

Collusion, Counterinsurgency and Colonialism: The Imperial Roots of Contemporary State Violence

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Abstract:

This article examines the nature of collusion between the British state and paramilitary organisations during the conflict in Northern Ireland in the context of British counterinsurgency theory and practices in colonial campaigns. To do so it will briefly outline the pattern and logic of collusion in Northern Ireland before examining some of the key works in the tradition of British counterinsurgency theorists reflecting on earlier imperial practices. Collusion will be understood as an expedient coercive state practice, premised on a 'doctrine of necessity', designed to remove 'enemies' and induce fear in a target population via a strategy of assassination in which the appearance of adherence to the rule of law is a political end shaping the specific forms of state violence involved. Such a practice, it will be argued, is not an aberration in the tradition of British state counterinsurgency violence, it is exemplary.

Keywords: Collusion, Counterinsurgency, Imperialism, State Violence, Northern Ireland

Introduction: Collusion and Conflict in the North of Ireland

Despite its considerable failings the 2012 release of the de Silva report into the loyalist killing of human rights lawyer Pat Finucane in his Belfast home in 1989 confirmed one thing beyond any doubt; collusion between British military intelligence and RUC Special Branch with loyalist paramilitaries during the conflict in the North of Ireland was widespread, institutionalised and strategic in nature. While long suspected, the true scale of such collusion was still something of a shock; not least the astonishing revelation that over 85% of all the intelligence held by loyalists in the late 1980s and used in the planning of an escalating campaign of sectarian killing and targeted assassinations originated from state intelligence sources.¹ Indeed, this may well be an *underestimation*. At the centre of these activities was the British military agent Brian Nelson who, as the Chief Intelligence Officer for the Ulster Defence Association (UDA), was pivotal in disseminating this tsunami of state-sourced information used in dozens of subsequent attacks and killings. Overly cautious and at times contradictory in his conclusions, de Silva still strongly suspected the passing on of intelligence by Nelson, particularly to target 'republican personalities' was instigated by and done at the behest of his handlers in the Force Research Unit (FRU), the key British Army intelligence unit in the North.² Others would much go further.

Similarly, while de Silva concludes otherwise, outstanding evidence continues to suggest MI5 involvement (via Nelson) in the importation of a substantial cache of weapons from South Africa in 1987 that facilitated the escalation of loyalist killings thereafter; to the

point that by 1992 loyalists were responsible for more annual deaths than anyone else.³ At the same time, and despite extended discussions amongst members of the British Government, senior civil servants and legal advisers and high ranking members of the British Army, intelligence services and Royal Ulster Constabulary (RUC), rules governing the actions of agents and informers that might have prevented such illegal activities were not introduced until after the conflict was over.⁴ The picture that emerges is under the guidance of state agencies such as the FRU, and via the work of agents like Nelson, loyalist paramilitary groups became a more deadly, sometimes more targeted force. The lethal capacity of loyalists was increased, the possibility of preventing attacks on 'republican personalities' significantly reduced and their killing, with the perpetrators escaping capture, made far more likely. We might conclude this was the result of what one author called a growing British State 'interest in the increased military professionalisation' of loyalists.⁵

How should we understand such things and what might they tell us more broadly about the British state's deployment of organised violence in counterinsurgency campaigns? The aim of this article is to place the sort of collusive practices carried out in Northern Ireland described above into the longer historical context of British colonialism and counterinsurgency thought and practice. To do so it will be divided into five parts. First, the article will examine what is meant by collusion before briefly exploring the links between collusion and shoot-to-kill as aspects of British counterinsurgency policy in the North, particularly in the late 1980s and early 1990s. The article will then examine in turn the works of three key writers in the tradition of British counterinsurgency theory; Charles E. Callwell (1859-1928), Charles Gwynn (1870-1963) and Frank Kitson (1926-).⁶ Each has been selected for several reasons. First, their careers cover the span of a century of British counterinsurgency theory and practice and their writings are regarded (not least by the British Army itself) as central to a tradition of theorising 'irregular warfare'. Second, their works illuminate a series of themes essential for understanding the character of British counterinsurgency theory and how this may underpin a practice such as collusion. Finally each, in their own way, provides a link and connection between colonial conflicts elsewhere, counterinsurgency and Ireland.

At the core of the article lies a question; what made collusion as a form of state practice possible? There is no simple answer and only one of several contributing factors will be focussed on here. It will be argued that the long term practices and forms of thought evident in the tradition of British counterinsurgency (COIN) are a necessary if insufficient condition to explain collusion. In doing so it aims to challenge two long-standing myths of British COIN; that it is characterised by a commitment to a minimum force doctrine combined with a non-coercive hearts and minds approach, and constrained by adherence to the rule of law. Rather, the article will make a case that the realities of the British COIN tradition form a critical backdrop to the ways of thinking and acting evidenced in the collusive practices of state actors in Northern Ireland. Illuminating key dimensions of British counterinsurgency casts a light on how collusion, as an example of covert, coercive state violence, could come to be. The aim is not to suggest there is a direct or simple cause-and-

effect relationship between this body of counterinsurgency theory and collusion. Rather, the threads identified within this lineage of British COIN illustrate a series of linkages, paradigms of theory and practice, that weave the fabric of a longer term cultural and institutional context within which collusion becomes possible; analogous, in many ways, to the corporate memory and institutional culture that facilitated the use of torture by 'cruel Britannia'.⁷ As a form of state practice, it will be argued, collusion, far from being an aberration in the tradition of British state counterinsurgency violence, is exemplary.

Understanding Collusion

First, though, we might ask, what is 'collusion'? The origin of its use to describe state-sponsored violence and secret collaboration between state forces and paramilitary groups in Northern Ireland is a little obscure. Certainly by the late 1980s and 1990s, collusion had entered the mainstream local political lexicon as the weight of such allegations (particularly of state forces working with loyalist groups) mounted. A 1995 *Relatives for Justice* report described collusion as 'a sinister indirect campaign of murder which involved the manipulation of loyalist paramilitaries who were provided with security information and who then killed with the knowledge that they were free from prosecution'.⁸ The first official definition contained in the *Stevens 3 Inquiry*, (established in 1999 following fresh evidence surrounding the killing of Pat Finucane) described collusion in terms of a series of 'serious acts and omissions' by members of the RUC that resulted in people having been killed or seriously injured.⁹ The most substantive official definition of collusion is that provided by retired Canadian Judge Peter Cory following initial investigations he chaired at the behest of the British and Irish Governments in 2002 into several high profile collusion cases.

For Cory, synonyms of the verb 'collude' ('to conspire, to collaborate, to plot, to scheme') formed the basis of his deliberately broad view. These include acts of 'connivance', turning a blind eye, failing to take action against known wrongdoing and 'to have a secret understanding' with those 'one ought morally, or officially or legally to oppose'.¹⁰ Any lesser definition, Cory argued, would fail to instil or re-establish public confidence in the police, the army and the rule of law. Despite this, recent years have seen a concerted attempt, by Government officials and statutory bodies charged with dealing with the past, to curtail and limit this understanding of collusion; part of a wider post-conflict 'politics of victimhood', a widely criticised 'roll-back' of human rights gains made in the wake of the Good Friday Agreement and an effort to lessen the critical scrutiny of state actions.¹¹ A rare exception to this trend was the Smithwick Tribunal, established by the Irish Government to investigate allegations of collusion between the Republic's police force and the IRA in the 1989 killing of two senior RUC officers.¹²

Following both Cory and Smithwick, state collusion is understood as the involvement of state agents (members of the police, army, prison and intelligence services) or state officials (Government ministers, legal officers, civil servants), directly or indirectly, through commission, omission, collaboration or connivance, with armed non-state groups or agents,

in wrongful acts usually (although not exclusively) involving or related to non-state political violence.¹³ It is also important that collusion should not simply be attributed to, or examined in terms of individual actions or attitudes. Collusion has been ideologically and historically framed and shaped by the structures of a prevailing social order and a specific complex of power relations. It occurs within particular institutional settings, not least those of the British military, complete with its traditions and 'corporate memory'. At times collusion is the outcome of the instrumental logic of those institutions, evidenced in broad patterns of institutional policies and practices. What we can therefore understand as institutional collusion might be defined in similar terms to institutional racism where patterns of such wrongful acts or omissions 'overtly or covertly reside in the policies, procedures or operations and culture of public or private institutions' forming a set of practices 'inherited in the apparatus of the state and the structures of society'.¹⁴

Counter-insurgency, Shoot to Kill and Collusion: Strategies of Extra-Judicial Killing?

Collusion should not be seen in isolation nor as a practice restricted to the 'endgame' of the Northern Ireland conflict. Throughout three decades a range of military and counterinsurgency strategies were employed by the state and the story of covert state activity and collusion in Northern Ireland goes back to at least the early 1970s with, for example, the creation of the Military Reaction Force (MRF). The MRF was a covert British Army intelligence unit, precursor to those such as the FRU to follow, consisting of members of the British Army in plain clothes operating as a 'pseudo-gang' involved not only in infiltration and intelligence-gathering but direct attacks and assassinations; some of an avowedly sectarian nature.¹⁵ As one former member recently revealed to a *BBC Panorama* documentary; 'we [MRF] were not there to act like an army unit. We were there to act like a terror group'.¹⁶ There are allegations such units worked in tandem with loyalist paramilitaries in some of the most lethal events of the period; such as the McGurk's bar bombing in 1971 and the Dublin-Monaghan bombings of 1974.¹⁷

Formal and informal collusion between loyalist paramilitaries and locally-recruited state forces, particularly the Ulster Defence Regiment (UDR), was rampant.¹⁸ Most notoriously, between 1971 and 1978 a group of loyalists known as the 'Glennane Gang' killed some 120 people in counties Tyrone and Armagh. Many of those directly involved were members of the RUC and the UDR and there is substantial evidence they received help and support from higher up the chain of command in what amounted to a campaign of total war.¹⁹ Collusion also played its part in loyalist targeting and assassination of prominent political activists in the late 1970s and early 1980s (notably around the H-block campaign) including the killings of independent councillor John Turley, and of well-known republicans such as Miriam Daly, Ronnie Bunting and Noel Lyttle as well as the attempted killing of Bernadette McAliskey in 1981.²⁰

Collusion needs also be seen in tandem with evidence of a 'shoot-to-kill' policy conducted by state forces during the 1980s and early 1990s. Again, allegations of targeted assassinations undertaken by specialist military units (such as the SAS) date back to the 1970s. However a more comprehensive strategy emerged from the early 1980s onward, spearheaded by the SAS as well as militarised units within the police force.²¹ Shoot-to-kill incidents invariably involved republicans rather than loyalists and many victims were unarmed. The tactic of 'set-piece killings', planned ambushes undertaken by SAS units, was particularly concentrated in rural areas where the IRA had been highly active.²² For example, in East Tyrone, the pattern of set-piece killings points to a deliberate campaign of extra-judicial killing, with an intensification of such attacks launched from the mid-1980s onwards. In 1987 this resulted in the death of eight IRA Volunteers at Loughgall (and another uninvolved civilian) following an SAS ambush; the single largest loss of life suffered by the IRA since the 1920s. Republican combatants, political activists, ex-prisoners and family members were also targeted and killed by loyalists in Mid-Ulster on a scale previously unseen. Many were killed by the Mid-Ulster UVF, led by the loyalist Billy Wright who was himself later killed in prison amid claims of collusion. Allegations of collusion have long been made in many of these Mid-Ulster loyalist killings carried out in the period between 1988 and 1994. The ability of loyalists to successfully target so many republicans in East Tyrone and South Derry during this period have led to accusations they were provided with intelligence and allowed access and exit routes by state agencies. Many of these victims were also killed by weapons from the 1987 South African weapons shipment. In some cases (such as that of Roseanne Mallon, shot dead by the UVF in May 1994) British military personnel were close to the scene at the time of the killing.²³ Of course these actions were taking place at the very same time as the FRU-inspired activities of Brian Nelson. Loyalists expressly viewed such attacks as designed to intimidate republican communities. Evidence of collusion suggests that logic was shared by the state.

At the core of such thinking was the aim of making loyalist groups a more focussed and deadly counterinsurgency tool; a perspective exemplified in the attitudes and actions of the Head of the FRU at the time of the killing of Pat Finucane, Colonel Gordon Kerr. For example, when explaining why such effort was made to re-recruit Brian Nelson in 1985 (when loyalist violence was actually at a very low ebb) and manoeuvre him into the position of Chief Intelligence Officer, Kerr argued it was to 'persuade the UDA to centralise their targeting activity through Nelson and to concentrate their targeting on known PIRA activists'.²⁴ When later Nelson was known by his FRU handlers to be passing targeting information to the 'more aggressive' UVF (which they previously lacked) even de Silva concludes this was no strategy to 'save lives [but to] assist... in carrying out attacks on republicans'.²⁵ That such an approach paralleled an intensifying loyalist campaign of nakedly sectarian assassination is testament to what the logic of 'necessity' actually entailed. As a practice collusion might then best be understood as a covert, intelligence-led form of state-inspired or state-directed violence, involving the use of locally recruited 'militia' forces in a campaign that could at one and the same time remove 'enemies', intimidate a localised

population and undermine their 'will to resist' via a campaign of assassination while preserving the façade of adherence to the rule of law. If such is the case, we might now ask, is the attitude of a Gordon Kerr, or evidence of the sort of practices carried out in the North, at odds with or redolent of the 'calibration of lethal force' within the tradition British counterinsurgency?²⁶

British Counterinsurgency, Colonialism and Ireland

Charles Callwell and 'Small Wars': 'Moral Force' and Instilling Fear

The theory, as well as the practice of British counterinsurgency has deep imperial roots although until relatively recently this tradition of 'warrior-scholarship' rarely mentioned Ireland. From the outset however, counterinsurgency thinking, colonialism and Ireland were intimately interlinked. The current British Army field manual on counter-insurgency, authored by the military's 'pre-eminent doctrine writer' Brigadier Gavin Bulloch (who himself served during the conflict in the North) charts the foundation of British COIN from the publication of Major-General Sir Charles E. Callwell's *Small Wars: Their Principles and Practice* in 1896.²⁷ Appearing at the height of Late Victorian imperial hubris *Small Wars* became the standard text on counterinsurgency for the British Army up until the Second World War and 'firmly established [Callwell's] reputation as the army's foremost expert on colonial warfare'.²⁸ Indeed the post-9/11 US and British invasion and occupation of Afghanistan and Iraq saw a resurgence of interest in *Small Wars* and cemented Callwell's 'credentials as the founding father of modern counter-insurgency'.²⁹

Small Wars makes no mention of Ireland but there is a considerable Irish connection through its author. Charles Callwell was of solidly Ulster capital and Anglo-Irish landed stock.³⁰ His family home was in Ballycastle, Co. Antrim and his father was a prominent Belfast-based businessman, his mother from a Galway landed family.³¹ Callwell himself was one of a generation of Anglo-Irish military men who rose to influential high office within the upper echelons of the British Army in the period prior to the First World War.³² He was particularly close to the most prominent, powerful and highly political of this coterie of Unionist senior military figures, one time Chief of the Imperial General Staff Field Marshall Sir Henry Wilson, 'whom he [Callwell] had known since boyhood'.³³ Wilson played a leading behind-the-scenes role encouraging the Curragh Mutiny and Unionist opposition to Home Rule in March 1914.³⁴ Following the introduction of partition Wilson was elected Unionist MP for North Down in 1922 and appointed senior military adviser to the newly installed Northern Ireland Government, to act as the 'strong man of Ulster'.³⁵ A few months later he was assassinated by the IRA and it was his 'fellow Irish Unionist and war veteran' Callwell who 'devoutly compiled' and published Wilson's controversial *Life and Letters*.³⁶

His own experience working in the intelligence branch of the War Office and earlier as a 'soldier of empire' in Afghanistan and South Africa greatly informed Callwell's views on the conduct of *Small Wars*. In the latter, for example, he led a mobile column (apparently

with little success) 'hunting down elusive and widely scattered Boer commandos' while serving under Lord Roberts, another powerful Anglo-Irish officer and Wilson's benefactor who was himself at one point touted as a possible leader of the nascent Ulster Volunteer Force.³⁷ *Small Wars* was also a compendium of various works on 'irregular warfare' and a study of not only British but also French, German and Russian colonial campaigns (as well as the genocidal efforts of the US against 'Red Indians'). In essence, for Callwell, 'small wars' meant imperial and colonial wars and his lessons were primarily aimed at a British Army operating as an 'imperial police force'.³⁸ In this light, the absence of Ireland from the pages of *Small Wars* is perhaps all the more conspicuous as a result.

For Callwell, the decisive factor in achieving victory in these conflicts that 'dog the footsteps of the pioneers of civilisation', fought against 'lesser races' and 'savage enemies' was what he termed the 'moral force of civilisation'.³⁹ Indeed this idea of 'moral force' was central to his thinking, and more important as a foundation for the development of British COIN theory than any conception of 'minimum force'. More so than in conventional warfare, Callwell argued, force was to be used less for outright military victory than for its impact on insurgents and their base of popular support. This is what Callwell referred to as the 'moral effect' of organised violence. 'Moral force', he argued, was 'even more potent than physical force' in defeating colonial insurgents. Here 'moral force' may be taken as a synonym for instilling a sense of awestruck fear. As Callwell put it, in campaigns against 'savages and guerrillas' the important thing was to develop a 'system of overawing and terrifying [because that was] the great object always to be kept in view'.⁴⁰ In turn, Callwell's entire conception of the 'moral effect' of such counterinsurgency violence rested on the premise that the inherent inferiority of 'lesser peoples' meant they lacked the moral character and fibre that civilisation bestowed on imperial powers. The 'lower races [were] impressionable' and force was to be used as they 'must be made to feel a moral inferiority throughout' and so come to 'recognise that the forces of civilisation are dominant and not to be denied'.⁴¹ This was in essence a 'shock and awe' strategy, designed to ensure that the uncivilised or 'semi-civilised' enemy 'maintain his respect for the forces of civilisation'.⁴² In this sense, social Darwinian racism shaped the origins of modern counterinsurgency thought.⁴³

Conceiving counterinsurgency force as being directed at a 'moral effect', to impose itself upon the imagination of a colonised people, was also to understand it as a form of 'exemplary violence' or a 'performative of power'.⁴⁴ Nor was this a 'minimum force' doctrine. Callwell was a stout advocate of a strategy of 'butcher and bolt'; raids undertaken to destroy crops, livestock and buildings, to raze whole villages to the ground and lay waste to conquered areas so 'fanatics and savages [could be] thoroughly brought to book and cowed... [so they would not] rise up again'.⁴⁵ On the other hand, while not 'minimal', this was not wanton violence, but purposeful and strategic. For Callwell using sufficient violence to punish and 'overawe' the enemy, but not leading them to 'exasperation [or] driven to desperation', was the 'end in view'.⁴⁶ In other words, the state should employ whatever exemplary violence was needed to have the 'moral effect' of instilling the fear necessary to

achieve the desired political outcome. As the foundation of a British COIN tradition, we might think of it as a coercive 'hearts and minds' strategy devoid of a 'minimum force' doctrine.

Charles Gwynn and 'Imperial Policing': 'Minimum Force' and Military 'Aid to the Civil Power'

Major-General Sir Charles Gwynn's *Imperial Policing* was first published in 1934 and became a standard text for training British Army imperial officers for decades thereafter.⁴⁷ As in the case of Callwell, Gwynn's background may help analyse the scope, tenor and nature of his key contribution to Britain's counterinsurgency tradition.⁴⁸ Like his predecessor, Gwynn was from an Irish Protestant family, though in his case of somewhat greater political complexity. Born in Ramelton, Co. Donegal in 1870, Gwynn was the son of a Church of Ireland clergyman (later Professor of Divinity at Trinity College, Dublin) while his mother was the daughter of the Young Ireland Movement leader, William Smith O'Brien. His eldest brother was the journalist, author and nationalist MP Stephen Gwynn; a leading figure in the Independent Irish Party and one of those to support John Redmond's call and enlist in the British Army at the outbreak of the First World War. Stephen Gwynn's frontline political career was ended when he lost his Galway seat to Sinn Fein in the watershed 1918 general election.⁴⁹ Another brother joined the Indian Civil Service and later became the correspondent on Indian affairs for the *Manchester Guardian*. Most of his many other siblings pursued academic careers but Charles Gwynn joined the British Army at a young age and served in West Africa, the Sudan, Egypt and Australia before taking part in the disastrous Gallipoli campaign and serving on the western front during World War I. He went on to become Commandant of the British Army's Staff College at Camberley until his retirement in 1931.⁵⁰

In *Imperial Policing* Gwynn set out to establish some 'lessons to be learnt' on the application of military power in the ongoing 'small wars' of empire, now re-cast as 'policing duties'. He employed a series of case studies to make his point, all taken from the post-war period, and including the Amritsar massacre in India in 1919, examples from Egypt, Sudan, Cyprus and (in updated second and third editions) of the Arab Revolt in Palestine (1936) and Waziristan (on the modern day border between Pakistan and Afghanistan) in 1937. Again notable by its absence is Ireland. Indeed, without stating clearly why, Gwynn thought it 'inadvisable to draw on experience in Ireland, instructive from a military point of view as many of them were'.⁵¹ Perhaps, given his family connections, the still relatively recent record of the actions of the Black and Tans in Ireland was a little too close to home. Rather he recommended anyone interested should consult the memoirs written by 'some of our opponents', such as Charles Dalton's *With the Dublin Brigade* that 'throw a light on the psychology of irregular forces and give an opportunity on seeing events from the other side which is generally lacking'.⁵²

From the examples he did explore Gwynn established four general principles for the conduct of 'police duties' when undertaken by the Army. At their core were two central

concepts. The first was that the military should act only as an 'aid to the civil power. 'Questions of policy', Gwynn insists, should 'remain vested in the civil Government'.⁵³ The duty of the military was to provide advice but 'the policy of the Government must be loyally carried out'. The second, that the 'amount of military force employed must be the minimum the situation demands'; in other words, the 'minimum force' doctrine. Both were directed at what for Gwynn was the main 'military object' of such imperial policing duties; the preservation and promotion of the existing colonial order. Or (as Gwynn puts it) that the military should 're-establish the control of the civil power and secure its acceptance without an aftermath of bitterness'.

These two core ideas worked in tandem and were to have a powerful, mystifying political and ideological effect. The idea the British military operated as an 'aid to the civil power' in carrying out 'policing duties' suggested legal accountability and adherence to the rule of law would be the norm. Much later, acting as an 'aid to the civil power' would (at least in theory) form the legal and constitutional basis of the British Army's campaign in Northern Ireland. Yet there is a utilitarian logic evident throughout Gwynn's thinking that is more broadly paradigmatic of British military counterinsurgency thinking and subverts any apparent commitment to such 'principles'. His declaration of a 'minimum force' standard, for example, is ultimately predicated on a doctrine of necessity; the constraining limit of 'justifiable' force rests in the end on a utilitarian calculation. Put another way, the amount of force permitted is, ultimately, whatever force is necessary to maintain order and promote interest. Here we see something akin to a legal concept of necessity, where 'necessity creates its own law'. As critics of such an idea have argued, while often presented in objective terms a principle of necessity is ultimately founded on a subjective, political decision, that 'the existing juridical order is threatened with ruin...[and] the existing order must be preserved'.⁵⁴ Poor ground on which to forge a long term commitment to legally-binding limitations on state violence; as was amply illustrated in the pages of *Imperial Policing* itself.

If Gwynn saw *Imperial Policing* as a means to outline a supposed commitment on the part of the British military to the rule of law and use of 'minimum force' this was somewhat contradicted by his own analysis of a conflict dominating debates on counterinsurgency as the book went into subsequent editions; the Arab Revolt in Palestine (1936-1939). Tellingly, he also sought to use events in Palestine to portray what he characterised as the 'difficulties troops encounter' when their actions were supposedly 'restricted in furtherance of an extreme conciliatory policy'.⁵⁵ Indeed, for Gwynn, it was such an alleged 'policy of conciliation' that was the ultimate cause of the revolt. Rather than giving the British military commander in Palestine a 'free hand [to] re-establish order' such 'conciliation' had been taken as a 'sign of weakness' that could only 'intensify disaffection' among Arab nationalists, further encouraged by 'concessions won in Ireland' and elsewhere.⁵⁶

Revealing the contradictions lying at the heart of the myths of British counterinsurgency, Gwynn wanted to show how 'restrictions placed on the actions' of British Forces in Palestine had apparently only accentuated these problems.⁵⁷ He

complained bitterly such crippling conditions had resulted from the work of 'propagandists' charging British troops with 'misconduct' that had prevented, among other things (and with direct parallels with Israeli policies in the present) the use of aircraft to bomb Arab villages and a punitive policy of house demolitions.⁵⁸ The latter, he noted admiringly, had included the 'Jaffa demolition scheme' which he likened to a form of progressive urban re-development with 'two thoroughfares' cut through the 'rabbit warren of the old native quarter [that had] greatly improved the situation'.⁵⁹ In an interpretation indicative of his conception of minimal force, the Jaffa house destruction scheme was for Gwynn a good example of undertaking decisive, offensive, fully authorised and planned action, because houses from which shooting had come were destroyed with 'a minimum damage to neighbouring property'.⁶⁰

Contrary to Gwynn's view, the roots of the Arab Revolt would be better characterised as the result of systematic repression than benign 'conciliation', and links with Ireland were more apparent than his account might suggest. After the British Mandate in Palestine was established in 1922 the new police force was modelled on the RIC and included many former Black and Tans in their ranks.⁶¹ The first Chief of this new force (as well as Commanding Officer of the British Army in Palestine) was Major-General Henry Hugh Tudor; formerly Head of the RIC and creator of the 'Black and Tans'. He was also Head of a newly created 'gendarmarie'. Between 75% and 95% of this new auxiliary force (around 650 men) had previously been members of the 'Black and Tans'.⁶² After the gendarmerie was disbanded in 1926 many former Black and Tans remained and joined the British section of the Palestinian police force. One such was Douglas Duff, who had served in Galway during the Tan War and subsequently became Chief of police in Jerusalem. His part in establishing a policing regime built on general, causal violence in the street and of systematic brutality within the force's prisons and interrogation rooms (that included the use of water-boarding and 'suspensions') is the apparent origin of the term 'duffing up'; the colonial police colloquialism for torture.⁶³

After the outbreak of the Revolt itself repression gathered pace. Police violence was rampant with beatings and extra-judicial killings. Torture centres were set up. Suspects were tortured, humiliated and subject to 'third degree' questioning, following in the brutal tradition established by Duff.⁶⁴ 'Frustration' with the supposed leniency of local courts led to many Arab suspects being shot 'while trying to escape'.⁶⁵ The 1936 Jaffa house destruction so lionised by Gwynn had in fact resulted in the blowing up of some 220 to 240 buildings and over 6,000 Palestinians being made homeless. It formed part of an escalated official reprisals policy which saw many other groups of houses demolished, property looted, food stores systematically destroyed, forced labour, 'punitive village occupations' and the imposition of crushing collective fines.⁶⁶ Some 'bad' villages were completely razed to the ground.⁶⁷ As historian Matthew Hughes has argued, the 'policing' of the Arab revolt was built around 'premeditated, systematic, officially sanctioned brutality in the form of collective punishments and reprisals'.⁶⁸

The British Army was involved in summary executions with widespread instances of Arabs being tied to the bonnets of vehicles of military convoys to 'deter' mine attacks.⁶⁹ Wounded Arab fighters were sometimes left to die while others were shot en masse while surrendering; some by members of the Royal Ulster Rifles (RUR).⁷⁰ Indeed members of the RUR were amongst British troops involved in one of the most notorious atrocities in the Arab village of al-Bassa in late 1938. After four RUR soldiers were killed in a roadside bomb, al-Bassa (as the nearest village) was burnt to the ground, but only after RUR soldiers rounded up 50 Arab men, put them on a bus and forced the driver to drive over a mine. The bus was completely destroyed and the villagers were forced to bury the mutilated bodies of the dead in a hastily dug pit.⁷¹ 100 villagers were also taken to a nearby Army camp and four of the group were whipped and tortured in front of the others. Al-Bassa was not an isolated incident. Orde Wingate (himself emerging as a key British counterinsurgency practitioner) created what were known as 'Special Night Squads'. These consisted of British and Jewish settler policemen moving at night (sometimes disguising themselves as Arabs) who terrorised Arab villages, humiliating and killing Arab civilians. They were a foreshadow not only of the counter-gangs later developed in Kenya by Frank Kitson, and those involved in collusion in Northern Ireland, but (as Laleh Khalili notes) were also 'something of a model for subsequent Israeli Special Forces'.⁷²

Yet, as Hughes also argues, 'moral restraint' was not absent and a 'veneer of legal respectability' was maintained by the British Authorities throughout the revolt.⁷³ Most (though not all) of what was done was sanctioned by military command, control structures and 'proper authority'. Most was also 'legal'. In essence, the law was modified as 'necessary' so that punitive, violent state actions remained within its bounds. Here again we see a key thread in the character of British counterinsurgency, that is in turn reflected in the logic of *Imperial Policing*. In formal terms at the outbreak of the Arab Revolt the British Army did operate as an 'aid to the civil power' as Gwynn recommended. However, they also acted within the framework of military law, which allowed, amongst other things, imposing collective punishments on Palestinian villages.⁷⁴ While martial law was never officially declared *de facto* a state of 'statutory martial law' existed. Military law specifically allowed the existence of armed insurrection 'would justify the use of any degree of force necessary to meet and cope with the insurrection'.⁷⁵ Military courts dispensed something approximating summary justice and Arab civilians and combatants were not given the protection of the emerging body of international law (i.e. the Geneva and Hague Conventions). While formally subject to the law, the legal process operated in such a way that prosecution of British soldiers was all but non-existent.⁷⁶

All this was entirely consistent with Gwynn's own recommendation that success would be achieved by a 'vigorous repressive policy' combining air bombing, the use of the police for 'intelligence duties... martial law methods [and] the punishment of lawbreakers by special courts'.⁷⁷ In reflecting on events towards the end of the Revolt he noted approvingly that military courts able to impose the death penalty had been put in place, Arab leaders arrested, their organisations banned, there had been 'round-ups of villages' and rebel

groups met in battle had been 'roughly handled'.⁷⁸ In a pointer to the future, he still awaited a 'reliable force of native police as a source of intelligence'. Indeed Gwynn's only reservation concerning the state's use of coercive violence (perhaps again with Ireland in mind) had been that a policy of reprisals 'was always dangerous'.⁷⁹ This was not, though, because of any squeamishness on his part. Rather it was on the same grounds expressed many years before by Sir Henry Wilson during the Irish War of Independence. It was not reprisals as such that worried Gwynn but a lack of 'command and control'. When undertaken by 'ruthless' irregular forces the backlash was likely to be felt by 'defenceless loyalists'. What was therefore needed was a 'codifying of rules' and a policy of reprisals that was 'publicly stated and... duly authorised'. The message was clear; counterinsurgency violence, while it might be wholesale and overwhelming, should not be out of control or unrestrained, and had to be 'legitimised' through the authority of command structures and by shaping the law to the task in hand. The resort to some dubious, racist portraits could also serve to 'legitimise' the violence deployed against a dehumanised colonial (in this case, Arab) 'Other'.

Frank Kitson, Kenya and Ireland: Low-Intensity Operations, the Rule of Law and 'Counter-Gangs'

Of all British military theorists none is more immediately relevant to the conduct of counterinsurgency during the conflict in Northern Ireland than General Sir Frank Kitson. Between 1970 and 1972 Kitson commanded 39 Brigade with overall responsibility for British troops in Belfast and, while John Newsinger is right to insist the so-called 'Kitson experiment' was neither as original nor as comprehensively enacted as has sometimes been suggested, Kitson was certainly heavily involved and influential in the subsequent development of British counterinsurgency strategy in the North.⁸⁰ Before taking up this role he had earlier served in Kenya, Malaya, Muscat, Oman and Cyprus and wrote about the counterinsurgency lessons garnered from these experiences in three books; *Gangs and Counter-Gangs* (1960), *Low Intensity Operations* (1971) and *Bunch of Five* (1977).⁸¹ Much of this work provides a heavily sanitised account of his career, reducing the Kenyan campaign for example, among the 'bloodiest of post-war British military operations... to the level of a *Boys' Own* adventure story'.⁸² In actuality a cumulative and concerted attempt to theorise a British national security state, these writings presented a starkly militarist manifesto at the heart of which once more was a counterinsurgency doctrine of necessity.⁸³

A number of key themes can be identified in Kitson's work. There is a considerable focus on the importance of intelligence and propaganda, the use of covert operations and, perhaps most famously (and of the clearest direct relevance to the issue of collusion) on the role of Police Special Branch and the local recruitment of covert militia forces; or what were termed 'pseudo-' or 'counter-gangs'.⁸⁴ In addition, and more so than for earlier generations, Kitson and his contemporaries were greatly concerned with need to order the rule of law to the ends of counterinsurgency. In this he reflected the times and the

demands, in the post-1945 period, to at least give the appearance of a commitment to international law and human rights standards. This had been far less of a worry for the likes of Callwell or Gwynn, operating as they did when there was little need for imperial powers to recognise the legal status of colonial subjects. The inter-war Mandate system had been something of a way station on the re-interpretation of colonialism in international law and (as in the case of Palestine) had involved a codification of the legal provisions governing the state use of force; often inherited as a legal framework for repressive practices in the postcolonial state.⁸⁵ However, by and large, colonial peoples had continued to be excluded, implicitly or explicitly, from the protection afforded by international conventions intended to constrain the use of force against civilian populations. Such had been the case, for example, in the Conventions drawn up by European imperial powers and the USA in the 1930s intended to prohibit the aerial bombardment of civilians. The bombing of colonial civilian populations, on the other hand, was rather regarded as a new opportunity for cost-effective imperial rule.⁸⁶ It was a time when, as Frank Kitson noted wistfully, 'soldiers were able to carry out their tasks without excessive wear and tear on their consciences'.⁸⁷

A notional post-1945 British counterinsurgency 'rule of law' commitment might best be seen in this light; as necessary (in theory if not in practice) to ward off potential criticism of a failure to meet new international legal standards. In that sense Gwynn's earlier advocacy of martial law stands in contrast to a dominant strain in the tradition of British counterinsurgency where a formal declaration of the suspension of legal norms has tended to be regarded as politically problematic and counter-productive. Adherence to the 'rule of law' was, for example, one of the five key principles identified by Kitson's near contemporary Robert Grainger Thompson, whose experience as a colonial administrator during the Malayan 'Emergency' (1948-1960) and as a military adviser in the early years of the Vietnam war, was the basis of his *Defeating Communist Insurgency*; still regarded as pivotal for British counterinsurgency thinking.⁸⁸ Despite (of course) the appalling record of British and US brutality in those self-same conflicts. Recent scholarship has again shown illegality and a resort to massive, widespread repressive and coercive state violence characterised British state action in Malaya.⁸⁹ In other words, the 'British tradition' of counterinsurgency is one that has generally sought to give the *appearance* of maintaining legal norms and normalcy, whatever the *reality*.

Kitson (who served in Malaya at the same time as Thompson) echoed the latter in his twin focus on the political dimensions of counterinsurgency and the issue of the rule of law.⁹⁰ For a soldier to measure right and wrong Kitson proposed two 'yardsticks'; the law and 'expediency'. At first sight his view on the law appears absolutist. Whatever course of action is available to a soldier, he insisted, if it is 'illegal it must be avoided'.⁹¹ Because insurgency and subversion are defined by being 'unlawful' and 'unconstitutional' counterinsurgency should never be undertaken 'in any other than a lawful and constitutional way'.⁹² Indeed, alongside acting as an 'aid to the civil power', winning the 'war for the minds of the people' and establishing an effective intelligence organisation, a commitment that 'everything done by a government and its agents in combatting

insurgency must be legal' formed the four core principles of Kitson's counterinsurgency thesis.⁹³

How does such an apparent absolute commitment to abiding by the rule of law sit alongside 'expediency'? Any apparent contradiction is not as great might first appear. What constitutes legality, and how it is shaped and adapted according to circumstances, ends and interests is what matters here. 'It is a function of government to make new laws', insisted Kitson and 'if necessary' to adapt the way the law is administered. What is required is 'a legal system adequate to the needs of the moment'.⁹⁴ In other words, expediency should govern the legal order. As has recently been argued, Kitson's 'theorising was not interested in the ethics of counter-insurgency – just in getting the job done'.⁹⁵ In that vein he was entirely in step with the utilitarian strain at the core of the British counterinsurgency tradition in which the 'ethics' governing the deployment of coercive state violence were premised on the calculation of 'necessity'; a 'calibration of lethal force' according to the state's own self-identified need. His understanding of the relevance of the rule of law might be seen in a similar light.

Kitson suggested two ways in which the law could work during an insurgency. One was for it to remain 'impartial', ensuring that (even when new 'tough' laws were introduced) equality before the law was a governing principle and 'the officers of the law will recognise no difference between the forces of government, the enemy, or the uncommitted part of the population'.⁹⁶ Yet, while acknowledging such a position might be 'morally right', Kitson argued this was oft-times 'unworkable'. Necessity might therefore require an alternative approach, according to his (with good reason, oft-quoted) maxim that the '*law should be used as just another weapon in the government's arsenal, and in this case it becomes little more than a propaganda cover for the disposal of unwanted members of the public*'. In other words, and entirely in keeping with a 'peculiarly British way' of counterinsurgency, the key problem was to ensure the civil authorities generated a juridical order that allowed state agents to do 'what was necessary' to preserve its interests. The key question for the political system was to find ways to ensure the protection of state agents in conducting counterinsurgency operations by making, if required, what might otherwise be illegal, legal.

For Kitson intelligence work, covert operations and the use of Special Forces were central to counterinsurgency. In Kenya, creating an effective intelligence system was his first priority and framed much of his later thinking.⁹⁷ The need for an 'effective' intelligence system was also his key reason for advocating a 'necessary adaption' of the administration of the law and the entire process of arrest, interrogation and imprisonment; so as to maximise the potential for recruiting informers and agents and dissuading others from following the insurgent path.⁹⁸ In recommending the rapid expansion and de-centralisation of intelligence organisation Kitson also noted (demonstrating no little skill in the art of understatement) this might lead to 'the possibility of the odd indiscretion'.⁹⁹ These should be accepted by the Government, he argued, as 'essential risks [so that] the necessary action is taken'.

Kitson did not invent 'counter-gangs' and a wider reliance on using 'locally recruited allies' in a variety of guises (as a source of intelligence and to provide the necessary manpower on the ground) was characteristic of virtually all of Britain's counterinsurgency campaigns before and since, up to and including the wars in Iraq and Afghanistan.¹⁰⁰ 'Counter-gangs' were also but one strand of what amounted to a campaign of state terror. Alongside it a force of some 25,000 'local loyalists', operating in 'loosely controlled small units', was the 'most efficient and most covert method of delivering a policy of state-sponsored terror' and ensuring the compliance of the population.¹⁰¹ Given he could write in the late 1970s of having had to waste too much time 'investigating fictitious atrocities allegedly committed by loyalists', it seems reasonable to assume this campaign of state terror in the countryside troubled Kitson's conscience little, regarded as a permissible means to meet the Government's 'first duty' during an emergency; to 'regain the allegiance of the population'.¹⁰² The recent official recognition provided by the 2011 British High Court judgement of the regime of systematic torture deployed against thousands of those held in British-run detention camps, similarly casts a mournfully belated light on the realities of a counterinsurgency campaign much at odds with Kitson's self-congratulatory narrative.¹⁰³

Kitson was certainly an unequivocal advocate of the effectiveness of 'counter-gangs' in Kenya and elsewhere and their creation and deployment was clearly central to his conception of counter-insurgency. This would be exemplified in his setting-up the Military Reaction Force in Northern Ireland in the early 1970s; the forerunner and template of the covert units such as 14th Intelligence Company and the Force Research Unit that were to follow. Indeed, given the state's difficulties in conducting a counterinsurgency campaign in Northern Ireland (as a place 'closer to home', where the treatment of a 'white' European population was more exposed to the glare of international opinion and there was a political premium to deny any 'inconvenient' colonial comparisons) 'covertness' and deniability were all the more 'necessary' as means to preserve the appearance of 'constitutional normalcy'.¹⁰⁴ Such was the logic behind the 'containment' strategy introduced from the mid-1970s. It also shaped the ever-greater orientation of British state policy from the early 1980s onwards towards an intelligence-led strategy, combining the deployment of covert units and Special Forces in targeted operations with a reliance on a burgeoning network of informers and agents. In similar vein, neutering the powers of inquests to investigate disputed killings and the ever-broader legal interpretation of 'reasonable force' when state agents employed lethal force points to an ongoing concern to subvert the rule of law to the ends of counterinsurgency. It is in that context too that we might view the particular pattern of collusion evident in the 1980s and early 1990s as the honing of the role of 'counter-gangs' to achieving the ends of counter-insurgency. A pattern of thought and state practice not only rooted in the past but which reaches toward the present.

Conclusion

On 30th January 1972 a then youthful Captain Mike Jackson was second in command of Support Company of the Parachute Regiment, the unit responsible for the murder of 13 innocent civilians in Derry and colloquially known as 'Kitson's private army'.¹⁰⁵ On return to their Belfast barracks, Jackson later recalled, his commanding officer Derek Wilford was met by Kitson. The latter, while 'generally supportive' had only one point of criticism about the Paras actions, asking 'why, having got that far in [to the no-go area of the Bogside] you didn't go on and sort the whole bloody mess out?'¹⁰⁶ For Jackson Kitson may have been 'brusque' and expressed himself "brutally' but 'knew his soldiering' and 'had a point'. Jackson's own chief concern was the charge the Paras had 'run amok' given the British 'Army is very proud of professionalism'.¹⁰⁷ So the events of Bloody Sunday were remembered over three decades later by (now General Sir) Mike Jackson, former Head of the British Army and commander of British Forces following the invasion and occupation of Iraq. In his evidence to the Saville Inquiry in 2002 Kitson would still describe those responsible for Bloody Sunday as a 'jolly good' unit.¹⁰⁸

During the years of the 'War on Terror' Jackson has been prominent (though far from alone) among those propagating the myths of British counterinsurgency.¹⁰⁹ The origins of a supposed 'peculiarly British way' of going about 'military business' are happily acknowledged as lying 'deep in our [British] history', extending back through an imperial past 'at least a couple of centuries to Ireland, to India a century and a half ago, to Africa about the same time and, indeed, to Iraq almost a century ago'.¹¹⁰ The campaign in the North of Ireland is for Jackson an exemplar of British counterinsurgency, characterising the Army's role as to 'prevent the unlawful use of violence' while creating the conditions for a political resolution to the problem of having 'two peoples on one piece of territory'.¹¹¹ As he sees it the 'trick' in counterinsurgency is 'applying force that has profound political connotations', balancing a concern for being seen as 'too faint-hearted' or 'too harsh' in the battle for 'hearts and minds'.¹¹²

Such themes are echoed by the author of the current British Army manual on *Counterinsurgency*. The 'wider political purpose' of counterinsurgency lies always at its core, writes Brigadier Gavin Bulloch, while it is the 'political potential' rather than 'military power' of insurgents that represent 'the true nature of the threat'.¹¹³ Finding means to undermine the support base for insurgent groups is therefore the 'strategic centre of gravity' with the end being to 'shatter the enemy's moral and physical cohesion rather than seek his wholesale destruction'. In that process, however, the 'physical destruction of the enemy still has an important part to play', calculated on the 'degree of attrition necessary'. In other words, 'necessity' calibrates the extent and nature of state killing.

As Raymond Murray long ago noted, Kitson was 'no innovator' and his model the product of a longstanding tradition of British colonial policy and principles of counterinsurgency.¹¹⁴

Collusion provides a bridge between the campaigns of colonial counterinsurgency in the past and those of the present...

The attitudes of Gordon Kerr are very much in line with this tradition of thinking. After leaving Northern Ireland Kerr also went on to serve in Iraq, as the first commander of the Special Reconnaissance Regiment....

The on-going campaign of nakedly sectarian assassination

Similarly, Kerr could be thoroughly dismissive of the rules in place governing what informers and agents could

His attitude toward the absence of rules governing the handling of agents and informers exemplifies this 'doctrine of necessity'. While critical of political leaders ...

In many ways the story of collusion provides a bridge between campaigns of colonial counterinsurgency in the past and the imperial interventionism of the present.

Much here rests on the oft-proclaimed commitment to adherence to the rule of law. Being bound by the rule of law is invariably cited by contemporary military proponents of COIN as an absolute principle. As we have seen, this too stands in the long tradition of colonial counterinsurgency theorists. However, as Frank Kitson's formula on the rule of law condition demonstrated, such legal absolutism is more apparent than real; a form of 'magical legalism'.¹¹⁵ The recent revelations concerning the de facto immunity from prosecution given to British soldiers involved in using lethal force in the North are testament to what this can mean in practice.¹¹⁶ The same might be said for the ever-expanding parameters of 'reasonable force' employed as a defence against 'shoot-to-kill' allegations. The creation of a lacuna in the law governing the actions of agents and informers can be viewed in like manner. It permitted what Giorgio Agamben would call the 'in-acting' of the law and created the space in which collusion became a strategically convenient possibility. If the story of collusion reveals anything it is that, in the context of counterinsurgency, the classic Latin proverb 'necessity knows no law' holds considerable sway.

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