'See no evil, hear no evil':

Insidious Paramilitary Violence in Northern Ireland

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[1] The Economic and Social Research Council established the Violence Research Project (VRP) in 1997 to explore violence to the person. Funded over 5 years, the VRP has twenty research projects within England & Wales, Scotland and Northern Ireland. The overall aim of the VRP is to expand and enhance the understanding of the various forms of violence to the person. The views of the offenders, front-line professionals and members of the general public are included in the VRP's research into the impact and meaning of violence. The VRP's historical projects add a further dimension, examining violence in the past to shed light on the present.

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Summary:

Northern Ireland has been variously described as having an 'imperfect peace' in which 'acceptable levels of violence' persist. Despite the endorsement of the main political parties to the principles of 'democracy **and** non-violence' enshrined in the Belfast Agreement, an insidious and brutalising form of paramilitary violence continues within communities. The government has opted to 'see no evil, hear no evil' given what is at stake in the wider political process. According to this approach, one must accept certain violent excesses in the interest of moving forward politically. This, however, creates both conceptual and practical problems around the issue of violence in Northern Ireland. By conceding that paramilitaries 'police' the informal criminal justice system in their areas with political and, in most cases, legal impunity, the government, *de facto*, defines what is 'an acceptable level of violence'. This paper considers the nature and extent of ongoing paramilitary violence, how it has become enmeshed in the negotiated settlement and the consequences of this politicisation of violence.

Introduction

Northern Ireland is synonymous with the word *violence,* having the unenviable record of some 3,600 deaths as a direct result of the political conflict since 1969[2]. Its worst terrorist atrocity, the Omagh bomb (15 August 1998), in which 29 people died and 220 were injured came only months after referenda in which the people of Ireland (north and south) endorsed the outcome of the multi-party talks on a political settlement. The republican and loyalist cease-fires, the Belfast Agreement and devolved government in Stormont have created circumstances where sectarian killings and bombings are declining. In 1999, for example, seven civilians were murdered, the lowest figure since the 'troubles' began, and the first year ever that no security force personnel were killed (RUC statistics: Northern Ireland Office, 2000). Northern Ireland is, tentatively, in a period of transition to a post-conflict era. Such confidence in the new political and constitutional dispensation was buoyed up by statements from Gerry Adams who said 'Sinn Féin believes the violence we have seen must be for all of us now a thing of the past, over with and gone' (Sinn Féin statement: 1st September 1998). Whilst this did not amount to Unionist demands for a declaration that 'the war is over' or show any remorse for the victims of IRA violence, it committed Sinn Féin to 'exclusively peaceful and democratic means to achieve a way forward', although dissident groups still exist on both sides[3]. Reciprocal trust building and confidence between the key protagonists was on public display in the conclusion of Senator Mitchell's review on the implementation of the Belfast Agreement (18 November 1999). The Ulster Unionist Party made a statement recognising the legitimacy of nationalists pursuing a united Ireland by peaceful means and giving their commitment to an inclusive power-sharing Executive. Sinn Féin, in turn, publicly acclaimed the importance of the political process and accepted decommissioning as an essential part of the Agreement. Yet major tensions exist

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[2] There is some variation in the figures for deaths resulting from the conflict. Official RUC data show a total of 3,296 deaths between 1969 – 1999. The *Cost of the Troubles* Study shows 3,601 deaths between 1969 – 1998 (Fay, Morrissey & Smyth, 1999).

[3] Dissident groups, which are opposed to the Belfast Agreement, still pose a real threat to political progress. Groups such as the Orange Volunteers (OV) and the Red Hand Defenders (RHD) have drawn their membership from the disaffected within the Loyalist Volunteer Force (LVF) and elements of the Ulster Defence Association (UDA) and the Ulster Freedom Fighters (UFF). The RHD claimed responsibility for the death of Catholic human rights lawyer Rosemary Nelson on 15 March 1999. The 'real' Irish Republican Army (rIRA), Óglaigh na hÉireann, comprises dissident members of the IRA opposed to the peace process and the political leadership of Sinn Féin. The group admitted responsibility for the Omagh bomb and announced a cease-fire soon afterwards. The Continuity IRA

around these two issues. Nationalists and republicans fear Unionists are not serious about working the Agreement. They see the Ulster Unionist Party riven with dissension and vacillating in their commitment to stay in the power-sharing Executive. Unionists charge the IRA with failing to engage with the de Chastelain decommissioning body and setting preconditions before movement on arms. Many Unionists are convinced that the IRA has no serious intention of placing their weaponry 'beyond use'. Both sides, for different reasons, have major problems over police reforms.

Notwithstanding these difficulties, the political, constitutional and security gains are both obvious and laudable, and inclusive devolved government has replaced the most visible manifestations of a violent society (bombings and killings). Paramilitary groups, however, are still active in working-class communities. This paper explores the insidious nature of paramilitary violence within the two communities in Northern Ireland, which continues regardless of faltering macro political progress and its impact on the creation of an enduring peace at the grassroots level. It considers the nature and extent of ongoing paramilitary violence, how it has become enmeshed in the negotiated settlement and the consequences of this politicisation of violence. The research is based on 40 interviews with those subject to attack by paramilitaries, 4 focus groups in loyalist and republican areas to assess community perceptions of the alternative justice system and interviews with representatives from the political parties. In the new political era of Northern Ireland, this paper challenges the assertion that 'violence is past, over with and gone' and somehow the Northern Ireland 'problem' has been solved.

Political violence

Northern Ireland, for obvious reasons, has been the subject of several studies on political violence. In general the literature concentrates on two broad areas - firstly, trying to establish the facts or data about the levels, distribution and sources of violence, and secondly, examining the causes of, or the motivation for, violence. In the first category, Poole (1993) and Murray's (1982) spatial analysis of violence, Sutton's index of deaths (1994) and Fay, Morrissey and Smyth's (1999) database of

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(CIRA) which similarly attracts disaffected members from republican groups increased their numbers from those in the 'real' IRA opposed to its cease-fire.

location and organisations primarily responsible, are typical examples. The value of this work has clearly been in trying to establish a reliable and comprehensive database with disaggregated statistics which allow depth analysis of trends.

In the second category, studies have examined the motivation for political violence as a way of informing the political debate and proffering advice to the British Government. O'Duffy (1995), for example, looked at the variation in targeting and intensity of paramilitary violence in Northern Ireland and explained it as ethno-national rather than 'sectarian' or 'communal'. In an empirical study, Sullivan (1998) considered the changing dynamics of violence (measured by killings) during two phases (1969-80 and 1981-1994) in Northern Ireland. His work updated a study undertaken by White (1993) who researched the causes of political violence in the first phase of this period.

In an ethnographic study undertaken in loyalist and republican communities in Belfast, Cavanaugh (1997) argued that the main cause of political violence was not materialism (socio-economic inequalities), culture or religion but the absence of national state legitimacy. She claimed that 'the levels of republican violence are most affected by organized and unorganized state repression, while loyalist violence is most affected by republican violence and activated when loyalists feel threatened' (Cavanaugh, 1997: 45). She contended that the absence of state legitimacy has fostered support for, and tolerance of, paramilitary groups within communities.

What is significant about Cavanaugh's work is that she posited the community, not as a passive entity, but integral to the analysis of political violence in Northern Ireland. As part of that analysis she suggested civil society in Northern Ireland was characterised by a strong sense of community, ethnic separatism, and a tradition of loyalism and republicanism in both its cultural and political forms. 'With basic security needs left unfulfilled and fear of identity loss prevalent in both republican and loyalists communities, strong intra-communal infrastructures have evolved which protect and promote community cohesion' (Cavanaugh, 1997: 46). This strong communal cohesion, she argued, demands social order and control constructed through 'alternative legalities to that of the state'. She concluded:

> Paramilitary involvement in social control is tolerated, even demanded, but communal support is conditional...For both loyalist and republican

paramilitaries to maintain credibility they must meet communal demands to control hooding, drugs and petty crime. Administering 'rough justice' however, risks alienating or reducing the paramilitant's support base...These findings illustrate the complexity of the relationship between paramilitant and community (Cavanaugh, 1997: 49).

Cavanaugh concurred with research undertaken by Burton (1978) which suggested that paramilitaries and their communities had a 'see-saw' relationship, and to describe it as one forged through 'naked force' was too simplistic. Silke's work (1998) is more detailed both on the range of methods used by paramilitary vigilantes and their motives. He argued that their activities revolved 'around a practical need to control criminal behaviour as perceived by the community, and to control behaviour within that community which may threaten the authority of the paramilitaries' (Silke, 1998:151). Drawing on previous work by Hillyard (1985) and Sluka (1989), he distinguished between these two categories as 'punishable' offences - community or civil crime (theft, drug-dealing, joy-riding, vandalism, muggings etc.), and political crime (public criticism of the paramilitaries, collaboration with the security forces etc.). He added that maintaining alienation between the community and security forces was also an important function of vigilante activity. Silke (1999) further explored the problems which vigilantism raised for Sinn Féin as a political party and argued that 'if they step away from 'community policing' they risk losing much of the political support they currently enjoy'. If, however, they do not step away from it he suggested 'they stifle the possibility of genuine growth' (Silke, 1999: 89).

The complexities of the community-paramilitary relationship are also obvious from a study by Brewer *et al* (1998) which looked at the role played by local communities in civil unrest and crime management. The researchers challenged some preconceptions about informal policing by paramilitaries as a means of social control in a study of two areas in Belfast. Therein, they found localised evidence of the extended family network, a sense of neighbourliness and community identity 'which extends beyond the policing role of the paramilitary organisations'. In fact, they argued the role which paramilitaries play in local crime management 'is heavily conditional upon the survival of community structures' (Brewer *et al,* 1998: 576 & 581).

A key criminological contribution to this debate is made by Johnston (1996) who provides a definition of vigilantism as 'a social movement giving rise to premeditated

acts of force, or threatened force, by autonomous citizens….Such acts are focussed upon crime control and/or social control and aim to offer assurances (or guarantees) of security both to participants and to other members of a given established order' (Johnston, 1996: 232). Johnston argues that it is possible to draw a distinction between two modes of vigilantism: one having a focus on 'crime control', the other being concerned with 'social control' or the maintenance of communal, ethnic or sectarian order and values. Paramilitary groups in Northern Ireland, he suggests, may undertake dual forms of vigilante engagement – 'punishment' attacks against those accused of criminal deviance (e.g. joyriding and burglary) and those accused of communal deviance (e.g. breaching paramilitary organisation rules). Importantly, Johnston (1996: 229) notes that vigilantism is a reaction to real or perceived deviance, distinguishing it from mere 'establishment violence'. Hence he represents the actions of paramilitaries involved in punishment squads in Northern Ireland as vigilantism, whereas the actions of the same groups involved in shooting Catholics/Protestants, soldiers, police and bombing buildings is described as acts of political (establishment) violence, which 'have no direct function in the internal regulation of social deviance'. Johnston concludes that vigilantism is a subject awaiting criminological analysis and draws attention, *inter alia*, to the need for research on the relationship of vigilantism to other forms of policing.

Notwithstanding these notable contributions, the literature indicates a dearth of material on the role that communities play in our understanding of political violence in Northern Ireland and a lack of knowledge about the dynamic between them and the paramilitaries. Kennedy (1995), for example, points out that although the 'brute facts of communal violence are well known...what is less well known is the degree of 'internal' paramilitary repression (in the form of beatings, shootings and mutilations) which developed in the shadows of the larger conflict' (Kennedy, 1995: 67). As the political landscape changes a number of questions arise from the existing work of researchers. How realistic is the distinction made between civil and political crimes perpetrated by paramilitaries on communities? Is the bulk of paramilitary vigilantism directed at the former, as Silke claims? Jennings, for example, suggests that paramilitaries are economically motivated and that they will 'devote more time to gangster activity, to recoup their losses from terminating political violence' (Jennings, 1998: 307). Have the paramilitaries alienated their communities by administering

'rough justice', as referred to by Cavanaugh (1997)? Is it the case that 'the same motivations which drive loyalist vigilantism are also behind republican vigilantism'? Are the paramilitaries 'ultimately reluctant vigilantes' (Silke, 1998:133)? Understanding the relationship between paramilitary groups and communities has become even more important as the scale and ferocity of internal repression increases and has become inextricably linked to political developments. In short, in a new 'post-conflict' Northern Ireland what is the ongoing *raison d'être* for vigilante groups? To address these questions, however, requires an understanding of the politics of violence – how and why vigilante activity has become integral to the wider debate on the future of Northern Ireland, the reform of policing and the government's response to the criminal activities of paramilitaries. We therefore describe the juxtaposition of policing, the legitimacy of protection, violence and the political process before looking in some detail at paramilitary repression.

Policing and the legitimacy of protection

A key element within the Belfast Agreement was a proposal to reform the existing policing and criminal justice systems. Participating political parties felt the Agreement 'provides the opportunity for a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole' (Belfast Agreement, 1998: 22). In view of the contentious and highly emotive nature of policing, an independent commission (chaired by Chris Patten) was established to design 'a police service that can enjoy widespread support from, and is seen to be an integral part of, the community as a whole'. The Independent Commission reported in September 1999 and has since become bitterly contested as the Northern Ireland (Policing) Bill, implementing (some of) its proposals, progresses to legislation. Policing and the legitimacy of protection have been at the heart of the problem evidenced by the polarised stance of both sides in advance of the Patten Commission either for disbandment or no change. In order to perform its functions effectively a police service must be representative, accountable and maintain confidence amongst the public (see also Jones, Newburn and Smith, 1996). With 88% of its members Protestant, the RUC has failed to inspire such confidence and trust in large parts of the population. This was expressed in a U.S. State Department Human Rights Report which noted 'widespread antipathy in the Catholic community to the security forces' (U.S. Department of State, 1997:1). There

is also evidence that those living in loyalist areas experience problems with the RUC (McVeigh, 1994). A key reason why some sections of the community in Northern Ireland are so disaffected, according to one report, is their experience of the RUC and the use of power available to its officers.

> Much of the conflict has been fuelled by a panoply of so-called 'emergency powers' which have conferred arbitrary, wide-ranging and increasingly draconian powers to stop, search, arrest and detain…The situation has been exacerbated by the absence of safeguards and the questionable record of substantiating complaints….Unfortunately, the reality for many young people is that the widely drawn stop and search powers are used arbitrarily and to harass (SACHR, 1998: 11-12).

The Patten proposals for reform sought to tackle these deficiencies by recommending, *inter alia*:

- A commitment via oath by all officers to uphold human rights.

- The creation of a new Policing Board (replacing the present Police Authority) to hold the Chief Constable and police service publicly to account. Its 19-member composition would include ten cross-party Assembly representatives and nine independents from the business, voluntary & community and legal sectors. The Policing Board would have the power to require the Chief Constable to report on any issue pertaining to the performance of his/her functions or those of the police service. The obligation to report would extend to explaining operational decisions.

- At the local level each district council would establish a District Policing Partnership Board with a majority elected membership and independents. The District Police Commander would meet with the Partnership Board, present reports and answer questions about community concerns and policing priorities. The local boards would have an additional community safety role with powers to purchase services on top of normal policing.

- A reduction in the size of the RUC's 13,000 officers to 7,500 and a recruitment profile of 50/50 Protestant/Catholic over a ten year period.

- A change of name from the Royal Ulster Constabulary to the Northern Ireland Police Service and the adoption of a new badge and symbols which were entirely free from any association with either the British or Irish States.

Unionists reacted to Patten with hostility, accusing the Secretary of State of 'politicising the RUC, not only by taking away the good name, but also removing the

independent Police Authority and placing a future police service under a Board controlled by politicians' (Taylor, 2000:3). They see the reform process as the symbolic cleansing of the RUC's association with the Crown and now demand a moratorium on police reform until the IRA moves on arms decommissioning. Nationalists, for their part, criticised the government for diluting Patten's proposals on police accountability in order to appease Ulster Unionists' concerns, ensure the survival of David Trimble and copper-fasten the UUP's commitment to power-sharing with Sinn Féin. Gerry Adams, in turn, pointed out that Sinn Féin would not make a definitive judgement on Patten until they saw the legislation. The Secretary of State wants to press ahead with the legislation 'if we are going to confront the organised crime and residual paramilitarism that infest Northern Ireland' (Mandelson, 2000). All this illustrates the centrality of policing to the survival of the Belfast Agreement.

Violence in tandem with the political process

The devolution of power to the Northern Ireland Assembly and its Executive Committee of Ministers on 2 December 1999 was the democratic culmination of the Belfast Agreement (April 1998) which followed the successful outcome of protracted multi-party talks. That devolution did not take place until almost 18 months after elections to the assembly (held on 25 June 1998) was a measure of the mistrust that existed between political parties, specifically over the decommissioning of terrorist arms. The impasse, which saw the rejection of proposals by the British and Irish Governments (in the 'Way Forward' document), was only resolved with the intervention of Senator Mitchell's review. He concluded (in November 1999) that there was 'sufficient consensus' between the parties for the institutions to be formed and decommissioning to occur. Pivotal to the success of this transition to a power-sharing executive, with a system of decision making (parallel consent or a weighted majority) for which there is no precedence in the British Isles, was the eschewal of violence by participating parties.

Mitchell's original contribution to the peace process came as part of the so-called 'twin track' approach by the British and Irish Governments in which decommissioning and all-party negotiations were considered in parallel. To tackle the former, the governments established an International Body on Arms

Decommissioning, headed by Mitchell, to provide an independent assessment on the matter. Reporting in January 1996 he recommended, *inter alia*, that participants to all-party negotiations must affirm their commitment to six fundamental principles[4] of democracy and non-violence - to 'democratic and exclusively peaceful means of resolving political issues'. One principle urged that 'punishment' killings and beatings stop and parties take effective steps to prevent such actions. The report noted:

> We join the governments, religious leaders and many others in condemning 'punishment' killings and beatings. They contribute to the fear that those who have used violence to pursue political objectives in the past will do so again in the future. Such actions have no place in a lawful society (Mitchell, de Chastelain and Holkeri, 1996: paragraph 20).

All parties to the subsequent negotiations had to subscribe to the Mitchell principles of democracy and non-violence. Sinn Féin were initially denied participation in multi-party talks which opened in June 1996, or as the government put it, Sinn Féin 'excluded themselves' from the process in the absence of an unequivocal restoration of the IRA cease-fire of August 1994. When this happened in July 1997, Sinn Féin subsequently attended the negotiations and subscribed to the Mitchell principles of democracy and non-violence. This uneasy relationship between some participating parties and violence re-emerged during the talks when the Ulster Democratic Party, linked to the paramilitary group the Ulster Freedom Fighters (UFF), was expelled because of the group's involvement in sectarian murders. Sinn Féin were also expelled because of the IRA's involvement in two killings. In both cases the political parties were no longer entitled to participate in the talks because the Mitchell principles of democracy and non-violence had been breached. Their expulsions were short-lived[5] to ensure, according to the British Government, inclusivity and rapid progress in the talks, but with a warning that this would not continue if further violence were perpetrated by paramilitaries linked to the political parties.

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[4] Parties had to commit to: democratic and exclusively peaceful means of resolving political issues, the total disarmament of all paramilitary organisations, agree that such disarmament must be verifiable to the satisfaction of the independent commission, renounce for themselves, and to oppose any efforts by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations, agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree.

[5] The Ulster Democratic Party was excluded on 26 January 1998 and returned on 23 February. Sinn Fein was excluded on 20 February, returning on 9 March 1998.

The outcome of the multi-party talks was the Belfast Agreement in which all participants reaffirmed their 'total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues, and our opposition to any threat of force by others for any political purpose' (Belfast Agreement: section 4:1, 1998). Over nineteen months later, in advance of devolution, Sinn Féin stated the importance of the political process in making conflict a thing of the past and emphasised their opposition to the use of force and 'punishment' attacks (Sinn Féin statement: 16 November 1999).

Political acts of violence V's criminality

What all of this illustrates is the inextricable link between the political process and violence in Northern Ireland. Both are considered in tandem, best captured by Mitchell's combined principles of 'democracy **and** non-violence'. The consequences of this, however, include a negotiated approach to violent acts more synonymous with the political process where compromise or the 'art of the possible' is the norm, and a blurring of the boundaries between politically motivated acts of violence and criminality. Hillyard (1988) set this in context when he described the characteristics of law in Northern Ireland. He argued that policing has always focused on maintaining 'order' rather than policing crime. The British Government failed to acknowledge that political violence was part of the basic conflict over national identity and defined it as a problem of 'law and order'. He noted:

> No distinction is made between the activities of a common burglar and the activities of a self-professed member of the IRA or UVF who plants a bomb or shoots someone, although it is clear that the motivation of those involved in political violence differs substantially from those involved in burglary (Hillyard, 1988:202).

Guelke (1992) makes a similar point. He argued that the British Government played down the depth of antagonism between the communities that lies at the root of the conflict. 'By emphasising that political violence is contained for the most part through ordinary enforcement of the law, the government has sought to convey the impression to the outside world that the problem….is one of terrorism' (Guelke, 1992: 108).

In the hitherto intractable circumstances of Northern Ireland, political progress is the dominant factor in this bivariate relationship (political progress and violence) and the debate on violence is informed by the 'greater good' principle. One must accept,

according to this underlying principle, certain violent excesses in the interests of moving forward politically. This creeps into the nomenclature of political debate on Northern Ireland which has been variously described as having an 'imperfect peace' or 'acceptable levels of violence'. The former Secretary of State, Mo Mowlam, ruling on whether the IRA's involvement in the Bennett murder and arms smuggling from the United States constituted a breach of the cease-fire, judged that 'the peace we have now is imperfect, but better than none' (Secretary of State's statement, Northern Ireland Office, 27 August, 1999). The contradictions implicit in these antipodal descriptors (imperfect peace, acceptable levels of violence) reflect the ambiguities with which post-conflict societies have to grapple. The South African experience, for example, points to a sharp decline in political violence but a surge in non-political organised crime (Kiley, 1999; Monaghan 1999). A negotiated approach to violence and a permeable boundary between political crime and criminality raises questions as to what constitutes 'an acceptable level of violence'. This has caused considerable political controversy and rancour.

During the protracted period of stalemate over decommissioning, which followed public endorsement of the Belfast Agreement, the issue of paramilitary 'punishment' beatings and attacks became the subject of intense political debate. Conservative opposition members challenged the Labour Government to halt the early release of 'political' prisoners (those convicted of scheduled offences), a key tenet of the Agreement, under the Northern Ireland (Sentences) Act 1998. This challenge was mounted by alleging that a increasing number of 'punishment' beatings and assaults were being carried out by organisations whose political representatives backed the Agreement, a clear reference to Sinn Féin, the PUP (Progressive Unionist Party) and UDP (Ulster Democratic Party). These parties could not therefore demonstrate, as the Agreement demanded, 'a commitment to exclusively democratic and peaceful methods and that terrorist cease-fires had to be complete and unequivocal'. As such, according to this challenge, the early release of prisoners should be halted.

A political wrangle ensued around what constituted the definition of 'a cessation of violence'. The Chief Constable, for example, drew attention to what paramilitaries described as a 'cessation in military operations' but he argued 'this does not mean that the threat they pose has been permanently disposed of. This does not mean they are

inactive. I have no doubt that these 'mainstream' groups continue to be involved in the barbaric activity of mutilations through paramilitary assault' (MacKay citing Chief Constable, 27 January 1999:351). He went on to suggest that 'perhaps they have some distorted view that this sort of barbaric activity doesn't come within the term 'military operation''. The Secretary of State, on the other hand, maintained that the status of the cease-fires was a judgement which had to be made 'in the round' and, despite the 'punishment' beatings and shootings, she concluded that they were still in tact. Herein lies the 'greater good' position of the government. To accept such violence as a breach of the Agreement could have forced the government to halt or slow down prisoner releases. Because of the significance of this measure to loyalists and republicans, such action could have caused the Agreement to collapse. Much better the government argued 'to create structures that will give communities the confidence to say no, once and for all, to those who mutilate and to the vigilantes carrying out these acts' (Mowlam, 1999: 355). The Agreement was seen as the best way to achieve this, it was not worth risking its failure.

These macro political considerations, however, create both conceptual and practical problems around the issue of violence in Northern Ireland. By conceding that paramilitaries 'police' the informal justice system in their areas with political and, in most cases, legal impunity, the government, *de facto*, defines what is 'an acceptable level of violence'. Moreover, having considered violence as part of the negotiated settlement, with the implicit assumption that such acts are politically motivated, artificial boundaries are created between political crime and criminality which are difficult or impossible to sustain in practice. Nowhere is this more clearly evident than in the case of paramilitary 'punishment' beatings and shootings.

'Punishment' beatings and shootings – the nature and extent of the problem
The so-called 'informal or alternative criminal justice system' has evolved since 1969 and is a range of punitive measures against individuals 'who violate some community norm, as defined by the paramilitary grouping'. Although official statistics were not recorded by the RUC until 1973 in the case of shootings and 1982 for beatings, it is generally accepted that paramilitaries 'engaged in systematic violence against individuals and groups since the very early days of the troubles' (Kennedy, 1995: 69). A document written on behalf of the Provisional IRA in 1972, for example, made it

clear that they would initiate 'actions against those involved in petty theft and vandalism in the estates and we have been forced to punish some who have ignored repeated warnings'. These 'actions' were aimed at those involved in activities as diverse as 'indiscriminate daubing of walls to armed robbery' (Connolly, 1972).

The 'alternative system' is a graduated scale of sanctions escalating from threats or warnings, through curfew, public humiliation, exile and punishment beating, to knee-capping or, in exceptional circumstances, 'execution' (Thompson & Mulholland, 1995: 51). An information leaflet issued by the republican movement in February 1989 aptly illustrates this. The case involved an 18-year-old member of a gang, John Toal, involved in 'anti-social' behaviour. The police approached Toal for information, in return for which charges against him were dropped. He subsequently confessed to the IRA that he was an informant. Another gang member, Brian Hamill, had been similarly involved in 'anti-social' behaviour.

> Belfast Brigade IRA claims responsibility for the **punishment beating** in Beechmount on Thursday night of Brian Hamill, who lives with his grandmother in West Street. Along with John Toal and others, Hamill was involved not only in persistent 'joyriding' but in repeated burglaries of shops in the Beechmount area. Five or six shops were robbed by this gang in a single night on at least three separate occasions last month alone. Hamill, who has been warned by us several times, was **tarred and feathered** by the IRA a month ago, but ignored this punishment. Therefore, in addition to Thursday's punishment we have no option, in view of the lack of control exercised by his grandmother Anne, who condoned his activities, but to **warn** Hamill to stay out of the Falls area in future. We also take this opportunity to **warn** local people against buying property which they know or suspect to be stolen.
> Six other young people involved in this gang have again been spoken to by the republican movement, and warned about their activities. They have been told to stay in their own homes each night after 9 p.m. **(curfew).**
> Having reviewed John Toal's age, and the fact that he came forward without prompting to confess his RUC informer activities, we have decided not to physically punish him despite the extreme seriousness of what he has done. However, both for his own protection from further RUC approaches, and particularly for the protection of the community, Toal has been informed that he must now leave the country **(exiling)** within 48 hours (Republican Movement Information Leaflet: February 1989, Source: Linenhall Library Belfast) – our emphasis[6].

This portrays the paramilitaries as community protectors but ignores the grotesque and brutal nature of their criminal acts which are becoming more vicious and

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[6] Names have been changed to protect the identity of the individuals involved.

prolonged. Beatings are carried out using weapons such as baseball bats, golf clubs, pickaxe handles, drills, iron bars, hammers, and hurley sticks spiked with nails to inflict puncture wounds on victims. Assaults are aimed directly at bones to cause multiple fractures. In so-called 'crucifixions' the victim is tied, spread-eagled, upside down to railings and beaten mercilessly. Paramedics who have attended in the aftermath witness not only a new level of brutality but also detect a more cautious approach to avoid death, which could rebound on the political representatives of the main paramilitary groups. Hence perpetrators will phone for an ambulance in advance, wait until they hear the siren and carry out the attack to ensure immediate medical attention should a bullet hit a main artery (McAuley and McAleer, 1998). There are also claims that in some cases the IRA use heavy-calibre weapons aimed at the shinbones and side of the knees. Victims can be summoned to be kneecapped and duly present themselves, by appointment, to the paramilitaries to take their 'punishment' – not keeping such a meeting will only result in harsher treatment.

The community-policing role also ignores cases of mistaken identity, personal grudges, and violence perpetrated against children. Mr. A., a 79-year old, was shot in both knees and ankles by republican paramilitaries. The gang who crippled the senior citizen and left him for dead was out to punish a child molester, but went to the wrong flat. Mr. B., who had a public altercation with a well-known IRA leader, was shot in the legs and left to bleed to death after the killers ripped out telephone lines rendering medical assistance impossible. Mr. C., suffered shotgun blasts to both his legs after ten hours torture by a UVF gang over his involvement in an alleged attack on a prominent UDA man. His legs were subsequently amputated. Master D., a 13-year-old, was singled out from a group of friends by masked men, flung to the ground and beaten with baseball bats studded with nails. He suffered a shattered elbow, broken fingers, deep puncture wounds to his legs, cuts and multiple bruising After the attack a gun was put to his head and he was ordered out of the country. The sheer brutality of these incidents is captured by comments from one interviewee who had negotiated a 'punishment' shooting by appointment with the paramilitaries for 'anti-social' behaviour:

> I was never going to hand myself over if they were going to beat me with iron bars, because that takes twenty minutes to half an hour snapping your bones. I told them I'd take two bullets, over in two seconds; you get morphine and you'll not feel a thing….One of them walked me up an entry. He said 'lie

down, face down', and then the other guy came over, put on big gloves and shot me in the leg. The power of the shot and the force of my leg hitting the ground turned my body and he had to kick me over before doing the other leg… I'm bitter about it, I did what they asked, didn't put any of them at risk of being arrested and thought to myself 'it'll be an oul easy touch'… It didn't work like that because I was in plaster from the thighs to the ankles, spent six months in a wheelchair. The bullet hit a major artery in my leg and the blood was pissing out of me. As the years pass they say I'll be prone to thrombosis or clots (interview with victim of 'punishment' shooting, November 1999).

According to police statistics between 1973 and the end of June 2000 (inclusive) there have been 2,303 paramilitary 'punishment' shootings (an average of 85 per year) of which 43% have been perpetrated by loyalists and 57% by republicans (see figure1). From 1982 to the end of June 2000 (inclusive) there have been 1,626 beatings (an average of 90 per year), 46% of which have been carried out by loyalists and 54% by republicans (see figure 2). There is no information available on charges brought against perpetrators. Charges are made on the basis of specific offences such as common assault, grievous bodily harm and actual bodily harm. Those which are deemed to be paramilitary assaults are not recorded separately and hence it is impossible to ascertain successful police prosecutions. Official statistics, however, are thought to under-estimate the magnitude of the problem by as much as 30-50%, according to one pressure group[7], not least because those who have been subjected to beatings are reluctant to go to the police through fear of reprisal. The figures show, however, that since the cease-fires of August and October 1994[8] there has been a significant increase in beatings and concomitant decrease in shootings. This reflects moves by paramilitaries not to implicate their political representatives in charges that the cease-fires have been broken, particularly on the republican side with their public avowals of non-violent alternatives. An increasing trend, for the same reason, is exiling – a demand to leave Northern Ireland or face a death sentence. Although figures are difficult to substantiate, over 700 are estimated to have been exiled in the 18 months following the Good Friday Agreement according to the Northern Ireland Human Rights Bureau (Shakespeare, 1999). RUC data also show that the majority of individuals beaten are men in their twenties. Approximately 25% of all those attacked are under 20 years of age. Beatings and shootings occur most often in urban

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[7] The now defunct voluntary organisation Families Against Intimidation and Terror which monitored paramilitary beatings and shooting and lobbied on their behalf.

paramilitary heartlands. The highest proportion of loyalist attacks occur in North Belfast, East Belfast and the Shankill area. The highest proportion of republican attacks occur in West Belfast (Feenan, 1999). What is concerning from the statistics is that in 1999, the first complete year following the Belfast Agreement, 206 beatings and shootings were carried out during a period when a political settlement had been reached. During the first period of devolved government (2nd December 1999 – 11th February 2000), there were almost no reported attacks in republican areas, although loyalist beatings and shootings continued uninterrupted. Since the suspension of the Assembly and Executive, it is claimed that the IRA has been directed to carry out at least one 'punishment' attack in working class nationalist areas throughout Northern Ireland (Cusack, 2000: 8).

That such criminal activity continues to exist in communities is an indicator of their support for, or at the very least acquiescence in, paramilitary tactics. The 'see-saw' nature of that relationship is best illustrated by two typical quotations from participants in focus groups, set up to gauge community reaction in staunchly republican and loyalist areas of Belfast. In republican areas the prime target for these attacks is young people involved in 'anti-social' behaviour – car theft, joyriding, house-breaking/burglary and vandalising their communities. In the absence of what is seen as a legitimate police force, communities turn to paramilitaries to protect them. The IRA regard 'anti-social' behaviour as a distraction from the 'republican struggle' and administer swift and often brutal summary 'justice'. If conceived of in terms of paramilitaries carrying out punitive measures against 'ordinary' crime perpetrated in the midst of their political struggle or 'war', these 'punishment' beatings and shootings are outside the normal conventions of 'policing'. This places the activities of the informal or alternative criminal justice into the category of criminal violence. This according to Hillyard (1985) and Munck (1988) (cited in Bell, 1996), however, fails to recognise parallel shortcomings in the official justice system which can be coercive and illegitimate – 'applying the term 'informal justice' to IRA actions suggested the formal injustice of the state' (Bell, 1996: 159). Communities are discouraged from going to the police as the experience is that charges will be dropped

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[8] Although the IRA ended its cease-fire on 9 February 1996 with the Canary Wharf bombing and restored it on 19th July 1997.

against the perpetrators in return for low-level intelligence information useful to the RUC.

> Women sitting in the house hear the squealing of a stolen car and their first thought is 'where are my kids?'. They run out, their hearts are in their mouths. It terrifies them. It terrifies them to an extent that a lot of people move out because they can't live with it. So they're angry, frustrated, they want something done instantly. They don't want him to appear in court nine months down the line….The RUC don't come into our areas so people look to the republican movement. We need to hit back at these anti-social elements. They're like fifth columnists in our area (focus group interview in republican area of Belfast, September 1999).

Loyalists have contended that the formal criminal justice system is ineffective in dealing with crime in the community, although this is often an excuse to keep the RUC out of areas where they control racketeering and drug dealing. This can result in vicious internecine disputes and territorial conflict between factional loyalist groups. The murder (January 2000) by the Loyalist Volunteer Force (LVF) of Richard Jameson, described by police as the Ulster Volunteer Force (UVF) leader in Mid-Ulster, provoked a reaction from his brothers that 'the LVF isn't a loyalist organisation but a drugs organisation creating misery in towns all over the province' (Kearney and Clarke, 2000: 2). The recent violence between the UDA and UVF in the Shankill and North Belfast has resulted in tit-for-tat killings and families displaced from their homes through intimidation. Such violence has instilled fear within communities where the role of paramilitaries has changed from protector to oppressor.

> I want the police to have the power to look after this community. As far as I'm concerned the paramilitaries have no place in Northern Ireland. They were set up to protect one side and fight against the other. Well that's done. We've got peace now. They're big business. They're hiding behind this paramilitary protection of communities, but really all they are is big business and extortionists into fraud and drugs. There's no place for them….You can't set up a residents' committee to face the paramilitaries because if you face them you'll be targeted (focus group interview in loyalist area of Belfast, November 1999).

Those subjected to beatings and shootings tend not to engender sympathy from either the police and, more often, the communities within which they reside. In the case of the former, the RUC claim that those attacked will usually have been involved in 'anti-social' behaviour, may have a criminal record and are therefore reluctant to report the crime lest they are investigated. There is also fear of reprisal from paramilitaries should they co-operate with the police. As one senior police officer

pointed out 'we are unfortunately in a Catch 22 situation…if they refuse to make a witness statement, then in fact the RUC is at a loss in many regards, unless we have the forensic evidence or unless they're caught in the act' (interview with RUC Chief Superintendent, October 1999). Communities, on the other hand, feel they have little option but to tacitly or explicitly support the actions of paramilitaries. They are unwilling and/or reluctant to go to the RUC, feel threatened or terrorised by crimes perpetrated in their areas and respond accordingly. 'People want instant justice. They are not prepared to wait on the rules of evidence, on long processes of the court – they feel "we are the victims and we want something done about it now". The paramilitaries respond to this' (community focus group respondent). In sum, the RUC are limited in their response, communities demand protection from crime in their areas and those attacked are fearful of paramilitary reprisal. The police therefore acquiesce in the *status quo* by minimising the extent of the problem and/or remaining indifferent to it, a strategy that has been described by Conway (1994:99) as 'reactive containment' on the part of the security forces. There are also allegations that the police unofficially refer problems to the informal system or known paramilitaries as a means of dealing with local crime.

The future

The dilemma here is obvious. The government has opted to 'see no evil, hear no evil' in the case of 'punishment' beatings and attacks, given what is at stake in the wider political process. Because these acts of mutilation, torture and intimidation have become bound into the political equation there is a marked reluctance to view this phenomenon as anything other than politically motivated which demands a political response. Yet communities feel trapped in a web of criminal behaviour by paramilitaries over which they have little/no control and where much fears exists. The Ulster Unionist leader, David Trimble, described this as people who invested hope in the Agreement having a 'nightmare'. The nightmare is that the paramilitaries, rather than turning their backs on violence and crossing over into a democratic society, 'will come into the process and corrupt it, continue with their violence and continue the dominance and racketeering'. This, he argued, would not be confined to estates in certain parts of Northern Ireland but could be widespread. 'People have a nightmare that they will see the very heart of society become corrupted' (Trimble, 1999: 363). Patten (1999) draws attention to the fear that crime levels may increase in the future –

'a perverse sort of peace dividend'. Total recorded crime in 1998/99 was up 28% on the previous year and increased a further 10% in 1999/00. Offences against the person increased by 33% and a further 16% respectively (Reports of the Chief Constable: 1998/99 and 1999/00). A more normal security environment, according to Patten, might lead to more 'normal' criminality (Patten, 1999: 76).

The nature of problem appears to be changing. Republicans have openly voiced their opposition to 'punishment' attacks and are supporting a growing number of community restorative justice programmes throughout Northern Ireland in which 'anti-social' behaviour is dealt through a process of mediation between victims and offenders[9] (McGuinness, 1999). Yet republicans argue restorative justice must be seen as complementary to a 'proper policing service'. Again, this shows the inextricable link between this problem and the wider political debate but in the short-term does nothing to tackle the vacuum occupied by republican paramilitaries within communities. There are lessons which Northern Ireland can learn from policing debates elsewhere. Marks (2000), for example, in discussion on the situation in South Africa argues that changes in legislation and policy on their own are not guarantees for police transformation. Assuming that the present difficulties of translating Patten into law can be surmounted (hardly a foregone conclusion) there is, according to Reiner (1992), a need to change rank and file subculture and mechanisms for lower level accountability. Both represent long term challenges for policing in Northern Ireland. Wilson (2000) described it this way:

> For most Catholics to feel a genuine sense of ownership over the police, they need to believe that it will no longer be tarred with the *causes célèbres* of the past – requiring the investigations by Stalker, Stevens and so on – and that the 'canteen culture' will not be inhospitable to them (Wilson, 2000:4).

Community restorative justice schemes have also been set up in loyalist areas, the Shankill Alternatives project being one of the better known. Since loyalists do not have the same problems with the legitimacy of the state and its security forces, (although Unionists were hostile to the government's response to Patten) criminality

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[9] The recent review of the criminal justice system in Northern Ireland makes reference to the 'dangers inherent in the sort of model advocated by Auld and others (Auld et al, 1997). In Northern Ireland in particular, coercion or threat, real or implied, are ever-present dangers which cannot be ignored, even

appears to be the principal reason for ongoing paramilitary activity. This concurs with Bruce's description of loyalist paramilitaries compared to the IRA in which he noted 'they are less well able to develop an enduring political programme and community base for their activity; more vulnerable to racketeering, and hence less popular with the population they claim to defend' (Bruce, 1992: 268). The IRA, for example, has acted as anti-drug enforcers in their areas fearful that drugs supplied by loyalist organisations and users in their own community could undermine the republican struggle and become police informers respectively (Hollywood, 1997). Conway confirmed this in his role as manager of a voluntary organisation (Base 2) which offers services to those under threat from paramilitary organisations. 'Those cases that have been referred to Base 2 from loyalist areas are more significantly about loyalists policing their own organisations for reasons such as internal disputes and informing. This is substantially different from what occurs within republican areas' (Conway, 1997:116).

Experiences from South Africa on 'communal mechanisms of social ordering' are also instructive. People's courts existed in black South Africa townships for a long time but the period of political transition offered the opportunity to re-examine this form of popular justice. Van Zyl Smit (1999) notes the objective was both 'to improve the ability of a particular community to maintain order and to allow the community to relate on its own terms to the formal state agents of social control' (Van Zyl Smit, 1999: 203). Examples of this approach included training members of street committees in 'community safety', central to which was human rights issues, conflict resolution and the functioning of state agencies (police and courts). Treatment of juvenile offenders involved a process of reintegrative shaming within the context of restorative justice schemes (Braithwaite, 1989,1993; Braithwaite & Mugford, 1994; Matthews, 1988, Foster, 1995). The parallels with Northern Ireland are striking. Van Zyl Smit argues this 'radical criminology with a strong commitment to communitarism is well entrenched in the sense that the centrality of community involvement in crime control has been established in virtually all policy debates about criminal justice in South Africa' (Van Zyl Smit, 1999: 211). He concludes, however,

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with well-intentioned schemes which on the face of it include safeguards for the rights of offenders and victims' (Criminal Justice Review Group, 2000: 215).

that South Africa is unlikely to be able to reform its system as a whole so that restorative justice operates in local communities with minimal outside interference:

> Recent criminological research has made us aware of the limits of the power of the modern state and the constraints on its ability to control crime effectively (Garland, 1996), but an efficient, uncorrupt and principled central criminal justice administration continues to be an important guarantor of individual freedom (Van Zyl Smit, 1999: 213).

This highlights the need for the successful culmination of reforms to policing and criminal justice systems in Northern Ireland. In the wake of a political agreement and no final 'resolution' of the policing problem and decommissioning, loyalist and republican vigilantism, for different reasons, is set to continue.

Conclusion

Whilst the political achievements manifest through power-sharing devolved government are a welcome relief for the long-suffering people of Northern Ireland, the legacy of a violent society still remains. The existence of vigilante groups in Northern Ireland on both the republican and loyalist sides pose a real threat to long-term efforts to copper-fasten the political gains by improving social stability and community cohesion. Paramilitaries have become the law enforcers within communities where the security forces have either no legitimacy, are unwelcome, or perceived to be ineffectual in combating crime. O'Doherty, for example, suggested 'communities are conditioned to accept that men with baseball bats and iron bars administering 'justice' are motivated by nothing more than responsible civic-mindedness' (O'Doherty, 1995:7). Mutilations, torture, beatings and exiling cannot come within the purview of an 'acceptable level of violence' or be seen as part of the imperfections of peace. This is not to preach moral rectitude in the face of difficult political choices. When violent acts become part of the political equation, the government, through its response, has defined that such beatings and shootings do not constitute a breach of Mitchell's principles of democracy and non-violence. This response has also, by default, ignored the criminality of paramilitaries (drug dealing, racketeering etc.). Sean O'Callaghan, a former IRA commander, has described the Northern Ireland Office's attitude as dismissive 'while terrorism is confined to the ghettos, why worry' (O'Callaghan, 1999:18).

But a key consideration here is, what is it about the politics and presentation of 'punishment' beatings and shootings that mutes and hides the damage of this form of violence to its victims when elsewhere in the UK (Reeves and Mulley, 2000) and USA concerns about victims and public safety dominate public policy? Garland (2000), for example, notes the 'new imperative is that victims must be protected, their voices heard, their memory honoured, their anger expressed, their fears addressed' (Garland, 2000: 351). What **is** different about Northern Ireland is that a hierarchy of victims exists differentiated by labels of 'deserving' and 'undeserving'. Rolston (2000) describes the former as those 'presumed to be less than innocent, or worse, downright culpable, implicated in their own suffering' (Rolston, 2000: XI). He suggest this leads to the social construction of the 'ideal victim' (Christie, 1986) or the 'undeserving', key to which are two key elements 'innocence' and 'passivity'. Those subjected to paramilitary 'punishments' suffer from being labelled 'deserving' victims and, as a consequence, their plight deemed too insignificant to 'rock the political boat'. Violence in these circumstances is ignored, legitimised or valorised through the complexities of the political process to achieve 'peace'. This raises the wider question as to whether paramilitary violence, the by-product of a negotiated political settlement in Northern Ireland, would be tolerated as a 'price worth paying' in other areas of domestic, homophobic or racist violence. It also challenges the legal discourse about criminality when we separate 'legitimate' or acceptable violence from 'illegitimate' or unacceptable violence.

A further consideration here is the way in which the boundaries between politically motivated acts of violence and criminality have been blurred. This is not uncommon in societies in, or emerging from, conflict. Korn's (2000) research on the Israeli Arab population during the military government period (1948-66) noted that protest and political opposition by Arabs was viewed in non-political terms as threats to law and public order, and 'ordinary' crime perceived as being politically motivated. Van Zyl Smit (1999), citing Cohen (1996:19), notes where the distinction between political dispute and criminal violence has been obliterated the 'remote prospect of democracy lies in a radical separation between crime and politics'. He argues that in South Africa 'more attention needs to be paid to the balance between the input that community solidarity can make to ensure a safer environment and the role that the state can and

should continue to play' (Van Zyl Smit, 1999: 213). The same applies in Northern Ireland where the burgeoning movement towards restorative justice (particularly amongst Republicans) cannot be seen as a substitute for state control of crime (however imperfect it is perceived at present).

What is evident from the research in this paper is that vigilante activity in the two communities is following divergent paths. This is at odds with Silke's assessment (1998) that they are similarly motivated. Civil crime is still the predominant focus for paramilitary attention in nationalist communities and Patten's reforms appear unlikely to inspire confidence in, and respect for, the new 'Police Service for Northern Ireland' (proposed new title to replace RUC) in the short term. In this policing hiatus Sinn Féin have endorsed community restorative justice as a mechanism to deal with these issues. It is too early to make an assessment of its effectiveness. For communities accustomed to summary justice, a system based on the principles of mediation smacks of a liberal regime which will be hard to sell on the ground. There is homogeneity within republicanism which makes internal disciplining less of a problem. The same cannot be said of loyalist paramilitaries whose description as 'reluctant vigilantes' (Silke, 1998) seems incongruous. Racketeering and drug dealing have led to factional disputes and territorial battles. Loyalist communities now see the injustice of their operations and feel alienated, threatened and cowered by the paramilitaries. They live in constant fear of 'crossing someone who is connected'. This is not to rank order the vigilantes' response on a scale of morality but to highlight the fact that the brutality they mete out is for quite different reasons. At what point, now or in the future, does an 'imperfect peace' become an unacceptable one?

Evidence from elsewhere reinforces the Northern Ireland experience that boundaries between criminality and politically motivated acts of violence become blurred for communities as well as state enforcers of law and order. Hence work needs to take place within communities (as well as reforms to the police) to promote solidarity and creatively manage the problem of crime in their midst. There is already evidence of this happening. The Community Re-Integration Project (run by the Northern Ireland Association for the Care and Resettlement of Offenders) provides a co-ordinated multi-agency response to alienated and excluded youth across the Greater Belfast area, key to which is a network of trained mentors who supervise offenders with a

view to re-integration back into communities. It is acknowledged, however, that work at the grassroots level will be different depending on which community is involved. An 'imperfect peace' is one which is differentially negotiated across communities where criminality and political violence are inconsistent. The blurring of the boundary between criminal and political crime is neither a Northern Ireland-specific issue or something new, in itself. All crime is politically defined, even it there is considerable consensus around some of the key categories. What has happened in Northern Ireland is that there has been a substantial shift in the boundary. This shift can be explained by the centrality of those involved in violence (political prisoners) to the attainment of a peace deal. In these circumstances it becomes difficult for the British Government to tackle ongoing insidious paramilitary violence within communities. Embedding political institutions (devolved government) in their view offers the prospect of long-term stability. 'Seeing no evil, hearing no evil' is the most appropriate response in the short-term.

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