positive signal, however, a motion by one *cumann* (local branch) at the party's *Ard Fheis* (annual conference) which would have tied the party to seeking to exclude every RUC officer from membership of the PSNI was rejected by the party delegates.¹²³

The main point emphasised by Sinn Féin in this period was that it needed to know what the British government would do, and therefore it would reserve final judgement on whether it would urge people to join any new police service until it saw the appropriate legislation on implementing the *Report's* recommendations. This point was the key issue of contention with the SDLP, whom Sinn Féin accused of acting prematurely.¹²⁴ Sinn Féin did not trust the British government to implement the *Report* and so it was wary that endorsing it might turn it into a nationalist 'wish list', rather than an Independent Commission Report, which did not, by any measure, represent all of Sinn Féin's positions. In fact, when the new Police Bill was published by in May 2000, the British government had abandoned key recommendations in the Commission's *Report* and did indeed seek to present the legislation as a 'compromise' between a nationalist-supported Commission report and unionist opposition to change.

THE BRITISH GOVERNMENT'S LEGISLATIVE RESPONSE

The British government's implementing legislation (the Police Bill) and a parallel 'implementation plan', purporting to show how it would implement the Commission's *Report*,¹²⁵ was roundly criticised not only by the two nationalist parties in Northern Ireland but by most significant human-rights groups, nationalist commentators and civil society organisations.¹²⁶ The Irish government too signalled its displeasure that so many of the Commission's 175 recommendations had been rejected by the British government.¹²⁷ John Hume called the Police Bill 'defective',¹²⁸ while Gerry Adams stated

there is no way at this time that I, or Sinn Féin, could recommend to nationalists or republicans that they

should consider joining or supporting a police force as described in that legislation.¹²⁹

The Deputy First Minister and SDLP MP Seamus Mallon, reacted to British Secretary of State for Northern Ireland Peter Mandelson's depictions of his legislation as a compromise between nationalist support for the *Patten Report* and unionist opposition, saying that '*Patten* is itself a compromise. It is policing not in the image of unionism or nationalism'.¹³⁰ Both the SDLP and Sinn Féin issued lengthy critiques of the Bill.¹³¹ Nationalist critiques focused on the insertion of the phrase 'incorporating the RUC' in the formal title of the new PSNI; the potential continuation of the practice of flying the Union Jack on police stations; the weakening of oversight, human rights and accountability mechanisms; the potential weakening of the commitment to 50:50 recruitment; provisions allowing the British government or chief constable to veto investigations into allegations of police malpractice; and the limitation of a new oath of office to new recruits only (rather than having it apply to all existing officers as recommended by the Commission). Statements reflected all of the traditional nationalist critiques of the RUC—the counter-insurgency priority, human-rights issues and community representation and ethos issues.

The unionist public response was relatively muted; while still opposing much of the Bill, unionists clearly preferred it to the Commission's *Report*. They focused on the symbols of the service—the RUC title, the retention of British symbols in the police insignia, the flying of the Union Jack and displays of portraits of the British monarch in police stations.¹³² The May 2000 Police Bill was seen as a victory for unionist lobbying in regard to these issues. The Police Bill also included a significant weakening of the oversight, human rights and accountability proposals made in the Commission's *Report*. While Ulster Unionists did not oppose the British government's overturning of the Commission's recommendations in these areas, there is little evidence of a vigorous unionist campaign—the motivation for rejecting the Commission's recommendations on oversight and human rights seemed to come from the British government itself and the police and security agencies. While the outgoing police authority had criticised the Commission's *Report*—in particular on the core unionist issues of name, symbols and ex-IRA prisoners being on police boards—during this phase of the debate members of the authority criticised the British government for weakening the powers of the proposed new policing board.¹³³

Following an extensive campaign of pressure from the nationalist parties, some British Labour backbenchers, senior US politicians and human-rights groups,¹³⁴ and a series of inter-party talks in Weston Park in England in 2001, the British government introduced a number of significant amendments to its own proposed legislation, in order to bring it closer to the recommendations of the Commission's *Report*. It also promised a revised implementation plan,¹³⁵ which would further deal with some of the remaining Commission recommendations. Finally, the British government promised to have an international judge examine possible RUC involvement in the murder of Pat Finucane and to hold a public inquiry on the murder if that judge recommended it.¹³⁶

This was sufficient for the Irish government and the SDLP to support the new arrangements, and in August 2001 the SDLP agreed to join the new policing board.¹³⁷ The SDLP claimed it had secured sufficient amendments from the British government to allow its members to do so. Seamus Mallon, referring to the previous British Secretary of State, Peter Mandelson, said the legislation had been 'de-Mandelised'. He highlighted in particular: the strengthening of the powers of inquiry of the Policing Board—now gaining powers formerly resting with the Chief Constable and the Secretary of State; new powers for the Police Ombudsman to access documents and investigate police policies and practices; commitment to the secondment of Gardáí (members of the Irish police service, *An Garda Síochána*) to the new police service; strengthened commitment to human rights; greater focus on community policing and the phasing out of the full-time RUC reserve.¹³⁸

Sinn Féin refused to join the Policing Board or support the PSNI at this time, arguing that the proposed legislation and the British government's 'implementation plan' for police reform were still far weaker than the Commission's recommendations. Although Sinn Féin had not given unqualified support to the Commission's *Report* when published, from this time Sinn Féin explicitly used the Commission's *Report* as a benchmark against which to measure the transformation of policing.¹³⁹ Another very positive development for Sinn Féin was the quality and detail of the reports of the first Oversight Commissioner, Tom Constantine. His very detailed performance indicators, judging action on policing as compared to the Commission's recommendations, ensured that the British government did not have a monopoly of authoritative information.¹⁴⁰ The role of the Oversight Commission was, in hindsight, one of the most significant and inno-

vative of the Commission's recommendations and greatly assisted in both clarifying Sinn Féin's remaining concerns and as an independent mechanism to judge progress on those concerns. Sinn Féin, from this point, focused on the remaining gaps between the Commission's recommendations and British government decisions—especially on accountability, human rights and oversight; on retention of some key powers in London; on control of the Special Branch and covert policing operations; on the need to avoid officers being deployed long-term into Special Branch, as had occurred in the RUC; and on the lack of certainty about the RUC name and badge. These Sinn Féin critiques, though fewer in number than their formal responses to the May legislation, continue to raise issues in each of the three areas that have dominated nationalist responses to policing in Northern Ireland: a concern that counter-insurgency policing dominates the entire policing system; a demand for stronger oversight on human-rights issues; and an insistence on politically impartial policing, free from symbolic attachment to the British state.¹⁴¹

Unionist parties, notwithstanding their opposition to elements of the reform agenda, also agreed to join the Policing Board. Both the DUP and UUP highlighted two continuing priorities in announcing their decision to join the Board. The first was to ensure that the police service's symbols would 'recognise Northern Ireland's constitutional position in the UK', indicating how important the police were to unionist definitions of the nature of the state. The second priority was the unionists' ongoing campaign to minimise the reduction in the size of the force and in particular the full-time RUC reserve.¹⁴²

The Police Board unanimously agreed on a new PSNI symbol in December 2001.¹⁴³ While not strictly following the Commission's recommendation of having a badge that was 'entirely free from any association with either the British or Irish states', the new badge was widely judged to be acceptable. The badge's largest element is the 'cross of St Patrick', acceptable to both nationalists and unionists. It also incorporates the crown—as a symbol of Britishness—and the Irish symbols of the harp and shamrock, neither standing in a hierarchical relationship to the other, along with traditional symbols of justice—the laurel leaf, torch and scales of justice.

This achievement was swamped, however, by the wider crisis in the peace process that led to the suspension of the power-sharing executive and Assembly in October 2002, as the UUP refused to continue sharing power with Sinn Féin without the handover or de-

struction of IRA weapons. New elections in November 2003 saw the DUP emerge as the largest unionist party and Sinn Féin as the largest nationalist party—entitling the leaders of these parties to hold the offices of First Minister and Deputy First Minister, respectively.¹⁴⁴ No agreement on power-sharing was possible and the Assembly was immediately suspended. The key issues in dispute were unionists' refusal to share power with Sinn Féin without the IRA destroying its weapons, and the IRA refusal to do so while the peace process was stalled and while the newly agreed institutions of government within Northern Ireland and between North and South were not operational. Nationalists also demanded 'demilitarisation' by the British Army¹⁴⁵ and further moves on policing.

The IRA agreed to put its weapons 'beyond use' in a process overseen and observed by an International Commission on Decommissioning, led by Canadian General John de Chastelain, and completed in September 2005.¹⁴⁶ This was the key defining moment for Sinn Féin. The destruction of IRA weapons was a major political decision. The initial IRA ceasefire could be interpreted (or sold) as an experiment. An IRA campaign could have been restarted, and indeed was resumed (at a low level) between February 1996 and July 1997. However, symbolically, the destruction of weapons was a clear signal that the IRA was not intending to restart its campaign and that Sinn Féin would pursue republican goals by exclusively peaceful means. The next logical step was support for policing. However, no wider agreement on power-sharing with unionists or Sinn Féin support for the police was reached at this time.

Agreement seemed to have finally been reached in talks in St Andrews in Scotland in October 2006.¹⁴⁷ The St Andrews Agreement was officially between the Irish and British governments, but they expected (on the basis of the talks) that it would be endorsed by the parties in Northern Ireland after consultation with their membership. St Andrews provided for a deal whereby the suspended Northern Ireland Executive and Assembly would be re-constituted, with new provisions and commitments made by the parties to avoid the institutions collapsing again when the members were in dispute. New elections would be held as a means of gaining community endorsement of the power-sharing deal. New legislation on policing, human rights and the Irish language was promised—that on policing would be passed by the end of 2006; and the British government guaranteed that there would be no 'executive role' for the British secret service

(MI5) in Northern Ireland—even on ‘national security’ issues—when control of policing was devolved to Northern Ireland. Sinn Féin was expected to endorse the police service, and while there was no firm date to devolve control of policing from London to the Northern Ireland Executive, the two governments stated that it was their

view that implementation of the Agreement published today should be sufficient to build the community confidence necessary for the Assembly to request the devolution of criminal justice and policing from the British Government by May 2008.¹⁴⁸

Sinn Féin held up to 60 meetings with the party support base right across Ireland to gauge opinion on the question of supporting the PSNI.¹⁴⁹ A special party *Ard Fheis* (conference) was called with delegates from every local branch of the party, and the leadership needed to be certain that it would secure an overwhelming majority to avoid the danger of a split in the party. Difficulties began to emerge, however, when senior DUP MP (and later deputy leader) Nigel Dodds said publicly that devolution of control over policing from London (a key Sinn Féin demand) would not happen in a ‘political lifetime’.¹⁵⁰ Sinn Féin also raised concerns that the proposed new role for MI5 in countering international terrorism would be extended to include Northern Ireland and would lead to institutionalised links with the new PSNI, creating, Sinn Féin feared, a new ‘force within a force’—to use the phrase which had also been used to describe the old RUC Special Branch by the Commission in its *Report*.¹⁵¹ British Prime Minister Tony Blair personally responded on this issue in a public statement, saying

No police officers will be seconded to or under the control of the security service. The small number of police officers who act in a liaison capacity with the security service will be PSNI headquarters staff acting in that role for fixed time-limited periods to the extent that the Chief Constable deems necessary for them to perform their duties...Policing is the responsibility solely of the PSNI. The security service will have no role whatsoever in civic policing.¹⁵²

This statement was welcomed by Sinn Féin and seemed to resolve tensions on the role of MI5.¹⁵³

The debate within Sinn Féin was intense and relatively public—unusually so for a party whose internal discipline is legendary in Irish politics. Over 1000 people attended a meeting, which the press were permitted to observe, in Gerry Adams's own constituency.¹⁵⁴ Letters for and against endorsing the PSNI were carried in the Sinn Féin newspaper *An Phoblacht*.¹⁵⁵ The newspaper also carried very prominent messages of support for the leadership position from former African National Congress chief negotiator Cyril Ramaphosa and the Palestinian ambassador to Ireland, Hikmat Ajjuri. The Ard Fheis itself was attended by 3,000 delegates, and the motion committing the party to 'fully' support the PSNI and the criminal justice system, and to take up places on the Policing Board and the local District Policing Partnership Boards was carried, with an estimated 90 percent 'yes' vote.¹⁵⁶ Gerry Adams, in proposing the motion, said party negotiators were now satisfied with the legislation on oversight of policing and on the model of a Justice Department to be established in the Northern Ireland Assembly. The motion was linked to the re-establishment of the power-sharing Executive in Northern Ireland and to the agreement on devolution of policing and justice powers. Or, in the absence of such agreement, to a new governance model for Northern Ireland based on stronger British–Irish 'partnership arrangements'. This was read by all to mean a formalised model of co-operation between the governments over the heads of the local parties.¹⁵⁷

Despite linking the issue of policing to the restoration of power-sharing, party leader Gerry Adams, following a meeting of the party's *Ard Chomhairle* (national executive) held immediately after the conference, expressed Sinn Féin's support for the PSNI and for nationalists who wished to join it.¹⁵⁸ Sinn Féin now believed that there was sufficient progress for the party to offer support for the police service and to join the Policing Board. The three key criticisms of the RUC set out at the beginning of this chapter—its prioritisation of counter-insurgency, its human rights record and its unionist ethos and make-up—were no longer significant issues of concern for Sinn Féin. There were some continuing concerns on the role of MI5, on the future of the Special Branch and on the need for investigations into historical abuses by the RUC. However, the party believed all of these issues could be resolved through new accountability structures.

Following the Sinn Féin decision, elections to the Northern Ireland Assembly (the next step in the agreed process) were called for March 2007. Unionists were relatively subdued in their responses to

the Sinn Féin change of policy, adopting a ‘wait and see’ attitude. The March 2007 elections saw further significant gains for both Sinn Féin and the DUP, meaning, under the power-sharing rules, that they would take the positions of First Minister and Deputy First Minister from a position of strength. Dissident republican candidates, standing on a platform of opposition to Sinn Féin’s decision on policing, received only tiny levels of support.¹⁵⁹ The DUP agreed to form a power-sharing executive, with its party leader Ian Paisley as First Minister and Sinn Féin’s Martin McGuinness as Deputy First Minister, and the Assembly was restored in May 2007.¹⁶⁰ Sinn Féin then joined the Policing Board, and even the nomination by the party of a former high-profile IRA prisoner (Martina Anderson) as one of its three nominees did not generate any significant unionist comment, with the DUP’s Gregory Campbell, saying ‘we have to move on’.¹⁶¹ However, senior DUP figures did continually cast doubt over whether they would support the May 2008 deadline for devolution of policing and justice powers from London, as had been set out in the St Andrews Agreement. They insisted they would not do so until the unionist community had ‘confidence’ in Sinn Féin having influence over such a ministry.¹⁶² The progress made in transforming nationalists’ relations with the police was highlighted when PSNI chief constable Hugh Orde attended a meeting in July 2007 at the invitation of Gerry Adams to discuss anti-social crime in the Sinn Féin heartland of West Belfast—the first ever such meeting to be attended by a Chief Constable.¹⁶³

However, as the deadline for agreement on the devolution of control of policing approached, unionist parties raised new objections: calling for the IRA leadership structures to be publicly disbanded,¹⁶⁴ demanding a veto over the ministerial nominee (to ensure it would not be a Sinn Féin minister),¹⁶⁵ seeking further financial guarantees on public funding for policing from the British government¹⁶⁶ and linking the issue to the ongoing disputes over parades by the Orange Order through nationalist areas.¹⁶⁷ Despite some significant pressure from the two governments, unionists continued to refuse to agree to the devolution of control of policing. The DUP’s public position was that greater unionist ‘confidence’ was required. In reality, the party seemed uncertain how such a decision would be received by its supporters.

As Sinn Féin had linked its earlier decision to support the PSNI to the devolution of control, this was a key issue for them. By mid-June 2008 the party was refusing to allow meetings of the Northern

Ireland Assembly to take place (it had the power to do this as the office of 'Deputy' First Minister is in de-facto terms that of Joint First Minister, and both must agree to all decisions, including the agenda for Executive meetings). Sinn Féin's position was that the failure to devolve policing was a test case of the DUP's wider commitment to power-sharing and the peace process. If this could not be agreed, then perhaps the logic of the entire peace process was being questioned and Sinn Féin needed to look for another political strategy. In the short-term this was likely to involve walking out of the Northern Ireland Executive, triggering fresh elections and the party seeking a new mandate.

The decision was on a knife edge. The DUP clearly wanted to maintain devolution but was uneasy with sharing power with former enemies. The DUP leadership, with the party now headed by Peter Robinson following Ian Paisley's retirement at the end of May 2008, were also uncertain as to whether they could bring their own support base with them if they took a decision to devolve policing and thereby link their political fortunes clearly to sharing power with Sinn Féin and working the Belfast/Good Friday and St Andrews Agreements.

In September 2008 a report by the Independent Monitoring Commission¹⁶⁸ confirmed that the IRA 'Army Council' was not functional or operational and posed no threat to the peace process. After a five-month stand-off during which no Executive meetings took place, a breakthrough was achieved in November 2008 when the DUP and Sinn Féin agreed on a 37-point road plan towards devolution of policing and justice. The two parties also agreed that neither would seek to hold the Justice ministerial portfolio during its first Assembly term.

In March 2009, British Army soldiers Cengiz Azimkar and Mark Quinsey and PSNI Constable Stephen Carroll were killed, in separate attacks in Antrim and Craigavon. Responsibility for these attacks was claimed by members of small 'dissident' splinter groups from the IRA who opposed the peace process. The Good Friday Agreement institutions survived this potential test of their durability, and a significant display of political unity and determination to uphold the Northern Ireland Executive and Assembly resulted instead. Work proceeded on the basis of the 37-point plan throughout the remainder of 2009, primarily at Assembly Executive Review Committee (AERC) level within the Assembly and also through the passage of necessary enabling legislation at Westminster. In the latter half of the year, the Irish and

British governments were involved in intensive efforts to assist and encourage the Northern Ireland parties to complete the devolution of policing and justice and to address other outstanding aspects of the St Andrews Agreement that still required implementation. In October, prospects for completion of the devolution project were further assisted by provision of a supportive financial package by the British government.

Towards the end of January 2010, it became clear that the Northern Ireland parties themselves were unable to agree on how to move ahead. Earlier that month, a totally unrelated crisis within the DUP and the forced resignation from the Assembly of the First Minister's wife (a prominent unionist politician in her own right) brought matters to a head for the party leadership. Continuing stalemate at that stage could perhaps see Peter Robinson's position as DUP leader and First Minister weakened. If he wanted to take the party in the direction of sharing power he had to make that decision quickly or he might lose the initiative. The pressure to reach a final decision seemed to create some flexibility and the opportunity for a new round of intense negotiations. The Taoiseach and the British Prime Minister met in London on 25 January and decided to travel directly to Hillsborough where they convened all party talks.

Following ten days of intensive negotiations, the DUP and Sinn Féin finalised a comprehensive agreement on 5 February 2010, which set up a process aimed at devolving policing powers to Northern Ireland by April 2010 and restoring the functioning of the Executive. This was endorsed by the Northern Ireland Assembly on 9 March 2010 and political control over policing was devolved to Northern Ireland on 12 April 2010, with Alliance party leader David Ford appointed as Justice Minister by cross-community vote. Even if there are some further obstacles to a sustained agreement it is now clear that the main unionist and nationalist parties are willing to share power over policing—thus completing the last piece of the political/institutional framework of the transformation of policing.

CONCLUSION

Unionists and nationalists have not resolved or reconciled their different views on how policing was conducted during the conflict in Northern Ireland, but they have negotiated a series of agreements that puts in place an institutional framework that transcends their former

deeply oppositional stances. Nationalist political discourse no longer characterises policing in counter-insurgency terms, and there is even support for the police in the face of the lingering threat of small and marginal IRA splinter groups who oppose the peace process. There are some continuing issues around human rights, in particular on the use of plastic bullets and control of intelligence agencies, but there is a degree of confidence that the new structures of accountability can progress on those issues. Finally, there is support amongst nationalists for recruitment to the PSNI and this, along with 50:50 recruitment, has seen the service's demography transformed. There is still some debate on whether 50:50 recruitment should continue into the future, until a higher target—perhaps of 40 per cent of members from a nationalist background—is reached, and there is pressure to extend that policy to civilian posts in policing, which remain very unrepresentative of the nationalist community.¹⁶⁹

Unionist political parties have been uncomfortable with some aspects of the process of transformation, but they have also achieved some of their key aims. The two major nationalist parties, representing nearly 100 per cent of nationalist voters, now support the police and police recruitment. Control of policing is now in local hands, even if it must be shared with nationalists, and unionists have avoided the symbolic difficulty of having a Sinn Féin Minister for Justice. They remain uneasy with 50:50 recruitment, with the loss of British flags and symbolism in police stations and with some of the retrospective enquiries into allegations of human-rights abuses. Ultimately, unionists did not have the political power to veto those decisions, which could have been introduced directly by the British government. Where they did have a veto—on devolving power and sharing it with nationalists—they have accepted this political reality as part of the cost of getting and maintaining a local political authority and securing nationalist support for the police. The unionist community in particular has been fragmented by these changes, and a significant minority within that community continues to oppose the underlying logic of the peace process, including the new policing arrangements. This is demonstrated by the formation of a new political party—the Traditional Unionist Voice (TUV)—from among former DUP representatives.¹⁷⁰ It represents a minority view within unionism, but unlike IRA dissidents, has a significant level of public support and will continue to pressurise unionists who participate in the power-sharing institutions with Sinn Féin. In elections to the UK parliament

in May 2010, however, the TUV got fewer votes than anticipated—polling only 3.9% of the vote, compared to 25% for the DUP and 15% for the UUP-British Conservative alliance.

The politics of policing transformation in Northern Ireland, the nature and timing of the Agreements that created the atmosphere for such transformation, and the difficulty in reaching them, are clear evidence that policing powers and structures are an integral part of the constitutional framework of contested societies and not a lower-order matter that can be more easily divided up as ‘spoils of peace’. Each step in the process of change, from the 1998 Agreement, to the debate on the International Commission’s *Report*, to the various inter-party talks and agreements, linked discussion on policing to other issues in the peace process, such as governmental power-sharing, North–South co-operative institutions, demilitarisation by the British Army, arms decommissioning by the IRA and other equality issues such as language rights. Both nationalists and unionists strongly linked police reform to the wider peace process, and progress on policing would have been impossible without agreement on an open-ended constitutional framework that required neither political community to abandon their longer-term political goals. Nationalists did not and would not have abandoned their political campaign for a united Ireland in return for policing reform. Unionists would not have accepted the transformation of policing without a balanced constitutional and political agreement and without the IRA ending its armed campaign.

Without a transformation of Northern Ireland itself there would have been no transformation of policing. The transformation was explicitly linked to the consociational power-sharing model at the heart of the new political structures in Northern Ireland, and the interlinked institutions between the Northern Ireland Executive and the Government of the Ireland. These institutions saw political power shared between the political communities at executive level, and on the policing board, and re-inforced the importance of equality—measured in particular, but not exclusively, as between the two national communities. They also saw a constitutional and institutional reflection of Irish nationalists’ political identity and ambitions, while guaranteeing unionists that a united Ireland would not be enforced without majority support within Northern Ireland itself.

Policing transformation has its own particular agenda, as discussed throughout this book—issues such as accountability structures, human rights, training, management and police culture. These

debates need to draw on international best practice and be adapted to local conditions. The Northern Ireland case can add to the debate on the nature of best practice in a number of these domains. However, most crucially, as a case study the Northern Ireland experience demonstrates that while you can have a ‘police force’ without consent or agreement, you can only have ‘community policing’ and a ‘police service’ in post-conflict societies if policing is embedded in a wider political agreement that deals with the political and social roots of the conflict, and if the structures, symbols and ethos of policing and the composition of the police service all reflect the ethos and spirit of that wider peace agreement.

NOTES

¹ See, for example, Ed Moloney, *The secret history of the IRA* (London: Penguin, Allen Lane, 2002), xv; and Paul Bew, *Irish Times*, 15 May 1998.

² See John Doyle, ‘Governance and citizenship in contested states: the Northern Ireland peace agreement as internationalised governance’, *Irish Studies in International Affairs* 10 (1999), 201–19; John Doyle “‘Towards a lasting peace’?: The Northern Ireland multi-party agreement, referendum and assembly elections of 1998’, *Scottish Affairs* 25 (1998), 1–20. The text of the Agreement is available at: <http://foreignaffairs.gov.ie/uploads/documents/Anglo-Irish/agreement.pdf> (hereafter cited as *Agreement*).

³ Sabine Wichert, *Northern Ireland since 1945* (London: Longman, 1999), 106.

⁴ See <http://www.sinnfein.ie> and <http://www.sdlp.ie>.

⁵ See <http://www.uup.org/> and <http://www.dup.org.uk>.

⁶ Independent Commission on Policing for Northern Ireland, *A new beginning: policing in Northern Ireland*. Report of the Independent Commission on Policing for Northern Ireland (Belfast: HMSO Northern Ireland Office, 1999) (hereafter cited as *Patten Report* or *Report*).

⁷ The proportion of Catholics published as being members of the RUC included Roman Catholics from outside Northern Ireland, who were unlikely to be Irish nationalists. Nationalists make up somewhere between 44% and 48% of the working age population of Northern Ireland (see http://www.equalityni.org/archive/pdf/ResearchUpdate_MonitoringReportNo19_FINAL_101209.pdf). Most nationalists are ‘culturally’ Roman Catholic (even if not personally religious), and likewise most Unionists are ‘culturally’ Protestant. The proportion of each community who support the dominant political ideology of the other, i.e. Roman Catholic unionists and Protestant Irish nationalists, is difficult to estimate, but voting trends and problematic attitude surveys suggest it is in low single figures and similar for each community. At a macro-statistical level, therefore, figures for employment equality (which are collected as ‘Catholic’ and ‘others/Protestant’) are a close approximation for nationalist versus unionist, even if at an individual level the terms are not inter-changeable. However, while unionist Roman Catholics were likely to support and join the police,

Protestants who supported nationalist parties were ideologically less likely to do so. Therefore, the percentage of nationalists (of even the mildest form) in the RUC was likely to be significantly lower than 7.5%.

⁸ See almost every issue of the Sinn Féin newspaper *An Phoblacht*, right through the 1970s and 1980s.

⁹ E.g. Seamus Mallon, *Irish Times*, 6 January 1987; 28 January 1985; 5 October 1984; 29 July 1977.

¹⁰ SDLP, *Towards a new Ireland* (Belfast: SDLP, 1976), 5; for the Sunningdale proposals see Garret FitzGerald, *All in a life: an autobiography* (Dublin: Gill and Macmillan, 1991), 240–1; Graham Ellison and Jim Smyth, *The crowned harp: policing Northern Ireland* (London: Pluto Press, 2000), 88.

¹¹ Denis Faul and Raymond Murray, *The RUC: the black and the blue book* (Dungannon: D. Faul and R. Murray, 1975), 1; available at: <http://cain.ulst.ac.uk/issues/police/docs/faul.htm>.

¹² See, for example, Robert Fisk, *The point of no return: the strike which broke the British in Ulster* (London: André Deutsch, 1975).

¹³ Brendan O' Brien, *The long war: the IRA and Sinn Féin* (New York: Syracuse University Press, 1995), 44.

¹⁴ *The Times* (London) 4 March 1986. The plan to close the port was leaked, see *The Times* (London) 22 February 1986, but little action was taken. There were clashes between the RUC and loyalist protestors on other occasions and the first and only death of a Protestant civilian from a plastic bullet occurred at this time, but the extent of police action was still very different from the policing of nationalist protests and riots in 1981.

¹⁵ See 'In The Line of Fire'—a report on events in Derry, 10–14 July 1996 following from the 'Drumcree Standoff'; and 'One Day in August'—a report on alleged human rights abuses by the RUC during and after the Apprentice Boys march in Derry on 12 August 1995. Both reports are from the Pat Finucane Centre, Derry, and are available at: <http://www.serve.com/pfc/>.

¹⁶ Cited in George Drower, *John Hume: peacemaker* (London: Victor Gollancz, 1995), 74.

¹⁷ *Patten Report*, Paragraphs 12.10 and 12.11.

¹⁸ See Malachi O'Doherty, 'Fear and loathing on the falls road', *Fortnight* no. 304, (March 1992), 23–24; Rachel Monaghan '“An imperfect peace”: paramilitary “punishments” in Northern Ireland', *Terrorism and Political Violence* 16(3) (2004), 439–61, 449; and *An Phoblacht* as late as 16 January 1997.

¹⁹ Seamus Mallon, 'Time to grasp the nettle of policing' *Fortnight* no. 160, (March 1988), 11.

²⁰ The Irish police service.

²¹ House of Commons, col. 55 (15 December 1997).

²² House of Commons, col. 55 (15 December 1997).

²³ For a good overview of these issues, see Ellison and Smyth, *Crowned harp*.

²⁴ For example, Amnesty International, *Report of an Amnesty International mission to Northern Ireland* (28 November–6 December 1977) (London: Amnesty International, International Secretariat, 1978); Amnesty International, United Kingdom, *Killings by security forces in Northern Ireland* (New York: Amnesty International, National Office, 1986); Human Rights Watch, *Human rights in Northern Ireland: a Helsinki Watch report* (New York: Human Rights Watch, 1991).

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²⁵ John Stalker, *Stalker* (London, Penguin, 1989).

²⁶ On 9 November 1988 and 5 May 1994, the Secretary of State for Northern Ireland issued public interest immunity certificates prohibiting the disclosure of sensitive security materials including the Stalker and Sampson reports. http://news.bbc.co.uk/2/hi/uk_news/1312378.stm

²⁷ See Seamus Mallon, *Fortnight* no. 160 (March 1988), 11.

²⁸ See the website of the Pat Finucane Centre, <http://www.serve.com/pfc/>.

²⁹ For example, Human Rights Watch, *Human rights in Northern Ireland: a Helsinki Watch report*; Christine Bell, *Peace agreements and human rights* (Oxford: Oxford University Press, 2003); Brice Dickson, 'Counter-insurgency and human rights in Northern Ireland', *Journal of Strategic Studies* 32 (3) (2009), 475–93; Kadar Asmal, *Shoot to kill* (Cork: Mercier Press, 1985).

³⁰ See note 4 above.

³¹ John Hume, 'Supporting the police in a divided society', *Fortnight* no. 239 (19 May–1 June 1986), 7–8; SDLP, *Policing in Northern Ireland* (Belfast: SDLP, 1995); Sinn Féin, *A policing service for a new future: Sinn Féin's submission to the Commission on Policing* (September 1998).

³² For the most authoritative account of conflict related deaths, including statistical analyses, see David McKittrick, Seamus Kelters, Brian Feeney and Chris Thornton, *Lost Lives: The stories of the men, women and children who died as a result of the Northern Ireland troubles*. (Edinburgh: Mainstream Publishing, 1999).

³³ David Trimble, quoted in *Co. Down Spectator*, 30 January 1976. Trimble was then a leading opponent of power-sharing; he has since become leader of the UUP. Similar views can be found in the following newspaper reports: 'UUP position on attempts to re-build the collapsed 1973 power-sharing executive', *Irish Press*, 30 August 1973; David Trimble, *Co. Down Spectator*, 18 September 1976 and 20 November 1976.; Glen Barr (leader of paramilitary UDA), *Londonderry Sentinel*, 8 December 1976.

³⁴ Peter Robinson, quoted in *Irish News*, 21 March 1989.

³⁵ Oliver Napier (leader of the centrist, pro-Union Alliance Party), *Alliance News*, December 1974. See also Napier's submission to the Atkins talks (a series ultimately unsuccessful inter-party discussions led by Secretary of State for Northern Ireland Humphrey Atkins between January and March 1980); and *Alliance News*, February 1980; Oliver Napier, conference speech, *Alliance News*, May 1982. In addition, see John Cushnahan (Alliance Party leader), NI Assembly, vol. 16, p.1024 (29 June 1983); and John Cushnahan, conference speeches, *Alliance News*, May 1986 and May 1987.

³⁶ *Alliance News*, January 1987.

³⁷ *Alliance News*, May 1987.

³⁸ House of Commons, vol. 248, col. 1051, 27 October 1994.

³⁹ House of Commons, vol. 921, col. 1137, 2 December 1976. The three named were all leading SDLP politicians and all on the record as strongly opposing the IRA armed campaign. The Ulster Defence Regiment (UDR) was a locally recruited (and only locally deployed) British Army regiment.

⁴⁰ House of Commons, vol. 978, col. 718, 7 February 1980.

⁴¹ NI Assembly, vol. 14, p. 113–4, 4 March 1985. Similar views were expressed by: Ian Paisley, NI Assembly, vol. 8, p. 479, 7 February 1984; Ian Paisley, NI Assembly, vol. 9, p. 810, 10 April 1984.

⁴² *Irish Press*, 2 February 1985, my emphasis. Frank Millar was UUP General Secretary 1983–7; he left the UUP in 1987 for a career in journalism and is now London Editor of *Irish Times*. Similar views were expressed by: Peter Robinson, NI Assembly, vol. 13, p. 389, 13 February 1985.

⁴³ *Orange Standard*, August 1985.

⁴⁴ House of Commons, vol. 939, col. 1736, 24 November 1977. Similar views from Thomas Passmore (UUP), NI Assembly, vol. 14, p.374, 13 March 1985.

⁴⁵ House of Commons, vol. 8, col. 1374, 16 July 1981.

⁴⁶ House of Commons, vol. 975, col. 1178, 11 December 1979.

⁴⁷ The term ‘supergrass’ was used to describe former IRA members turned RUC informants who gave evidence in large-scale trials against multiple defendants. The practice of using such informants collapsed when public pressure and judicial unease about the poor quality of ‘evidence’ led to cases being rejected—often after defendants had spent years in prison awaiting trial.

⁴⁸ House of Commons, Standing Committee B, col. 43, 13 December 1990.

⁴⁹ House of Commons, Report of Standing Committee B (NI Emergency Provisions Bill), col. 104, 23 January 1996.

⁵⁰ For example, Jim Wells (DUP), NI Assembly, vol. 7, pp. 911–2, 15 November 1983. Wells was DUP assembly member 1982–6 and 1998 to date. See also, statements from Paisley, Maginnis and Kilfedder, House of Commons, vol. 128, cols 427–8, 25 February 1988.

⁵¹ NI Assembly, vol. 10, p. 484, 6 June 1984.

⁵² House of Commons, vol. 902, col. 709, 11 December 1975. For similar views, see: William Craig, House of Commons, vol. 959, col. 1515, 6 December 1978; Peter Robinson, NI Assembly, vol. 4, p.31, 22 November 1982; and Ian Paisley, House of Commons, vol. 193, col. 566, 20 June 1991.

⁵³ Oliver Cromwell’s armies are infamous in Irish nationalist discourse for the brutality of their suppression of Irish opposition to the consolidation of British rule in 1649–50, in particular the massacre of almost the entire population of towns of Drogheda and Wexford. Bradford was speaking in the House of Commons, see vol. 922, col. 2028, 17 December 1976.

⁵⁴ NI Assembly, vol. 12, p. 621, 12 December 1984.

⁵⁵ Peter Robinson, NI Assembly, vol. 4, p.31, 22 November 1982.

⁵⁶ House of Commons, vol. 146, col. 925, 8 March 1989. Similar views had been expressed by: Harold McCusker, House of Commons, vol. 969, col. 49, 5 July 1979. For further examples of the general support for shoot-to-kill operations, see: Ian Paisley, Jim Kilfedder and Ken Maginnis, House of Commons, vol. 128, cols 427–8, 25 February 1988.

⁵⁷ *Belfast Telegraph*, 3 February 1976. Baird was leader of the United Ulster Unionist Party 1977–84. The UUUP was founded in 1975 as a hard-line splinter group from Vanguard, itself an anti-power-sharing splinter group from the UUP. Mid-Ulster MP John Dunlop, who had won as a Vanguard candidate in the 1974 elections, held the seat as a UUUP member in 1979, thanks to a Unionist pact. The party was wiped out in the 1982 Assembly election and Dunlop did not stand again. South Armagh was an area of strong IRA support and activity.

⁵⁸ House of Commons, vol. 204, col. 1099, 27 February 1992. He also commends the British Army’s restraint in only shooting four out of twelve IRA members allegedly present.

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- ⁵⁹ *Irish News*, 7 March 1989. Also, David Trimble, *Irish News*, 14 January 1993.
- ⁶⁰ Robert McCartney, NI Assembly, vol. 4, p. 340, 7 December 1982.
- ⁶¹ E.g. John Alderdice (party leader 1987–98), conference speech, *Alliance News*, April 1989.
- ⁶² *Alliance News*, September 1984.
- ⁶³ *Sunday Tribune*, 10 May 1987. Similar sentiments had earlier been expressed by Oliver Napier, NI Assembly, vol. 14, p.400, 13 March 1985.
- ⁶⁴ For example, Jim Kilfedder, House of Commons, vol. 849, col. 1497, 31 January 1973; Robert Bradford, House of Commons, vol. 959, col. 1564, 6 December 1978; William Ross, House of Commons, vol. 70, col. 655, 20 December 1984; Jim Molyneaux, House of Commons, vol. 203, col. 1156, 13 February 1992; Hugh Smyth (PUP), NI Forum, vol. 58, col. 39, 23 January 1998.
- ⁶⁵ Robert Bradford, House of Commons, vol. 899, col. 283, 4 November 1975; Jim Molyneaux, House of Commons, vol. 922, col. 1961, 17 December 1976; William Ross, House of Commons, vol. 876, col. 1233, 9 July 1974; Ken Maginnis (UUP security spokesperson), House of Commons, col 64, 15 December 1997.
- ⁶⁶ For example, House of Commons, vol. 882, col. 858, 28 November 1974; vol. 988, col. 622, 9 July 1980.
- ⁶⁷ *Ulster Review*, Autumn 1996. In the same issue, Patricia Campbell (UUP) claimed that ‘less than 40% of Ulster’s Roman Catholics want anything to do with a United Ireland’.
- ⁶⁸ Personal conversations with the late John Whyte. See also John Whyte, *Interpreting Northern Ireland* (Oxford: Clarendon press, 1990).
- ⁶⁹ Graham Ellison. ‘Reflecting all shades of opinion’, *British Journal of Criminology* 40 (1) 2000, 88–111.
- ⁷⁰ See *Patten Report* and Ellison and Smyth, *Crowned harp*, 150–76, and John McGarry and Brendan O’ Leary, *Policing Northern Ireland: proposals for a new start*. (Belfast: The Blackstaff Press, 1999), 6–24.
- ⁷¹ *Newsletter*, 11 December 1985.
- ⁷² The voting system used in Northern Ireland’s local, EU and assembly elections. Voters rank all candidates (or as many as they wish) in order and can therefore cross party boundaries. For a recent analysis, see Michael O’Kelly, John Doyle and Philip Boland, ‘How many ways can you look at a proportion? Cross-community vote transfers in Northern Ireland before and after the Belfast Agreement’, *Journal of the Royal Statistical Society, Series A*, 173(1) (2010), 215–35.
- ⁷³ *Orange Standard*, July 1986.
- ⁷⁴ House of Commons, Standing Committee B, col. 177, 22 January 1991.
- ⁷⁵ *Irish Times*, 19 February 1994.
- ⁷⁶ House of Commons, vol. 876, col. 1233, 9 July 1974. Ross was an MP and leading member of the UUP until the late 1990s.
- ⁷⁷ John McCrea, County Grand Master Belfast, Orange Order, *Orange Standard*, March 1986.
- ⁷⁸ NI Assembly, vol. 15, p. 397, 28 May 1985. Kane is a former general-secretary of the DUP and Assembly member 1982–6. Owen Carron was at the time a prominent member of the Sinn Féin leadership. He had been elected as a Westminster MP for Fermanagh-South Tyrone in the by-election caused by the death of IRA hunger-striker and MP, Bobby Sands, on a non-party ticket in support of the hunger-striking republican prisoners.

- ⁷⁹ NI Assembly, vol. 15, p. 398, 28 May 1985.
- ⁸⁰ *Irish News*, 1 August 1995.
- ⁸¹ *Newsletter*, 13 August 1996.
- ⁸² For example, Robert Bradford, House of Commons, vol. 964, col. 1612, 21 March 1979. Also, Unionist Task Force Report, *Irish Times*, 3 July 1987.
- ⁸³ *Newsletter*, 17 August 1987. Similar references were made by: Ian Paisley, House of Commons, vol. 833, col. 1131, 20 March 1972; Brian Faulkner, *Irish News*, 29 May 1973; Peter Robinson, *Newsletter*, 26 November 1974; David Calvert (DUP), NI Assembly, vol. 4, p.73, 22 November 1982.
- ⁸⁴ Andrew Mack, 'Why big nations lose small wars: the politics of asymmetric conflict', *World Politics* 27(2) (1975), 175–200.
- ⁸⁵ Martin Smyth, Introduction to Orange Order, pamphlet, *The Twelfth*, 1982.
- ⁸⁶ *Protestant Telegraph*, 15 June 1974. Smyth was DUP Assembly Member 1973–4 and Convention Member 1975–6. He was secretary of the UUUC in the Northern Ireland Convention (1975–6). He joined the UUP 1977.
- ⁸⁷ *Sunday Tribune*, 7 September 1986.
- ⁸⁸ House of Commons, vol. 964, col. 1612, 21 March 1979.
- ⁸⁹ House of Commons, vol. 988, col. 647, 9 July 1980.
- ⁹⁰ NI Assembly, vol. 4, p. 342, 7 December 1982.
- ⁹¹ NI Assembly, vol. 11, p.357, 17 October 1984.
- ⁹² For example, '82 percent of Catholics believe that the RUC must be reformed, replaced or disbanded', *Irish Times*, 6 December 1996. See also, Seamus Mallon, House of Commons, vol. 303, col. 64, 15 December 1997; Cllr. Martin Morgan (SDLP), *Belfast Telegraph*, 26 January 1995; and Sinn Féin, *A policing service for a new future: Sinn Féin's submission to the Commission on Policing*, September 1998.
- ⁹³ For example, Falls Community Council, 'A new beginning: a new Police Service. A submission to the Independent Commission on Policing', 15 September 1998.
- ⁹⁴ Gerard Murray and Jonathan Tonge, *Sinn Féin and the SDLP: from alienation to participation* (Dublin: O'Brien Press, 2005), 206.
- ⁹⁵ See Seamus Mallon (SDLP Deputy Leader) *Irish Times* 7, 9 and 21 November 1994, for early SDLP responses to the IRA ceasefire, which was announced on 31 August 1994. For the Sinn Féin campaign, see regular articles in *An Phoblacht* in late 1994 and early 1995.
- ⁹⁶ House of Commons, vol. 193, col. 568, 20 June 1991. The 'Brook Talks' were a series of inter-party talks convened by British Secretary of State for Northern Ireland Peter Brook (and his successor Patrick Mayhew) and held in 1991–92. The talks excluded Sinn Féin and failed to make any significant progress. Their failure prompted SDLP leader John Hume to engage in a series of secret discussions with Sinn Féin.
- ⁹⁷ For example, Ken Maginnis, *Belfast Telegraph* and *Irish News*, 3 January 1995; *Newsletter*, 4 January 1995; *Irish News*, 14 November 1995; David Trimble, House of Commons, col. 96, 15 December 1997 and *Irish Times*, 10 January 1995; Jim Molyneaux, Speech to UUC AGM, 18 March 1995; Ian Paisley Jnr, *Newsletter*, 2 February 1996, *Irish News*, 3 January 1995.
- ⁹⁸ Ken Maginnis, *Newsletter*, 5 November 1996; Ian Paisley, *Irish Times*, 5 May 1997; Jim Rodgers (UUP), *Belfast Telegraph*, 28 February 1995; Ian Paisley Jnr, *Belfast Telegraph*, 28 February 1995; John Taylor and Ian Paisley Jnr, *Irish News*, 3 February 1996; David Trimble, House of Commons, vol. 303, col. 96, 15 December 1997;

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Progressive Unionist Party, Submission to the Policing Commission, 18 November 1998.

⁹⁹ *Irish News*, 17 December 1997.

¹⁰⁰ House of Commons, vol. 303, col. 61, 15 December 1997.

¹⁰¹ House of Commons, vol. 303, col. 63, 15 December 1997.

¹⁰² House of Commons, vol. 303, cols. 63–4, 15 December 1997.

¹⁰³ House of Commons, vol. 303, col. 69, 15 December 1997.

¹⁰⁴ NI Forum, vol. 58, p. 44, 23 January 1998. Weir was a high-profile, middle-ranking UUP member, who was expelled for failing to vote for party leader David Trimble to become First Minister of Northern Ireland in 2001, due to differences over political strategy on the peace process. Weir joined the DUP in 2002.

¹⁰⁵ NI Forum, vol. 58, p. 39, 23 January 1998. Hugh Smyth was a leading member of the Progressive Unionist Party—a small party linked to the illegal loyalist paramilitary Ulster Volunteer Force (UVF).

¹⁰⁶ NI Forum, vol. 58, p. 25, 23 January 1998. They received 3.5 percent support in the 1996 Forum elections, but this has declined to just over half of one per cent in 2007.

¹⁰⁷ Party leader, John Alderdice, *Irish Times*, 10 January 1995.

¹⁰⁸ Alliance Party of Northern Ireland, *Election Manifesto*, (Belfast: APNI, 1997).

¹⁰⁹ Alliance Party, *Continuity and change: an Alliance Party submission to the Commission on Policing* published 15 October 1998.

¹¹⁰ *Agreement*, p.27.

¹¹¹ *Agreement*, Annex A.

¹¹² *Newsletter*, 18 April 1998. This analysis is confirmed by Professor Conor Gearty of Kings College London, *Irish Times*, 6 May 1998. It is also supported by Professor Paul Bew, Queen's University Belfast, *Irish Times*, 15 April 1998.

¹¹³ *Patten Report*

¹¹⁴ All from *Irish Times* coverage, 10 September 1999.

¹¹⁵ *Irish Times*, 10 September 1999.

¹¹⁶ *Irish Times*, 10 September 1999.

¹¹⁷ See *Irish Times*, 14 September, 6 November, 2 December; Debate in NI Assembly, 24 January 2000; House of Commons Debates vol 345, 6 April 2000.

¹¹⁸ See *Irish Times*, 2 December 1999; 20 December 1999.

¹¹⁹ *Irish Times*, 28 September 1999.

¹²⁰ *Irish Times*, 7 December 1999.

¹²¹ *Irish Times*, 11 September 1999.

¹²² *Irish Times*, 1 December 1999; from Sinn Fein Response to the Patten Commission, 1999.

¹²³ *Irish Times*, 10 April 2000

¹²⁴ See for example *Irish Times* 28 January 2000; debate in Northern Ireland Assembly 24 January 2000.

¹²⁵ Implementation Plan, available at: <http://cain.ulst.ac.uk/issues/police/patten/nio190102.pdf> and Bill itself, available at: <http://www.parliament.the-stationery-office.co.uk/pa/cm199900/cmbills/125/2000125.htm>

¹²⁶ *Irish Times*, 18 May 2000; 22 May 2000; 6 June 2000.

¹²⁷ See for example *Irish Times*, 18 May 2000; 31 May 2000; 1 June 2000.

¹²⁸ *Irish Times* 3 June 2000.

¹²⁹ *Irish Times*, 22 May 2000.

¹³⁰ *Irish Times*, 18 May 2000.

¹³¹ *Irish Times*, 13 June 2000.

¹³² *Irish Times*, 18 May 2000; 11 July 2000.

¹³³ *Irish Times* 21 September 2000.

¹³⁴ See, in addition to nationalist comments in above notes, Labour MP Kevin McNamara, *Irish Times* 31 May 2000; Amnesty International and the Committee on the Administration of Justice, *Irish Times* 6 June 2000; Senator Edward Kennedy, *Irish Times* 11 October 2000; Professor Paddy Hillyard, *Irish Times* 2 August 2000; Professor Brendan O Leary *Irish Times* 28 July 2000; Paddy Hillyard and Mike Tomlinson, 'Patterns of Policing and Policing Patten', *Journal of Law and Society* 27(3) (2000), 394–415.

¹³⁵ Ultimately delivered on 17 August 2001, available at: <http://cain.ulst.ac.uk/issues/police/patten/patten2001.pdf>.

¹³⁶ The British government later reneged on that agreement when Judge Corry unexpectedly (from the government's perspective) did call for an inquiry. This led to a very rare case whereby the Irish parliament passed a formal resolution stating it 'deeply regrets the British Government's failure to honour its commitment to implement Judge Cory's recommendation', *Dáil Debates*, vol 616 (2), 8 March 2006.

¹³⁷ See the SDLP response to the proposals for the new police service, as outlined on 20 August 2001—in effect setting out the improvements in the legislation that allowed the party to appoint members to the policing board. The response is available at: <http://cain.ulst.ac.uk/issues/police/docs/sdlp200801.htm>.

¹³⁸ Seamus Mallon, *Irish Times*, 21 August 2000.

¹³⁹ *Irish Times*, 25 August 2001; 27 November 2001.

¹⁴⁰ See the published summary reports available at <http://cain.ulst.ac.uk/issues/police/police.htm>.

¹⁴¹ *Irish Times*, 25 August 2001

¹⁴² *Irish Times*, 22 September 2001.

¹⁴³ See http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/1707059.stm.

¹⁴⁴ In fact, Sinn Féin became the largest nationalist party for the first time at the June 2001 British general (Westminster) election, when it polled 21.7 percent to the SDLP's 21.0 percent of the vote. The gap widened over the following years, and in the 2003 NI Assembly election, SF polled 23.5 percent to the SDLP's 17 percent. Elections results are available at: <http://www.ark.ac.uk/elections>.

¹⁴⁵ Meaning, in practice, the reduction in troop numbers, an end to army patrolling, the return of land taken over by the British Army and the dismantling of the highly visible and highly symbolic series of tall watchtowers in an area along the border with the Irish Republic.

¹⁴⁶ See http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/4283740.stm. For the reports on decommissioning, see: <http://cain.ulst.ac.uk/events/peace/decommission/iicdreports.htm>.

¹⁴⁷ The full text of this agreement is available at: http://www.dfa.ie/uploads/documents/st_andrews_agreement.pdf (hereafter cited as *St Andrews Agreement*).

¹⁴⁸ *St Andrews Agreement*, paragraph 7.

¹⁴⁹ *Irish Times*, 3 November 2006.

¹⁵⁰ *Irish Times*, 14 November 2006.

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¹⁵¹ *Patten Report*, Paragraphs 12.10 and 12.11.

¹⁵² *Irish Times*, 11 January 2007.

¹⁵³ *An Phoblacht*, 11 January 2007. Available at: <http://www.anphoblacht.com/>.

¹⁵⁴ *Irish Times*, 25 January 2007.

¹⁵⁵ For example, *An Phoblacht*, 11, 18 and 27 January 2007.

¹⁵⁶ *An Phoblacht*, 1 February 2007.

¹⁵⁷ *Irish Times*, 30 January 2007.

¹⁵⁸ *Irish Times*, 30 January 2007.

¹⁵⁹ See, for example, *Irish Times* 10 March 2007.

¹⁶⁰ *Irish Times*, 27 March 2007.

¹⁶¹ *Irish Times*, 24 April 2007.

¹⁶² For example, Ian Paisley jnr *Irish Times*, 5 June 2007; Nigel Dodds 1 October 2007.

¹⁶³ *Irish Times*, 4 July 2007.

¹⁶⁴ *Irish Times*, 3 March 2008 and 4 September 2008.

¹⁶⁵ *Irish Times*, 1 July 2008, 27 October 2008.

¹⁶⁶ *Irish Times*, 3 November 2008. The NI Executive has no tax-raising powers and the DUP wanted agreement on a multi-annual police budget from the British government.

¹⁶⁷ *Irish Times*, 4 September 2008.

¹⁶⁸ The Independent Monitoring Commission was set up by the British and Irish governments on 7 January 2004 to help promote the establishment of stable and inclusive devolved government in a peaceful Northern Ireland by reporting to the governments on such issues as activity by paramilitary groups and the normalisation of security measures. The four Commissioners are entirely independent of both governments. See <http://www.independentmonitoringcommission.org/>.

¹⁶⁹ As of February 2010, only 17.5 percent of civilian police staff were from a Catholic background. See http://www.psnl.police.uk/index/updates/updates_statistics/updates_workforce_composition_figures.htm.

¹⁷⁰ See <http://www.tuv.org.uk/>.