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HOLDING ARMED OPPOSITION GROUPS ACCOUNTABLE

**A COMPARATIVE STUDY OF OBSTACLES AND STRATEGIES:
THE NORTHERN IRELAND EXPERIENCE**

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BACKGROUND

1. In April 1999 the author was commissioned by the International Council on Human Rights Policy to consider the obstacles and strategies for holding armed oppositional groupings accountable under human rights and humanitarian law provisions in Northern Ireland. The project required a brief introduction to the social and political context within which armed groups operate including the nature and scale of state human rights abuses; a brief account of the organisation and structure of the armed opposition groups and the most common types of human rights and humanitarian abuses committed by armed groups. In addition the three main research questions were grouped under broad headings, with supplementary questions suggested under each. These were :
 1. How have human rights and humanitarian actors tried to influence armed opposition groups to show respect for human rights and humanitarian norms ?
 2. What obstacles have these actors experienced in undertaking efforts to influence the behaviour of armed groups ?

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3. When have steps taken by these actors been successful in persuading armed opposition groups to respect human rights and humanitarian norms ?
2. This report begins with an overview of the Northern Ireland conflict, the principal protagonists and the ways in which their activities are relevant with regard to human rights and humanitarian law interventions. In seeking to address various interventions, the report then outlines a number of typologies based upon various group and individual actors in the Northern Ireland context. In so doing, it is hoped to provide not just a description of the interventions which have taken place but also develop some of the more thematic and theoretical issues of broader applicability.
3. The various styles of intervention have been characterised as:
 1. Interventions by International Human Rights NGO's Based Upon Humanitarian Law Principles.
 2. Interventions by Political Lobby Groups Using a Human Rights Framework
 3. Service Provision and Direct Engagement by Humanitarian Groupings Seeking to Change Paramilitary Behaviour.
 4. State Focused Human Rights NGO's and Creating a Human Rights Culture.
4. The report concludes with a summary of the main issues and themes raised with regard to human rights and humanitarian interventions in the Northern Ireland context.

THE PROTAGONISTS AND THE NATURE OF THE CONFLICT

5. Since 1969 over 3600 people have been killed, over 40,000 people injured and conflict has cost the British and Northern Irish economy several billion pounds directly as a result of the conflict (Fay, Morrissey & Smyth 1998:121). Similarly, since 1973 police figures suggest that 2,134 people have been the victims of paramilitary punishment shootings (usually in the knees, thighs, elbows, ankles or a combination) and since 1983, 1,336 people have been the victim of paramilitary punishment beatings (involving attacks with baseball bats, hurley sticks studded with nails, iron bars and other heavy implements (RUC 1998)². With a relatively small population of just over 1.5 million people, the scale of the Northern Ireland conflict is appropriately compared to Sri-Lanka, Cyprus or Lebanon (McGarry & O'Leary 1993).
6. For current purposes, the Northern Ireland conflict is best described as involving three sets of protagonists, Nationalists\Republicans, Unionist\Loyalists and the British State. Each set of protagonists have more moderate exclusively "political" expressions of their ideology as well as more militant armed groupings. In addition, each of the protagonists have been guilty of violent acts which have been described by various commentators as either human rights or humanitarian abuses.

² The RUC only began to systematically keep figures on punishment beatings by paramilitaries in 1983. Their figures suggest a marked increase in beatings following the IRA and Loyalist cease-fires in 1994 as paramilitaries apparently became less ready to use firearms for such attacks.

Nationalists/Republicans

7. Moderate Nationalism is politically represented by the Social Democratic and Labour Party (SDLP) lead by John Hume. Republicanism, the less moderate expression of Irish Nationalism is represented by Sinn Fein (lead by Gerry Adams). Sinn Fein, which only began to contest elections in the 1980's has become the fastest growing political party in Ireland. They received 18% percent of the overall vote (42 percent of the Nationalist vote) in the elections held in June 1998 to the new Northern Ireland Assembly which arose as a result of the Good Friday Agreement at Stormont (NI election site 1998). Sinn Fein is the political wing of the largest and best known Republican paramilitary grouping, the Provisional Irish Republican Army (IRA).

The Republican Campaign of Violence

8. While there have been a number of Republican groupings engaged in political violence over the course of the Northern Ireland conflict, this paper focuses primarily on the IRA as the largest and most active Republican grouping.³ Interrupted by three major cease-fires, (the most recent called in July 1997 and still in place) the IRA have conducted a campaign of political violence since 1969 which has entailed bombings and shootings in Northern Ireland, Britain and Europe (Bowyer Bell 1979, Bishop & Mallie 1989, Ryan 1994). That campaign has included attacks on the security forces (primarily members of the British Army and local police the Royal Ulster Constabulary [RUC]), political and judicial figures, Loyalist paramilitaries and civilians. The IRA has also carried out a campaign of bombings on economic and commercial targets designed to damage the British and Northern Irish economy, in their terms to "make the occupation of Ireland costly for the British." Civilians killed by the IRA have included those who have been targeted deliberately, those who have been adjudged guilty (by the IRA) of "informing", those considered guilty of anti-social activity such as drug dealing, numerous "mistakes" wherein civilians have been erroneously or negligently killed in botched attacks on economic, security force or Loyalist paramilitaries. In the late 1980's deliberate attacks on civilians also occurred after the IRA took a conscious decision to extend their range of "legitimate targets" to include those involved in construction for or service provision to the security forces (O'Doherty 1998).
9. The IRA and other Republican groupings regard themselves as the inheritors of a Republican tradition in Ireland, stretching back at least to the United Irishmen Rebellion of 1798, which has seen a number of major campaigns seeking to remove the British presence from Ireland through armed struggle (Toolis 1995, Taylor 1997). Republicans point to the partition of the island designed to gerrymander a Unionist majority, the endemic discrimination against Catholics in the Northern state under Unionist domination, and the activities of the Royal Ulster Constabulary as in effect the armed wing of Unionism as amongst the causes of conflict (Adams 1986). Their stated objective throughout the conflict has been a removal of British jurisdiction and a reunification of the island of Ireland partitioned in 1921.
10. The IRA are a highly centralised and relatively disciplined paramilitary grouping. After re-organising in the mid-1970's into a cellular structure, they have proved to be a ruthless and persistent paramilitary organisation throughout the conflict. Well armed and apparently highly motivated⁴, they have been consistently recognised in British and international military and intelligence circles as amongst the most effective terrorist organisations in the world (Wilkinson 1986). While there has been some leakage of IRA personnel and weapons to dissident

³ Other violent Republican groupings have included the Official IRA, the Irish National Liberation Army (INLA), Irish People's Liberation Organisation (IPLO) and a number of groupings which have come to prominence in the wake of the IRA cease-fires, the "Continuity" IRA and the "Real" IRA.

⁴ In 1980\1981 10 Republican prisoners starved themselves to death over a five month period in protest over the governments attempts to force them to accept the status of criminal rather than political prisoners.

Republican groupings during the period of the cease-fires (including the "Real IRA" who killed 29 civilians in a bomb attack in Omagh in 1998), they appear at the time of writing to remain as a cohesive and organised group.

Republican Punishment Attacks

11. As noted above, violent attacks been carried out not solely as a result of the IRA's military campaign, but also under the rubric of what are described as their "policing" activities within Republican communities. It is these punishment attacks which have been the focus of most attention by human rights and humanitarian actors.
12. The IRA has a distinct section within its structure known as the "civil administration" which is tasked with the policing of such anti-social activities (O'Doherty 1998). The operation of this system requires a considerable logistical and infrastructural commitment with personnel designated to hear complaints, investigate, make recommendations and carry out the punishment attacks. The system has become somewhat routinised with particular buildings designated as centres where complaints are made and heard by Republicans. Relationships have developed with professional agencies such as social workers or youth workers who have sought to make interventions regarding those under threat (discussed below). Victims are often aware that they are under threat and occasional there have been highly publicised accounts of victims or their families making arrangement to arrive at agreed destinations in order that a punishment may be administered.
13. In justification of these attacks, Republicans point to the state police's lack of acceptance or legitimacy amongst Republican communities ; the inability or unwillingness of the RUC to "properly" police Republican areas and police toleration of the activity of "ordinary" criminals in return for becoming "informers" on suspected IRA activists (Helsinki Watch 1992, Munck 1984, 1988); the traditions of alternative justice systems in Ireland as a challenge to the legitimacy of the state (Kotsonouris 1994); and the pressure from local communities to "do something" in response to anti-social activity⁵.
14. Some commentators have strongly criticised the activities of the IRA in carrying out these policing activities as an exercise in power and control, at times "nakedly obvious intimidation" with moralistic justifications which are gauche and transparent (O'Doherty 1998:145). Similarly Kennedy (1995) locates Republican punishment beatings within a framework of "internal repression" within working class nationalist communities. He argues that punishments help to "manufacture community support" against the state, exercise control through terror, appeal to puritanical punitive urges to "clean up" society, keep IRA volunteers busy while on cease-fire and may in part be due to the influence of "warped personalities" amongst the ranks of the paramilitary membership (1995:77-79).
15. Others however accept some of the analysis of Republicans themselves, placing greater emphasis upon the community pressures to respond to anti-social crime and the clear lack of consensual state policing in working class Republican areas (Connolly 1997). Such commentators have argued that while the violent methods of Republican policing are undesirable, there is considerable levels of community support for such activities. They also point to the existence of a "tariff" system in which matters such as the seriousness of offence, previous record, age and gender of the alleged offender all impact upon the punishment imposed (Morrissey & Pease 1982, Conway 1997) in a brutal but organised fashion. Clearly while the dangers of "informer" from the ranks of petty criminals who live in the same communities as Republicans presented security problems for the IRA (Munck 1988), some commentators have suggested that in fact the policing activities constituted an unwanted drain on resources away from the military effort (McCorry and Morrissey 1989).

⁵ Interview Republican Spokesperson, 1st July 1999.

16. For current purposes, the author would place greatest emphasis upon three related points.
 - (a) the notion amongst the Republican movement of their "responsibility" with regard to dealing with anti-social crime
 - (b) the parallel culture of reliance and dependence which has developed in working class Republican communities upon the IRA to "deal with" problems of crime and anti-social activity
 - (c) the lack of legitimacy of the state police force in such communities.
17. The resurgence of the IRA in the early 1970's is widely acknowledged as being influenced in large part by the perceived need for the organised defence of nationalist communities from Loyalist mobs, either supported by or ignored by a belligerent police force (Bowyer Bell 1979, Coogan 1985, Bishop & Mallie 1989). This notion of "responsibility" for the defence of their community is a key tenet in modern Republican ideology (MacIntyre 1995, (O'Doherty 1998).) and it extends beyond defence from Loyalist or state violence to include defence and protection from anti-social crime.
18. Similarly with regard to the reliance of Republican communities upon IRA policing, surveys and ethnographic work in such communities have produced candid acknowledgements of the importance of such paramilitary activities in dealing with anti-social crime (Brewer, Lockart & Rodgers 1997). As one Republican activist told the author "*...the conflict has created a cycle of dependency, where the community expects the movement [IRA] to deal with anti-social crime, the IRA feels responsible and must act but lacks the resources to deal with it other than through violence and the result is damaging the kids who are after all part of the community.*"⁶
19. Finally the lack of confidence in working class Nationalist Communities in the RUC has been consistently found in survey data concerning attitudes to the police (e.g. O'Mahony et al 1999). Such communities are often highly distrustful of the police, reluctant to utilise them for ordinary policing functions and the most desirous of radical reform or disbandment of the current force in the context of the peace process.

Unionism/Loyalism

20. The two principal voices of constitutional unionism are the Ulster Unionist Party led by David Trimble and the Democratic Unionist Party led by Ian Paisley. There is also a smaller more moderate unionist party known as the Alliance Party who have attempted to straddle the sectarian divide by attracting votes from both Protestants and Catholics. All Unionist Parties favour the retention of the Union with Britain. While Unionism has fragmented considerably in the 1990's with the emergence of a plethora of smaller parties, of particular significance for current purposes has been the emergence of the Progressive Unionist Party and the Ulster Democratic Party as the political wings of the two main Loyalist paramilitary groups. While collectively achieving less than 3.5% of the vote, these parties have nonetheless been highly praised for helping to achieve and trying to maintain the 1994 Loyalist cease-fires.
21. Loyalist paramilitaries have also carried out a violent campaign in support of the maintenance of the Union with Britain and the perceived failure of the government to deal effectively with Republican terrorism (Bruce 1992). The two main Loyalist paramilitary groupings are the Ulster Volunteer Force and the Ulster Defence Association (also sometimes referred to as the Ulster Freedom Fighters), with a number of splinter groups having been established during the peace process period including the Loyalist Volunteer Force.

⁶ Interview with former IRA activist, 12th March 1998.

22. Their targets were traditionally uninvolved Catholic civilians, economic or civilian targets in the Irish Republic or Republican activists (Cusack & McDonald 1997). Regarding themselves as primarily defensive in nature, they consider that they have been driven to the use of political violence because of the IRA, defending not only the link with the United Kingdom, but their community from Republican violence (McCauley 1994).
23. Loyalists argue that with few clear Republican targets other than identified IRA men, members or elected representatives of Sinn Fein, they have been forced to attack the Catholic community as a whole. Although Loyalist have periodically sought to justify their attacks by claiming that they had information relating to the secret IRA activities of their victims, much of their violence has been described as sectarian and indiscriminate (Bruce 1995). Loyalists have been considerably less successful than Republican in garnering an international constituency in support of their activities.
24. In the 1970's and 1980's various attempts have been made by the British intelligence agencies and security forces to infiltrate Loyalist organisations. One of the apparent objectives of that infiltration has been to improve the quality of the Loyalists' intelligence by passing on security information on Republican suspects and encouraging them to carry out more directed attacks against Republican activists rather than Catholic civilians (Dillon 1990, Urban 1992). Despite this however, from the late 1980s onwards Loyalist groupings have been increasingly forthright about their policy of indiscriminate attacks on Catholics in bars, bookmaker shops and other public areas.

The IRA gets its support from the Catholic community. That community must pay a heavy price for the IRA's murderous campaign against the Protestant community. Keeping the pressure on the Catholic community to get the IRA to stop their killing spree is the only way that we can defend our communities from being driven into a united Ireland (New Ulster Defender 1992:2).

25. Loyalists, as members of a pro-state paramilitary group, have by definition an ambivalent relationship with that state. (Nelson 1984). They are arrested and imprisoned by the state for which they are fighting and by and large do not contest its legitimacy. They appear more ready to accept that that they have broken the law and must pay for their crimes, but feel that their loyalty is not sufficiently recognised (Clayton 1996). *"Their only crime is Loyalty"* has long been the graffiti slogan on walls in Loyalist areas.
26. Loyalist command structures are considerably looser than their Republican counterparts, and they are widely viewed by academics, security and prison staff as less organised and less disciplined than their Republicans. While some of the most capable political and community leaders during the period of the cease-fires have come from the ranks of former Loyalist paramilitaries, most academic commentators suggest that in general they attract a lesser calibre of recruits than the IRA in particular (Dillon 1990, Bruce 1992). Steve Bruce (1992), in the primary study on Loyalist paramilitarism, suggests that since those members of the Protestant\Loyalist community who wish to fight to maintain the Union may do so legitimately by joining the British Army or the local police, leaving only less able recruits for the Loyalist paramilitaries (Bruce 1992:272-273). He concludes that they are :

. . . less well organised and less well staffed; less selective and less skilful in their operations; less well funded and less well armed; more vulnerable to policing of the security forces; more vulnerable to the propaganda of the government's agencies; 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).

27. With less centralised control, and a less clear command structure, engagement with Loyalist paramilitaries is arguably more likely to face additional complexities. These include variances in

the quality of local leadership, regional divisions and tensions and (in some areas) involvement in criminal activities such as drug dealing (McEvoy, McElrath & Higgins 1998). While there are differences between the UVF and the UDA, with the UVF generally viewed as the smaller and better lead of the two (Cusack & McDonald 1997), such complexities mean that engagement on human rights and humanitarian law issues are all the more problematic.

Loyalist Punishment Attacks

28. As with Loyalism in general, there is considerably less academic or policy research on Loyalist punishment attacks. While Loyalist punishments are also directed against anti-social activities by alleged criminals in some instances, again the phenomenon is arguably more complex than on the Republican side. Loyalist paramilitaries share with Republicans a sense of responsibility for the defence of their communities against anti-social criminal behaviour. In addition however, Loyalist punishment attacks also appear concerned with the internal disciplining of their own members, territorial disputes between rival paramilitary factions and drug related disputes, sometimes between differing factions (Winston 1997).
29. There is a corresponding lack of formalism or systems in Loyalist shooting or beating (Bell 1996). There are no specialist Loyalist squads dealing with punishments. Those involved also carrying responsibility for other organisation matters such as “military” attacks on Republicans or Catholics. Warnings tend not to be given, tariff scales are unclear if they exist at all, there is no central bureaucracy with considerable autonomy amongst commanders at localised levels and punishments tend to be carried out swiftly. As one Loyalist community activist told the author :

I don't think it is that particularly structured. I would say it is pretty grey in relation to the tariff system. In a lot of cases, the punishment attack would happen pretty soon after the offence, as soon as the people who are carrying it out can do that. That in itself can create problems in that the spontaneous emotion over an offence can lead to greater amount of physical punishment.⁷

30. According to RUC statistics, Loyalist paramilitaries have been responsible for more punishment shootings and beatings than Republicans since 1996 with over 426 beatings attributed to Loyalists over that period, compared to 390 attributed to Republicans (RUC (1998). Figures on Punishment Attacks Made Available to the Author. Belfast : Royal Ulster Constabulary 1999). In addition figures compiled with regard to those who have been intimidated out of areas, often under threat of a punishment shooting or beating, suggest that Republicans have been more likely than Loyalists to use “exiling” from the community as a form of punishment. Such a punishment means that individuals are forced to leave their family and friend and move to entirely unfamiliar environment, often with little or any support network.⁸

The British State as an Armed Protagonist

31. The final armed protagonist to the Northern Ireland conflict has been the security forces of the British state. These have included the RUC, British Army (including special forces such as the Special Air Service [SAS] and locally recruited regiment the Ulster Defence Regiment) and the various intelligence agencies. The attitude of various British governments towards a recognition

⁷ Interview with former UVF prisoner and manager of prisoners reintegration project which is also involved in establishing a restorative justice scheme in a Loyalist area designed to avoid punishment attacks. 29th June 1999.

⁸ Base Two, the primary project which deals with those under threat from paramilitaries (discussed in greater detail below) suggest in their figures from 1990 onwards that percentages have remained consistent since 1990 with Republicans usually accounting for approximately 60% of their caseload and Loyalists the remaining 40% (Base 2 1997, 1998).

of themselves as combatants and a corresponding recognition of the political character of the conflict has varied over the past thirty years.

32. Between 1969 and 1976 with the deployment of large numbers of British troops, the internment of suspected terrorists and the granting of Special Category Status (de facto prisoner of war status) and negotiations with the IRA leadership in 1972 and 1975, the political nature of the conflict was implicit in government security policing (McGuffin 1973, Gormally et al 1993). From 1976-1980 a new policy of Ulsterisation and Criminalisation saw the removal of Special Category Status from convicted paramilitary prisoners, the scaling down of British army operations and giving the RUC primacy over anti-terrorist matters and considerable propaganda efforts directed towards stressing the criminal nature of terrorism as a political accommodation was abandoned in favour of a rigorous security policy (Ryder 1989, Miller 1994). Up until the peace process of the mid 1990's the British state continued, at a rhetorical level at least, to present the conflict as one between two warring traditions, to present the violence as essentially sectarian or tribal rather than political, and to minimise their own political responsibilities as they sought to "hold the ring" between the two oppositional sects (Tomlinson 1998).
33. It could be concluded for the sake of brevity that the Good Friday Agreement, negotiated in 1998 between most of the Northern Irish political parties and the British and Irish governments, represented a considerable move away from that position. The moves to release paramilitary prisoners, reform of the RUC and criminal justice system and centrality placed upon human rights and equality protections cumulatively represent an acceptance of the political nature of the conflict and role in which the state agencies had played in the previous decades (McEvoy 1999).
34. Over the thirty years of the conflict, there as been a wealth of critical human rights literature from local and international human rights actors on the role of those state agencies. Such criticisms have reflected upon the use of torture, internment without trial, the shooting of unarmed suspects in disputed circumstances, discriminatory policing, allegations of collusion between the security forces and Loyalist paramilitaries, departures from due process and fair trial requirements and a failure to protect lawyers in politically sensitive trials (e.g. Amnesty International 1972, 1988, 1994, Human Rights Watch 1991, 1997, CAJ 1996, Lawyers Committee 1996, UNCAT 1991, 1995, Cumarswamy 1998). In addition, major concerns regarding equality and fair treatment have been voiced at a local and international level about the treatment of the Catholic minority in areas such as fair employment, the status of the Irish language and security vetting (McCrudden 1999, Harvey & Livingstone 1999, McEvoy & White 1998). As is discussed below, much of the criticism has been made by local NGO's and individual actors who have been very successful in ensuring that state human rights abuses in Northern Ireland have remained to the forefront of the national and international human rights spotlight.

TYPOLOGIES OF HUMAN RIGHTS AND HUMANITARIAN INTERVENTIONS WITH ARMED GROUPS IN NORTHERN IRELAND

I. Interventions by International Human Rights NGO's Based Upon Humanitarian Law Principles.

35. From the early 1980s Human Rights Watch and in 1991 Amnesty International adapted their monitoring role to include abuses perpetrated by non-governmental entities such as paramilitary groupings. The discussions which lead to those changes in policy are well known and do not require rehearsing in this paper. Suffice to say that the combination of a number of reasons including moral outrage at the abuses against civilians perpetrated by some NGE's (Kogod Goldman 1993) ; a sense that such human rights NGO's were "stung by the taunts" that by

ignoring the actions of armed groups they were not acting impartially (Rodley 1990:27) ; and, more recently, the suggestion that traditional notions within international law of “the state” and “armed conflicts” were both dated and limiting with regard to protecting the rights of citizens (Baer 1994) lead to the expansion of the mandate of both organisations.

36. There is a considerable debate in the academic literature as to whether Northern Ireland falls within the notion of an “internal armed conflict”, with a strong view put forward by some academic commentators that it does not (Hogan & Walker 1989, Boyle & Campbell 1992). While some of the arguments concerning the non-applicability of humanitarian law are compelling (such as the failure by paramilitaries to exercise effective control over territory), the fact remains that both Human Rights Watch and Amnesty International have applied such principles to the Northern Ireland context regardless. However, as is discussed below, the application of such principles have arguably not been entirely consistent and have created some political and operational difficulties for international NGO’s (Amnesty International in particular) as well as local human rights organisations.

Human Rights Watch/Helsinki⁹

37. In 1991 Helsinki Watch conducted its first major review of human rights abuses in Northern Ireland. As well as outlining a range of state human rights abuses, their report also focused upon abuses perpetrated by both Loyalist and Republican paramilitary groupings. The details of that report and some of the arguments advanced are worth reproducing in brief.
38. The report outlined Republican attacks on both military (British Army and RUC) targets and civilians between 1969 and 1990, including paramilitary members who had been killed for actions such as passing information to the security forces (Helsinki Watch 1991:106). They also detailed “human bomb” attacks, wherein civilians described as “collaborators” were forced by the IRA to drive vehicles loaded with explosives to British Army checkpoints where the bombs exploded, killing one of the civilians involved. They noted that of those killed by the IRA, 52.7% were members of the security forces, 9% were their own members, and 23.6% were Protestant civilians, of whom 1.1% were Loyalist paramilitaries. The remaining victims were Catholic civilians. Finally the report made reference to the scale of punishment shootings carried out by Republican and Loyalist paramilitaries without detailing the numbers for which either faction were responsible.
39. In examining the actions of the Loyalist paramilitaries, Helsinki Watch noted that 89.6% were civilians, of whom 80.06 % were Catholic and the remainder Protestants. They noted Loyalist “tit for tat” killings of random Catholic victims, including the shootings of two teenage Catholic girls in a mobile shop in County Armagh.
40. The report made reference to International Humanitarian Law Standards and in particular Common Article 3 of the Geneva Conventions¹⁰ regarding internal armed conflicts, while

⁹ After their early reports on Northern Ireland Helsinki Watch changed their name to Human Rights Watch Helsinki.

¹⁰ Common Article 3 states :

In the case of armed conflict not of an international character occurring in the territory of one of the high contracting parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions :

- (I) Persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed ‘hors de combat’ by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any similar criteria. To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons;
 - (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture

acknowledging that “..the application of Common Article 3 to the conflict in Northern Ireland is debatable” (Helsinki Rights Watch 1991:111). That report also referred to the International Red Cross Rules of 1906 regarding “International Humanitarian Law Governing the Conduct of Hostilities in Non-International Armed Conflicts”, the Declaration of Minimum Humanitarian Standards (the “Turko’ Standards 1990) and Protocol 1 of the Geneva Conventions (not ratified by Britain but regarded by Helsinki Watch as a principle of international law of general application).

41. Helsinki Watch concluded by condemning the use of violence by paramilitary groups against civilians, the taking of hostages and the conducting of “punishment shootings”. In addition, the killings of security forces and opposing paramilitary groups were condemned on the grounds that they constituted a “*resort to perfidy*”¹¹ (Helsinki Watch 1991:114-116). That criticism was repeated in their 1992 World Report and in 1993 and 1994. In 1993 & 1994, Helsinki Watch called for all paramilitaries in Northern Ireland to refrain from the use of violence for political ends and called for an end to punishment shootings, assaults and banishments (Helsinki Watch 1993, 1994). In effect, in these various reports Helsinki Watch concluded by making no ultimate distinction between attacks on civilians and combatants (because of the “perfidy” argument), and expanded the notions of customary norms of international humanitarian law to preclude all politically motivated violence by paramilitaries in Northern Ireland.
42. Helsinki Watch have also written a number of reports which have focused more specifically upon the question of paramilitary punishment attacks and banishments. In 1992, the relevant section of a report on Children in Northern Ireland argued that the activities of the paramilitaries breached customary standards of international humanitarian law (Helsinki Watch 1992:54). Similarly in 1997 the Human Rights Watch/Helsinki Report on policing in Northern Ireland, a chapter on paramilitary “policing” concluded by arguing that “...*paramilitary punishment assaults and shootings thus violate the right to life, freedom from humiliating and degrading treatment, the right to due process and the guarantee of a fair trial as codified in Common Article 3.*” However neither of these reports made reference to the broader contention advanced elsewhere by Human Rights Watch that paramilitaries should desist from the use of political violence per se in Northern Ireland.

Amnesty International

43. Following their change of policy in 1991, Amnesty International began to monitor the activities of both Republican and Loyalist groupings in Northern Ireland. In July 1992 Amnesty International condemned the killing by the IRA of three alleged IRA “informers”, drawing a parallel with the similar killings by the UFF and UVF in the same year. While Amnesty continued to be very active on allegations of state human rights abuses (e.g. Amnesty International 1992), it was not until the publications of their major report on political killings in Northern Ireland in 1994 that the issue of NGE monitoring was given substantial consideration.

(b) taking of hostages

(c) outrages upon personal dignity, in particular humiliating and degrading treatment

(d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, afforded all the judicial guarantees which are recognised as indispensable as civilised peoples.

(II) The wounded and the sick shall be collected and cared for.

¹¹ Protocol 1 refers to international armed conflicts including those “in which peoples are fighting against colonial domination and alien occupation.” Article 37 notes that “It is prohibited to kill, injure or capture an adversary by resort to *perfidy*.” Perfidy is defined in Article 37 (c) as the feigning of civilian, non-combatant status. HW referred to the fact that paramilitaries in Northern Ireland do not bear arms openly and frequently kill by assassinations and that therefore such activities may be properly characterised as being carried out “by resort to perfidy” (Helsinki Watch 1991:116)

44. In that report, Amnesty International “*calls upon armed political groups to observe minimum humane standards.*” The report cites norms of international humanitarian law (the laws of war) which apply certain minimum limitations on all parties to internal conflict (Amnesty International 1994:34). Unlike the equivalent Human Rights/Helsinki Watch reports, Amnesty do not cite specific instruments to support their assertion as to the applicability of such standards to Northern Ireland. Rather they suggest that “*...above all international humanitarian law forbids governments and their opponents alike to torture any person, to deliberately kill civilians, to harm those who are wounded, captured or seeking surrender, or to take hostages. These acts can never be justified. It also forbids the passing of sentences and carrying out of sentences without due process of law. Amnesty International, of course, opposes executions without qualifications, under any circumstances*” (Amnesty International 1994:34). There is no discussion of the notion of “perfidy” as customary international humanitarian law in the Amnesty Report.
45. Amnesty lists a range of killings and injuries for which Republican groups are responsible. Confusingly however, clear distinctions are not made by Amnesty between those military targets regarded as acceptable and civilian targets regarded as unacceptable under humanitarian law. For example, accounts are given of IRA bomb and sniper attacks on British soldiers manning checkpoints, police officers on patrol, attacks on off duty soldiers and police as well as the killing of civilians including a nun caught up in a bomb attack but no clear distinctions are suggested. The only clear assertion, is where an IRA bomb attack on a military hospital in which two soldiers are killed and a number of civilians are injured is indisputably described as “a blatant violation of humanitarian law” (Amnesty International 1994:36). Attacks in which civilians are either mistakenly or deliberately killed or injured are described as “in breach of minimum humane standards” (Amnesty International 1994:37). Amnesty also noted punishment beatings, shootings and banishments carried out by Republican paramilitaries and condemned one such attack where a young man was shot in the legs three times for refusing to allow the IRA to use his car.
46. With regard to Loyalist killings and injuries, Amnesty noted that “*...the main victims of Loyalist killings are ordinary members of the Catholic Community*” (Amnesty International 1994:42). These included random attacks on bookmakers shops in predominantly Catholic communities, Catholic bars, members of predominantly Catholic sporting organisations, Catholic taxi drivers as well as members of Sinn Fein and their relatives. As with their Republican counterparts, Amnesty also noted the carrying out of Loyalists punishment attacks.
47. Amnesty concluded this section of their report by urging the leadership of armed political groups to take steps to ensure that their members “don’t torture, don’t kill prisoners, don’t kill civilians, don’t take hostages” (Amnesty International 1994:48).
48. In analysing this important report, it is difficult to conclude other than the failure by Amnesty to make distinctions between different types of attacks on military or security force personnel (other than a definitive statement regarding the unacceptability of the attack on a military hospital) is informed by an understandable political sensitivity regarding the notion of a “legitimate target” in Northern Ireland. Amnesty simply list a range of killings and injuries, acknowledge that Loyalists kill predominantly Catholic civilians and conclude by urging that basic principles of humanitarian law are upheld. That vagueness was repeated the following year in the Amnesty Summary of Human Rights Concerns when after detailing the numbers of deaths and injuries, as well as a number of recent punishment attacks, the relevant section concluded by stating “*...Amnesty International opposes human rights abuses carried out by armed political groups, namely the torture or killing of prisoners, other deliberate and arbitrary killings [my emphasis] and hostage taking*” (Amnesty International 1995:15).¹²

¹² For a discussion on whether armed groups can be guilty of human rights abuses see Rodley (1990).

49. The political difficulties posed by sticking more closely to the actual requirements of humanitarian law have been highlighted by a number of other Amnesty International interventions. For example, following their resumption of violence after their 1994 cease-fire, the IRA detonated a car bomb at Thiepval Barracks Lisburn (the Headquarters of the British Army) killing one soldier and injury almost thirty civilians (Irish News 8th October 1996). Amnesty released a statement condemning the injuries to the civilians but were immediately branded partial and biased by Unionist Security Spokesperson Ken Magginis who noticed their failure to explicitly condemn the killing of the British soldier who died a number of days after the attack. Such criticism mirrored those made by the former Secretary of State Sir Patrick Mayhew when he responded to Amnesty's 1994 report by saying:

Why do you call on the paramilitaries only to desist from killing civilians ? Are human rights denied by you, as well as by the terrorists, to police officers ?...Will you now additionally call on the paramilitaries to stop killing police officers and the military who support them? (quoted Irish Times 13th February 1999)

Analysis

50. There are four main issues of broader relevance which arise with regard to use of international humanitarian law by Amnesty International and Human Rights Watch in the Northern Ireland context.

The Notion Of A "Legitimate" Target

51. With regard to the extension of their remit to include paramilitary punishment attacks and associated activities in Northern Ireland, both Human Rights Watch/Helsinki and Amnesty International have found this aspect of their work relatively unproblematic until recently¹³. More obviously problematic however has been the struggle regarding the acceptance of the distinction between military and civilian targets which is at the very core of the application of humanitarian law principles.
52. Human Rights Watch have attempted to steer around this difficulty in Northern Ireland by (arguably) stretching the concept of "perfidy" as customary humanitarian law, to rule out all paramilitary violence whether it is directed against the security forces or civilians. In effect, Human Rights Watch have collapsed humanitarian law into pacifism in their general reports on human rights in Northern Ireland. Such a view masks the difficult political reality that Republican violence is more likely (although by no means universally) to be deemed permissible by humanitarian law than that carried out by Loyalists. Amnesty on the other hand have oscillated somewhat between vague formulations which obscure the distinctions between civilian and military targets (e.g. condemning deliberate and arbitrary killings) and more specific condemnations which have in turn attracted negative political reactions.
53. In a conflict which involves two sets of paramilitary protagonists one of whom generally targets military and security force personnel and the other civilians, the application of humanitarian law is inherently problematic. The very concept of a "legitimate" target is anathema to a sizeable section of the community. On the other hand to expand customary humanitarian law to such an extent that it levels all acts of political violence onto a single plain is both illogical and self-defeating. It leaves protagonists with a choice of either stopping political violence entirely or

¹³ As is discussed below, both agencies becoming the focus of unwelcome political pressure to assume the role of cease-fire monitors in 1998.

simply ignoring any international strictures since all violent activities are deemed to breach humanitarian standards.

International NGO's as "Cease-fire Monitors"

54. Even the condemnations of paramilitary punishment beatings and shootings have not been without their political difficulties in the Northern Ireland context. Although as is discussed below the paramilitary protagonists appeared fairly sanguine about criticisms emanating from international NGO's regarding such activities, the increased political significance of punishments in the wake of the Republican and Loyalist cease-fires of 1994¹⁴ brought its own pressures to Amnesty International and Human Rights Watch.
55. In February 1999, at a particularly delicate point in the inter-party negotiations, when Unionist and Conservative politicians were seeking to link an end to punishment attacks to the decommissioning of paramilitary weapons and the ending of the prisoners release programme under the Good Friday Agreement, Amnesty International and Human Rights Watch were called upon for "help" by Unionist leader David Trimble. Trimble requested that they should "...give us the help needed to ensure the conditions of non-violence they [Sinn Fein] signed up to in the Agreement" (Trimble 1st February 1999).¹⁵ The invitation, part of a carefully orchestrated public relations exercise which was preceded by an editorial and commentary from a British Sunday Newspaper, was extensively covered in the British print and broadcast media. Mr Trimble had in fact failed to reply to a letter from Amnesty six months previously suggesting a mission to cover the entire remit of Amnesty's human rights concerns. While Human Rights Watch were able to reply that "*we do not normally send a delegation to investigate one single aspect of a complex human rights situation*" (Irish Times 10th February 1999), Amnesty found that the public perception of their long planned mission to Northern Ireland had been totally skewed by the Trimble invite.
56. While all human rights NGO's carry out their work in a political environment, it was a deeply invidious position for a major human rights organisation to be placed in the role of "cease-fire monitor". Amnesty and Human Rights Watch understandably resisted such a role. Nonetheless, their intervention was described to the author by one local human rights activist as "*..politically naive, playing into the hands of the most reactionary political forces in Britain and Ireland.*"¹⁶ Critical human rights reports conducted by international NGO's are often utilised for propagandist purposes and NGO's cannot be held responsible for the political uses to which various groupings will put their work. Nonetheless the Northern Ireland experience is a salutary reminder of the potential for NGE monitoring in particular to be used by those whose interests are not necessarily in securing the most effective protection of human rights in a given jurisdiction.

International NGOs as Norm Creators

57. The third key issue to consider with regard to the Amnesty International and Human Rights Watch remit, is that international weight and credibility afforded to such organisations is in itself norm creating. As Maggie Beirne, Research and Policy Officer for the Belfast based Committee on the Administration of Justice told the author :

¹⁴ The first IRA cease-fire ended in February 1996 and was renewed in July 1997.

¹⁵ One critical view expressed with regard to this invitation was that the request to the international NGO's had less to do with a genuine concern to end punishment attacks, and more to do with a political point scoring exercise against political parties associated with paramilitaries, and in particular Sinn Fein (Irish Times 13th February 1999).

¹⁶ Interview, 23rd June 1999.

Groups like Amnesty, Human Rights Watch and so on to a large extent define what human rights are to the public. For example, despite continuously stressing the narrowness of the organisations remit, when Amnesty used to work almost solely on prisoners of conscience issues, people did not understand that economic, social and cultural rights were also human rights. Now Amnesty works on paramilitary abuses, therefore for a lot of people that is what human rights abuses are. These organisations define what human rights are wittingly or unwittingly, and local groups have to deal with that.

58. The key aspect in this context is that international NGO's should recognise that there are implications at local levels for human rights NGO's by the policy decisions taken by the larger groupings. The author is unaware of any consultation with local human rights groups in Northern Ireland before the change to Amnesty's mandate in 1991 and has been unable to discern to what extent such consultation took place with groups in the other countries. Clearly human rights organisations must have the freedom to develop organisational policies as they see fit. However, in a context of increasingly global NGO networks, that freedom must be exercised in a spirit which recognises the responsibilities which accompany hard won international respect and prestige to ensure sensitivity to local consequences by an ongoing process of consultation and discussion with local groups.

Assessing the Impact of NGE Monitoring by International NGO's in Northern Ireland

59. The use of humanitarian law by NGO's to condemn "military" attacks carried out by Republicans and Loyalists on security forces or civilians had no discernible impact on the targeting policy of either set of protagonists. In both instances, such policy was dictated by the ideology, practices and operational capacities of the respective organisations. However, with regard to the monitoring of paramilitary abuses such as punishment beatings and shootings, it is arguable that the work of Amnesty and Human Rights Watch contributed significantly to the increased public awareness and political importance of the phenomenon in the 1990's. It is possible to discern different impacts between the Loyalist and Republican paramilitaries.
60. As discussed above, with a looser organisational structure, differing range of reasons for such activities and less developed international political constituency, it is likely that humanitarian law monitoring had a less significant effect on Loyalist paramilitaries. In addition, Loyalists may have been less sympathetic to interventions from such groupings as Amnesty International to begin with given their active and regular criticisms of state abuses. As one former UVF prisoner told the author :

Amnesty historically never really had much credibility in relation to the Loyalist community. They were seen as an arm of the Republican movement with regard to human rights abuses, being used in a propaganda war. There was a major credibility gap between Amnesty International and the Loyalist paramilitaries...¹⁷

61. Republicans on the other hand may have been more sensitive to criticisms from such groupings. They have often drawn upon critical international human rights reports highlighting state abuses to underline their position about the illegitimacy of the British state in Ireland. Indeed as one senior Republican acknowledged, the IRA leadership appeared acutely aware of the change in Amnesty's position. Referring explicitly to "the monitoring of NGE's" he explained :

When Amnesty changed their line I think we had been expecting it. They had a certain amount of credibility because they had highlighted abuses in the past at Castlereagh [interrogation centre] and places and they were not seen as simply anti-Republican....Their criticisms probably had an impact at the leadership levels because the leadership did not want to be dealing with pressure from large

¹⁷ Interview former UVF prisoner, 29th June 1999.

numbers of beatings. It probably added to a tightening up of procedures within the movement [IRA] further down the line.¹⁸

62. The lessons for broader applicability would appear to be that NGE monitoring is likely to be most effective where credibility has been established, and where there is a more politicised and more disciplined organisation with an international constituency to be nurtured.

II. Interventions by Political Lobby Groups Using a Human Rights Framework

63. Throughout the 1990's in particular a number of lobbying groups have emerged in Northern Ireland who, describing themselves as human rights groups, have campaigned against various abuses by paramilitary groupings and by the IRA in particular. These have included groups campaigning to highlight Republican attacks on economic targets such as the cross border railway (Peacetrain), attacks on Protestant members of the security forces and their families in border areas (FAIR – Families Acting for Innocent Relatives) and more recently a group called the “Long March” who issued an invitation to “all sections of the Protestant and Unionist population to march from Derry to Garvaghy Road in Portadown (Belfast Telegraph 12th June 1999), in effect combining the issue of the “real” human rights abuses of the victims of Republican terrorism and the issue of contested Orange marches through Nationalist areas.
64. The best known and longest standing such lobbying group is FAIT (Families Against Intimidation and Terror). It is they who can best serve as a heuristic device to examine some of the broader themes concerning interventions by such groupings on paramilitary abuses.
65. FAIT was established in 1990 by a former member of the Official IRA¹⁹ and the mother of a petty criminal who had been the victim of an IRA punishment attack. Although initially focused upon punishment attacks by the IRA, they soon expanded their mandate to include criticisms of Loyalist violence as well. FAIT describe themselves as :“*an anti-sectarian, non political group which is committed to the preservation of human rights with their main focus being geared towards an end to all forms of terrorist beatings shootings and intimidation*” (FAIT Website 1999). FAIT’s principal strategy has been to use the media to attack the political wings of Republicanism and Loyalism by highlighting the abuses of the victims of punishment attacks. Their tactics have included almost daily press releases, placarding political meetings and annual conferences of Sinn Fein and the Loyalist parties, shadowing high profile figures such as Gerry Adams on visits to the USA by bringing victims to major meetings and speaking engagements and generally seeking to create maximum political embarrassment for such figures through “wall to wall coverage” (Tomlinson 1998) of the punishment beatings issue.
66. Although FAIT describe themselves as a human rights grouping, there are clearly difficulties in this regard. Firstly, they make no usage of international human rights or humanitarian law standards in their literature or public pronouncements. In an interview with author, it was clear that FAIT’s current Director who has been with the organisation from the outset was unaware of the legal detail of either set of standards, the differences between them or their respective usages or limitations²⁰. FAIT were, for example, strongly opposed to any notion of distinguishing between military and civilian targets.²¹ Secondly, they do not work on state abuses of rights, which is the

¹⁸ Interview Republican Spokesperson, 1st July 1999.

¹⁹ The Official IRA were a more Marxist oriented Republican grouping who were involved in a split with the Provisional IRA in 1970. The Provisional IRA quickly became the larger of the two groupings and over time inherited the mantle of “the IRA”. While the officials declared a cease-fire in 1972, they continued to engage in armed actions including killings, kneecappings and robberies at least until the mid 1990’s. The schism also led to a viscous political struggle between the political wings of the two movements, the Workers Party (OIRA) and Sinn Fein (PIRA).

²⁰ Interview Sam Cushnahan, Director of FAIT, 1st July 1999.

²¹ Interview Sam Cushnahan, Director of FAIT, 1st July 1999.

primary focus of international human rights and indeed humanitarian standards. Thirdly, they have established international networks, but not with the international human rights community but rather with other victims and anti-terrorist lobbying groups in Spain (Association for the Victims of Terrorism), Algeria (Algerian Collective), and France (SOS Attentats). Fourthly, they are almost entirely funded by government which would seriously undermine any reputation for credibility and impartiality in the discharging of a human rights brief.

67. Instead, it would be more accurate to formulate their work in terms of a political lobbying group working in a human rights framework. The origins of FAIT (and other similar groups²²), their work programmes, their operational methods and their objectives, clearly have a political objective - which is to put an end to all paramilitary activity. Human rights groups work within the political realm to promote human rights objectives and this requires that they not challenge the state, nor indeed the government, per se but instead challenge any behaviour that is in violation of human rights standards. The category of groups that FAIT belongs to must, of logical necessity, challenge the very existence of paramilitaries and they are therefore operating to a pre-eminently political agenda, albeit addressing human rights or humanitarian concerns en route to that goal.

Analysis

68. While FAIT have been highly successful in attracting media publicity to the issue of paramilitary punishment attacks, they too have been the object of considerable negative publicity. As a state funded lobbying group, they have been consistently criticised by Nationalist and Republican commentators as being a propagandist organisation for the Northern Ireland Office. As one Sinn Fein Councillor suggested after FAIT allegations of IRA involvement regarding a shooting incident in West Belfast in which a young man was shot in both legs.

It is clear from FAIT's comments that they are more interested in scoring cheap political points against Republicans than in dealing with the issues of the attacks on the nationalist people by criminal elements. FAIT have made this claim without a single shred of evidence to substantiate it. Those genuinely involved in the real work on the ground within the community to alleviate problems arising out of a policing vacuum will question the sole aim and only purpose of this group, those behind it and those who fund it (Irish News 16th February 1996).

69. FAIT's high media profile has also ensured that the groups organisational and personnel difficulties have been extensively documented by the local media. As the current Director colourfully suggested : "...if someone breaks wind in the FAIT office, you can guarantee some journalist is going to write about it."²³ The group's co-founder Nancy Gracey was forced to resign from the Executive after she allegedly used FAIT resources for a three week paid holiday in the USA, after which she promptly established a rival group initially called "United Against Intimidation and Violence" and later renamed "OUTCRY" (Belfast Telegraph 14th May 1996, Irish News 29th August 1997). Further financial and managerial irregularities have also led to several investigations by their statutory funder the Northern Ireland Central Community Relations Unit (Belfast Telegraph 21st October 1998) and the RUC.

²² Other similar actors have made similar interventions in Northern Ireland while describing themselves as human rights groups. For example, one prominent academic has run a number of campaigns directed primarily against violent punishment attacks carried out by Republicans. His tactics have included criticising the policy of other human rights groups and promoting the efforts of FAIT (Kennedy 1995:68), standing in the general election against Gerry Adams after forming a group called "Human Rights 1997" focused on the sole issue of punishment attacks and calling for the exclusion of Sinn Fein and Loyalist parties from negotiations under the rubric of another organisation called Northern Ireland Human Rights Association (Irish News 28th July 1997).

²³ Interview with Sam Cushnahan, Director of FAIT, 1st July 1999

70. In addition, despite the groups ostensible non-political stance, several leading staff members have been dismissed because of explicitly political activities. Former Spokesperson Glyn Roberts, an Alliance Party activist, resigned after accusations that he was using the group to build a political platform for himself (Belfast Telegraph 28th September 1998). His replacement, a controversial figure called Vincent McKenna who had himself previously stood as independent candidate, was in turn dismissed after he had explicitly aligned the group with the Unionist anti-agreement camp (Newsletter 15th January 1999), campaigned against prisoner releases and named a number of suspects he claimed were responsible for the Omagh bombing. McKenna then also established his own lobby group “the Northern Ireland Human Rights Bureau” (1st May 1999) which while apparently only staffed by himself, still makes sporadic interventions on paramilitary abuses in the media.
71. The group has also been accused of breaching the confidentiality of the victims of terrorist abuses (Irish News 29th July 1997).²⁴ When asked why the group had such a chequered organisational and personnel history, current Director Sam Cushenahan candidly linked the organisations failings to their fixation upon accessing the media.

There were two downsides to our success in gaining such access to the media. Firstly was that it encouraged an obsessive interest in us so that all of our mistakes were aired very publicly. Secondly that the guaranteed access attracted a certain kind of people to our staff, people on an ego trip or building their own political career, and they did a lot of damage to our credibility...We probably get more respect now internationally than we do at home.²⁵

72. In terms of assessing FAIT’s impact upon the behaviour of paramilitary groups, one must recognise that they were clearly a political irritant to the political leadership of both factions. Nonetheless Republicans and Loyalists shared a common scathing attitude regarding the groups lack of credibility in their communities. A Republican spokesperson suggested that “...*they [FAIT] were only interested in anti-Republican propaganda. Our ones [the IRA] would have thought they were a bit of a joke. They did not provide any realistic alternative to punishments other than saying support the RUC.*”²⁶ On the Loyalist side, one former activist also highlighted their lack of credibility and also suggested that FAIT may have exacerbated the situation in some instances with regard to the Loyalist paramilitaries.

Q. “How would the UVF have viewed FAIT?”

A. “They would laugh at them...They are sitting in a city centre office, generally middle class people that haven’t experienced life in working class neighbourhoods, trying to moralise on issues that affect them without realising that it is the community people themselves who are approaching the paramilitaries...They did everything in a very public way. They used the media a lot for condemnations, but you are never going to get honest dialogue with the paramilitaries when you take that kind of approach. In actual fact some people would say that it had the opposite effect where the paramilitaries say ‘stuff them, well shown them’ ”.²⁷

73. A number of lessons of more general applicability are suggested from the history of FAIT as anti-terrorist lobby group which make claims to a human rights framework to underpin its work.

²⁴ Current Director Sam Cushenahan acknowledged that there was a tension between service provision to those under threat to paramilitaries and encouraging such individuals to publicly criticise paramilitaries at venues at FAIT organised press conferences. However he argued that while ultimately it was for the victim themselves to decide, he felt that often such publicity could provide “an extra suit of armour” around such victims. (Interview Sam Cushenahan, Director of FAIT, 1st July 1999).

²⁵ Interview Sam Cushenahan, Director of FAIT, 1st July 1999

²⁶ Interview Republican Spokesperson, 1st July 1999

²⁷ Interview former UVF prisoner, 29th June 1999.

74. Firstly, the lack of substantive engagement in the human rights or humanitarian law framework arguably removes a necessary anchor for any group which is operating in such a highly politically contentious arena. Without such an external reference point, any “human rights” group will be susceptible to the charge of being politically motivated, of building alliances with the groups who are in opposition to the NGE’s, and this will diminish their own credibility as an impartial player in the political arena.
75. Secondly, while the media will often happily reproduce criticisms of the activities of NGE’s, over exposure to the media may have negative consequences on the quality of staff and the organisational image. Without an explicitly impartial framework such as international humanitarian law, journalists too will begin to question an organisations motivation and political allegiances. Even with such a framework, any organisation which continuously find the media amenable to presenting their claimsmaking efforts can expect to pay a price in close media scrutiny of their own affairs.
76. Thirdly, a modus operandi which means that all work is carried out through the media imposes obvious limitations on an organisation’s effectiveness. Most of FAIT’s interventions on NGE’s were carried out through the media. No attempts at pragmatic dialogue with paramilitaries or their political wings were attempted. When asked why, the current Director suggested that the ability of paramilitary groups and their political representatives to co-opt or usurp the focus of community or lobby groups had been highlighted in other settings and FAIT did not wish to take such a risk. FAIT’s only engagement with Sinn Fein and the Loyalist parties had been in a blatant attempt to politically embarrass those groupings. The media were brought along with them to the meetings and inviting the parties to sign an anti-violence charter condemning punishment attacks (Belfast Telegraph 23rd March 1999). While such interventions can have an impact upon the political context within which NGE’s operate, they apparently provide little in terms of influencing the policies or practices of such groupings, nor indeed provide such groupings with viable alternatives to their abusive practices.

III. Service Provision and Direct Engagement by Humanitarian Groupings Seeking to Change Paramilitary Behaviour.

77. In the past thirty years a wide variety of community, voluntary and statutory services have had to develop policies and working practices around the contours of the political conflict in Northern Ireland. Paramilitary groupings are a material reality in many working class Protestant and Catholic areas, and it has often been necessary for groups who work in such areas to have at least the acquiescence of the paramilitaries to carry out their work properly. Such work is complex, potentially unlawful but nonetheless necessary. For example those who work with offenders, in crime prevention projects, who provide diversionary services to young people at risk of offending and who work in a range of other community development initiatives will inevitably come into contact with both paramilitaries, their supporters and those who may be under threat from the paramilitaries. In such circumstances, a number of programmes have emerged wherein direct engagement with paramilitaries has lead to the provision of services to those under paramilitary threat and ultimately a number of initiatives designed to alter paramilitary behaviour.

BASE 2: An Intervention with both Republicans and Loyalists

78. In 1990 a program called Base 2 was established by a largely state funded non-governmental organisation, the Northern Ireland Association for the Care and Resettlement of Offender (NIACRO). The project was designed to (a) intervene effectively with those individuals or families under threat of physical injury or possibly death from paramilitaries and (b) provide a discreet and

confidential service to those presenting as being under threat, operating within the parameters of the criminal justice system and child care legislation of Northern Ireland (Conway 1997:115).

79. Regarding themselves as a “humanitarian crisis intervention response” (BASE 2 1997:1), they have largely eschewed publicity or media discussion of their work lest it interfere with their ability to work with the paramilitary groupings. Handling an average of 200 clients a year up until 1994, their numbers increased dramatically to 563 in 1997 as paramilitaries appeared to make greater use of banishments from the community rather than physical punishments during the peace process era.
80. BASE 2’s work involved taking referrals from a variety of sources, clarifying with Loyalist and Republican groupings the nature of the threat, providing advice transport and accommodation out of the community to those under threat as well as a reintegration service of a period of paramilitary banishment is time limited. While staff sought to clarify that a threat was indeed real with paramilitaries, no negotiation with regard to tariffs (e.g. shooting on one leg as opposed to two) was permitted and the organisations opposition to punishment attacks was acknowledged in the relationship with the paramilitary groupings.
81. BASE 2’s work has clearly had an impact in preventing almost 2,000 individuals from being beaten, shot or killed over the past nine years (BASE 2 1998). The paramilitaries accept that they have increasingly come to view it as “a resource” which prevents them from otherwise carrying out punishment attacks.²⁸ A Republican spokesperson interviewed for this research suggested that their willingness to engage with the project in 1990 happily coincided with a decision in the late 1980’s that Republicans should be more actively engaged with individuals and agencies outside the movement, reasoning (probably correctly) that such engagement probably carried significantly more professional risks for such bodies than for the Republican Movement. Similarly for the range of statutory, voluntary and community organisations who work with those who under threat, many have suppressed their professional and ideological misgivings that such an initiative (funded largely by statutory monies) was colluding with a violent and unlawful system of paramilitary violence. The undeniable fact was that the alternative was to leave many such individuals at the mercy of the paramilitaries was a more persuasive argument.

Community Restorative Justice : An Intervention with Republicans

82. In 1996 three criminal justice practitioners and the current author²⁹ were approached by a number of Republican activists to provide a training programme on issues relating to “informal justice” both locally and international. The training programme was conducted over a seven week period and concerned a number of issues including international and historical examples of alternative and restorative justice, human rights, crime prevention, mediation and non-violence. It was underpinned by a continued emphasis by the trainers of their implacable opposition to violent forms of community punishment. This training programme was followed by a residential wherein the trainers and trainees drafted the outline of a model of non-violent and lawful community based alternatives to punishment beatings and shootings. That model was written up into a draft report and then circulated to a number of relevant bodies.
83. In December 1997, after a lengthy process of consultation with Republicans, statutory agencies, community representatives, political parties and others, a more developed discussion document was produced detailing the process and suggesting a potential model based upon the principles of restorative justice (Auld et al 1997). That document was fully endorsed by Sinn Fein. Following publication of the report, funding for four pilot projects in Republican areas and a co-ordinator

²⁸ Interview Republican Spokesperson, 1st July 1999

²⁹ All of those involved were either then or had previously been employed by the Northern Ireland Association for the Care and Resettlement of Offenders.

position for three years was successfully achieved in September 1998 under the auspices of NIACRO. The IRA has expressed its support for community based restorative justice as a mechanism for their “responsible disengagement” from punishment attacks. As a senior IRA figure outlined to a local Nationalist newspaper in an interview headed “*IRA Pledges Support For Community Justice Plan*”:

The IRA want these programmes to work because for almost 15 years now Republicans have been saying that punishment shootings are not a solution to the problems of petty crime and anti-social behaviour..This is a community problem and while IRA action may arrest it temporarily, ultimately the community must take a lead in tackling anti-social behaviour...We want people to support the Restorative Justice approach by bringing their problems to the dedicated and highly trained workers operating the programmes rather than to the IRA (Andersonstown News 20th March 1999).

84. In its submission to the Patten Commission on Policing established under the Good Friday Agreement, Sinn Fein stressed community restorative justice as one of their five key demands (Sinn Fein 1998). Restorative justice is now invariably cited as organisational policy by Republican spokespersons on the question of punishment beatings and shootings. The pilot projects are now operational and the IRA have now said publicly that they will not carry out punishments in areas where community restorative justice schemes are established. At the time of writing, that moratorium would appear to have been largely maintained. Over 100 people have gone through the introductory six-seven week training course, and there are demands for training to be provided to over 300 more on a waiting list, as well as demands for the establishment of further pilot projects in 10-12 areas across the Northern Ireland.
85. The Model is based upon a critique of the existing system of punishment attacks. Delegitimizing features such as the presence of violence and the seriousness of the assaults; unlawfulness; lack of due process and consistency; lack of community involvement; lack of healing for victims or pathway to reintegration for offenders ; these and other features were identified as the key weaknesses in the existing system of Republican punishments.
86. The Community Restorative Justice model is designed to meet the respective needs and responsibilities of victim, offender and community; to ensure representative community involvement and support in the delivery of the programme; to ensure that all activities are non violent and lawful; that there is due process and consistency; a utilisation of existing community programmes and an inclusive and transparent approach to the management and staffing of the project. The discussion process which led to the suggested model led to a number of specifications which form the basic framework for its operation. These specifications included meeting the respective needs and responsibilities of victim, offender and community; community involvement and support in the delivery of the programme; non violence; acting within the law; proportionality between sanction and infraction; due process and consistency; utilisation of existing community programmes and an inclusive and transparent approach to the management and staffing of the project.
87. The range of solutions offered under the programme include mediated agreement ; involvement of the family of the offender (and potentially the victim) ; apology, restitution and/or reparation to victim and community ; payment of damages ; referral to a community based or statutory programme or targeted intervention regarding particular problems (e.g. parenting skills, drugs or alcohol related problems) and community boycott.
88. Obviously the vast majority of these disposals are relatively uncontroversial and constitute the recognisable programme content of restorative justice programmes in any jurisdiction. The proposed disposal which has raised most controversy in Northern Ireland has been the suggestion of community boycott. As with informal justice in general, boycotting has a considerable history in Ireland (Taatgen 1992). In this context, a community boycott is envisaged as an organised denial of

access to goods and services in the local community, such as pubs, off licences, shops, etc. It is a practical closing of ranks against the person who has offended against the community in a serious way and who has refused to make any sort of reparation to the victim or the community as a whole. The model envisages that any such person who is effectively excluded from the community will be offered a pathway to reintegration within a specified time-frame providing they carry out a series of agreed reparative actions and desist from future offending.

89. The final significant element of the model in the Republican communities is the Community Charter. The draft community charter (Auld et al 1997) suggests that it be presented to all community members to either sign or abide by. It should contain an affirmation of collective and individual rights including freedom from torture, inhuman and degrading treatment ; non-discrimination on the basis of religion, gender, sexuality, race, language or age as well as a commitment to desist from violence as a means of resolving disputes. The draft charter also suggests that community members be asked to formally acknowledge their responsibilities to desist from crime, anti-social behaviour and other activities which prevent or impede their neighbours from enjoying their collective or individual rights.

The “Alternatives Programme” : An Intervention with Loyalists.

90. In 1996 Tom Winston, a former UVF prisoner was commissioned by NIACRO to carry out a piece of research on punishment beatings and shooting by Loyalist paramilitaries in the Greater Shankill area of West Belfast. This community is, as Winston himself describes, “..often seen to represent the heart of Loyalism in Northern Ireland” (Winston 1997:122). The research was facilitated by EPIC, the Ex-Prisoners Interpretative Centre, a self-help reintegration project which works with UVF and Red Hand Commando (RHC) prisoners.³⁰ Winston's position as an ex-prisoner and the support of the prisoner reintegration project allowed him to gain crucial access to the leadership and activists of the Ulster Volunteer Force as well as their political wing the Progressive Unionist Party. As one ex prisoner who was closely involved in setting up the research project told the author :

An outsider couldn't have done it. Absolutely not. For a start they wouldn't have been talking to anyone, no one [from the UVF] would speak to them. It had to come from the ranks of former combatants of the organisation, it had to come from people who had credibility within the organisation, people who wouldn't have been seen as suspicious, whose motives were not in question.³¹

91. In the course of conducting that research it became increasingly apparent that there was a willingness on the part of the UVF leadership as well as the Progressive Unionist Party to explore viable alternatives to punishment attacks. However in discussions with the former, it became clear that proposed intervention in certain types of situation would not be permitted. Winston (1997:124) has suggested that interfactional disputes or drug related activities could not be dealt with by any scheme. In addition “...internal discipline was out. There was no way that the organisation was going to let the project interfere with the discipline of the organisation. So that was out. Sexual offences was out. Particularly violent attacks were out.”³²
92. With those limitations, a project based on the principles of restorative justice has been established known as Greater Shankill Alternatives. Tom Winston, the former prisoner who conducted the

³⁰ The Red Hand Commando's are a small Loyalist paramilitary grouping who have always been closely aligned to the larger Ulster Volunteer Force.

³¹ Interview former UVF prisoner, 29th June 1999.

³² Interview former UVF prisoner, 29th June 1999.

research, has been appointed project manager and he has been joined by Debbie Walters, a woman with extensive experience of youth and restorative justice work in the USA.

93. With some differences, the project programme is not dissimilar to that in Republican areas wherein complaints are investigated, mediation sessions established between victims, offenders and families, restitution or reparative work agreed, networking with available statutory and community provision and a system of mentoring and support for offenders going through the system. As on the Republican side, the project liaises directly with the relevant paramilitaries groups. In seeking to strike a balance between maintaining the support of the paramilitaries and broader legitimacy in the wider community, the key strategy has been one of openness, transparency and inclusivity in terms of the management committee, staff and others involved in the project. This project is also now considering expansion to a number of other different venues across Northern Ireland.³³
94. One key feature of the Shankill Alternatives intervention is the relationship between the different paramilitary groupings who operate in that area. Although the other major paramilitary group (the UDA) in the Shankill had expressed an early interest in the programme, they did not maintain their interest with the result that interventions may only be made with those under threat from the UVF of RHC. However, the success to date of the Alternatives Programme, and resultant positive publicity for those involved, has led to the UDA themselves suggesting that they too would like to establish a programme of their own.

Analysis

95. A number of features of broader interest is shared by the approach of these three programmes.

Pragmatic Engagement with Paramilitaries

96. One key feature which the BASE 2, Community Restorative Justice and Shankill Alternatives Programme share is a willingness to pragmatically engage with paramilitary groupings. All such engagements have been done privately outside the glare of the media spotlight. While all the projects have shared an opposition to punishment violence, and this has been made clear to the paramilitary groupings, dialogue has still taken place which accepts as a reality the place of such paramilitaries in local communities and the more complex dialectic between the paramilitaries and their communities. That relationship is not simply one of repression, control and fear (although this may play a part in some circumstances) but it also involves notions of responsibility on the part of the paramilitaries for protection of the community and a culture of dependency in the community that anti-social crime in the area should be “sorted out” by the paramilitary organisations. And to a greater or less extent, that formal state policing is problematic in both Loyalist and Republican communities (McVeigh 1992).
97. Such engagement requires, particularly for professional organisations, a willingness to engage in politically sensitive and clear organisational “risk taking” activities in order to make humanitarian interventions for those under threat from paramilitaries. NIACRO, which has directly managed two of the projects and has been a key player in the establishment of the third, is a large NGO with most of its income coming from state sources. For any such group to engage directly with paramilitaries requires considerable organisational self confidence (compared for example to FAIT wherein such engagement was eschewed because of the dangers of co-option), a clear rationale based on agreed principles for the engagement, and a willingness to counter any inevitable negative media or governmental comment in pursuit of those objectives.

³³ Interview former UVF prisoner, 29th June 1999.

Interventions with Paramilitaries : Communication, Embarrassment and “Stakeholders”

98. One of the tried and tested methodologies of human rights and humanitarian law NGO's is to seek to embarrass governments about their human rights violations in the eyes of significant stakeholders. Such stakeholders may include international fora, important trading nations, local and international media or oppositional groupings within the state in question.
99. While such a focus is important with regard to the political wings of NGE's such as Sinn Fein who have worked hard to nurture a national and international constituency, it is important to remember that for paramilitary groupings often notions of “stakeholders” are considerably more localised. Their primary interaction is with other paramilitaries and with members of their own community, many of whom may be supportive of their activities. Traditional techniques and strategies of embarrassment, encouragement or affirmation designed to moderate or alter paramilitary behaviour may have to be adapted to suit this much narrower and more localised canvas.
100. For example, one of the key strategies employed by the Community Restorative Justice project has been to utilise existing community fora, organisations, residents groupings and other community structures to explain the concepts of restorative justice and the content of the programmes. Literally hundreds of meetings have been held in community centres, parish halls and other local settings. One of the key concerns for Republicans has been to underline that they are not “abandoning” their responsibility to protect the community from anti-social or criminal activity but rather empowering local communities to tackle these issues themselves. Numerous articles and features have appear in local community newspapers, Republican newsheets, housing association newsletters and other outlets explaining the Republican Movements support for Restorative Justice and its usefulness in the community. In one of the project area, every household of several thousand families were distributed with a copy of the Community Charter, an explanation of the project and an invitation to become involved. Such a strategy is a patient and time consuming exercise which takes on board the concerns of the paramilitaries concerns that they are seen to "disengage responsibly" and address those concerns by ensuring that their constituency is both encouraged along the same pathway and feels some sense of ownership over that process.
101. Similarly with regard to the notion of “embarrassment” amongst Loyalist paramilitaries, criticisms of the brutality of punishment attacks are less likely to be impactful in the communities who support such actions. However, the involvement of their immediate paramilitary rival groupings the UVF and RHC in a project on the Shankill designed to intervene on paramilitary punishments, has clearly impacted upon the decision of the UDA to also begin the process of establishing a similar programme. All the paramilitary organisations are involved in a relationship with the same community in a relatively small area and clearly one organisation does not wish to be viewed as out of step with the activities of others, in particular when such a programme is gaining increased credibility at a local and national level.
102. In sum, by identifying the needs and fears of NGE's in relation to their own very localised constituencies, strategies can be developed to build upon humanitarian interventions.

The Role of Former Prisoners in Establishing and Maintaining Credibility

103. A third point which has been crucial in the development of the Community Restorative Justice and Greater Shankill Alternatives programme has been the involvement and support of former prisoners in such initiatives. After a thirty year conflict, there are literally thousands of former prisoners in working class Republican and Loyalist communities in Northern Ireland. Many such individuals are highly respected in their own communities, have returned from prison with enhanced educational and organisational abilities and have played a crucial role in the process of peace-building at both a community and political level. Crucially, as outlined above, such former combatants also have credibility within the paramilitary organisations and have proved an invaluable resource in both gaining access to such groupings and lobbying within paramilitary circles for less violent forms of actions.

IV. State Focused Human Rights NGO's and Creating a Human Rights Culture

104. The fourth style of intervention concerning NGE's are human rights organisations which, while even in explicitly opposed to the use of political violence, do not prioritise the carrying out of work on paramilitary abuses and focus instead on the primacy of the state's responsibility to ensure the effective protection of human rights. Whether this can be properly described as an intervention is discussed below. While there many groups who could be considered. the best example of this style of work is Northern Ireland primary human rights NGO, the Committee on the Administration of Justice (CAJ).

105. CAJ was established in 1981 and is affiliated to the International Federation of Human Rights³⁴. CAJ has worked on a wide variety of rights issues including prisoners' rights, emergency laws, children's rights, gender equality, racism, disability, a campaign for a Bill of Rights, policing and the operation of the criminal justice system. In common with an increasing number of local and international human rights groups, CAJ works not only on civil and political rights, but also on economic, social and cultural rights. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law (CAJ Website 1999). CAJ works closely with other domestic and international human rights groups such as Amnesty International, the Lawyers Committee for Human Rights and Human Rights Watch, and makes regular submissions to a number of United Nations and European bodies established to protect human rights. With a cross community membership of over 300, CAJ takes no position on the constitutional status of Northern Ireland and is unequivocally opposed to the use of violence for political ends.

106. In 1991, in the context of the decision by Amnesty International to extend their remit and high levels of ongoing political violence, CAJ became involved in a considerable internal debate as to whether it should consider following suit and beginning to monitor the activities of NGE's in Northern Ireland. The debate was reflected in the various positions being argued in the Committee's newsletter "Just News".

107. The case for retaining the CAJ position was essentially that humanitarian law could not properly be applied to the Northern Ireland conflict; that to do so would offer considerable legitimisation to at least some paramilitary protagonists and that the notion of a legitimate target ran contrary to the organisation position of complete opposition to political violence and origins within the peace movement; that the application of humanitarian law would lead to accusations of selective condemnation in accepting attacks on the security forces ; and finally that an extension of the

³⁴ The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the 1998 Council of Europe Human Rights Prize.

mandate would dilute CAJ's focus on the state and its responsibility in encouraging lawlessness by persistently eroding the rule of law (e.g. Just News 1991:7).

108. The case for a change was that CAJ should follow the direction of Amnesty International in beginning to monitor the activities of non-state actors; that the embarrassment of publicity might pin the blame on those guilty of hostage taking and assassinations ; that fewer people would be put off by the apparent one sidedness of human rights groups ; and that limiting oneself to abuses by the state was to only see part of the picture and that a focus on at least some of the activities of paramilitaries would go some way towards redressing that lack of balance (e.g. Just News February 1992).
109. The issue was finally decided at an extraordinary general meeting of the CAJ membership in late 1991. After considering the importance to the organisation of maintaining a non-politically partisan stance, the need for a clear legal and international framework for all its interventions, and the massive extension to the mandate that would be required, the membership voted overwhelmingly to reiterate its opposition to political violence but to refrain from action on NGE abuses. CAJ's position has remained unaltered since that meeting
110. Asked to reflect upon the organisations' refusal to extend its mandate and to apply international humanitarian law as well as human rights principles, Research and Policy Officer Maggie Beirne remained convinced that it had been the right decision.

Applying humanitarian standards would mean that there are legitimate targets and there are illegitimate targets. That would have draw CAJ automatically into a situation where we would be criticising the killing of civilians but not those of soldiers or police officers. Because CAJ is opposed to all violence, we don't have to make those kind of distinctions. Furthermore, making those kind of distinctions would mean criticising Loyalists much more that Republicans...From the public perspective we would have slating the Loyalists and not the Republicans, I can't really see how we could have continued to function. We would have ended up criticising the state and Loyalist paramilitaries, and saying to Republicans that it is OK to kill soldiers and police - it would have been crazy.³⁵

111. If one accepts (as discussed above) that there are real difficulties for local human rights organisations to apply international humanitarian law standards to NGE's, this then begs the question as to whether such organisations have in effect abdicated any responsibility with regard to altering the behaviour of paramilitary groupings. CAJ's response to this is essentially that they have been focused on trying to create a human rights culture in Northern Ireland and that this project has involved developing networks and relationships with a wide variety of political parties including the political representatives of Republicanism and Loyalism. The adoption of human rights discourses by such groupings has not only altered the political landscape regarding human rights generally in Northern Ireland, but may also have had some impact on the behaviour of the paramilitary groups themselves.

Regarding the Good Friday Agreement, if it wasn't that Sinn Fein and the Loyalist parties had been made such a big deal about human rights, then its difficult to believe that you would have got such strong human rights protection in the Agreement...it is difficult to say the extent to which it [the human rights debate concerning the agreement] may have influenced the behaviour of Republicans and Loyalists on the ground. However it was interesting that Gerry Adams referred to the question of the disappeared as a human rights issue which had been perpetrated by Republicans and which needed to be acknowledged and rectified..³⁶

³⁵ Interview Maggie Beirne, Research and Policy Officer CAJ, 28th June 1999.

³⁶ Maggie Beirne went on to argue that if CAJ had chosen to extend its remit to encompass paramilitary groups, consistency would have required that (given its work on women's rights) the organisation would have had to start to work directly with abusive partners. Similarly, she argued that, to be consistent, CAJ's work on economic

112. The example of “the disappeared” is indeed an instructive example of an apparent internalisation of human rights discourses by the Republican movement. The issue refers to a number of individuals, some of them members of the Republican movement, who were abducted by the IRA in the 1970’s and early 1980’s, interrogated and murdered and their bodies buried and not returned to their families (Belfast Telegraph 28th May 1999). Following a high profile campaign for the return of the bodies, legislation was introduced North and South of the border guaranteeing that the bodies would not be tested for forensic evidence and established a commission (Belfast Telegraph 16th April 1999). The IRA announced that a specialist unit tasked with pulling together information on the matters had garnered knowledge on the whereabouts of nine bodies. At the time of writing, after a massive excavation operation at a number of sites in the Irish Republic, only three bodies have been uncovered so far.
113. For Adams and other Republican leaders (renowned for the care of their language) to suggest that the matter was “a human rights issue” (Irish News 31st May 1999) was indeed potentially significant. Normally over the course of the conflict abuses by Republican paramilitaries such as punishment attacks have been either justified, described as wrong, contextualised or explained by Sinn Fein leaders. To the authors knowledge, this is the first time that a senior Republican figure has acknowledged that a Republican act constituted a human rights abuse. This is not to suggest any careful distinction between human rights and humanitarian law per se, but rather that such language reflects some degree of internalisation of human rights discourses for which Sinn Fein have so successfully pressed as part of their political struggle.

Analysis

114. The example of an organisation like CAJ provides a number of thematic issues regarding both interventions on NGE abuses as well as obstacles to such interventions.

The Difficulties Of Local Human Rights Groups Utilising Humanitarian Law Principles

115. As is discussed above there are clear difficulties for local human rights groups in particular in accepting the notion of a legitimate target and the inevitable selective criticism which such a move inevitably entails.
116. In addition some NGE’s, at least in Northern Ireland, may be more willing to accept the bonafides of larger international human rights groupings in monitoring non-state abuses but would be more suspicious of local groupings. As the Republican spokesperson interviewed for this research said while the IRA was reasonably sanguine regarding Amnesty’s change of position,

... I suppose we would have been more suspicious if it had been a local group, you know they would be more open to the charge of coming at it from an anti-Republican or a propagandist position.³⁷

117. Finally, the difference in mandate between large international human rights organisations and local human rights NGOs may lead to some misunderstandings. Reference was made earlier to the public pressure that is created on local groups because of the different stance taken by international groups. Moreover, while stressing the excellent working relationship between CAJ, Amnesty International and Human Rights Watch, Maggie Beirne offered some interesting examples of where the mandate variances may lead to some confusion. For example, media

rights would have had to be unreasonably expanded to a whole range of further interventions (whether with paramilitary groups/companies/or other actors) to counter initiatives with deleterious economic consequences. Interview Maggie Beirne, Research and Policy Officer CAJ, 28th June 1999.

³⁷ Interview Republican Spokesperson, 1st July 1999.

people have used the Amnesty stance to challenge the failure of CAJ to act on paramilitary abuses, and yet the organisation has not wanted to defend itself by highlighting the different charges of inconsistency which could be made to Amnesty.³⁸

State Focused Work on a Human Rights Culture and its Relevance to NGE Behaviour

118. The points raised by CAJ with regard to their work on a human rights culture are an important rebuff to the accusation that a primary focus on state human rights abuses is in some way an abdication of responsibility regarding NGE's. Such a focus is clearly strengthened when a human rights group's opposition to political violence is made clear. It is quite clear that in the Northern Ireland context at least six of the political parties made extensive usage of CAJ materials in preparing their positions regarding human rights in the negotiations which lead to the Good Friday Agreement (Mageean & O'Brien 1999). At least two of those parties were the political wings of paramilitary groupings. The adoption of such political parties of arguably done much to both highlight the disparity between their own political rhetoric regarding such discourses and the practices of their military wings as well as leaving such NGE's more amenable to seeking alternative and more humane ways of conducting their affairs.

Acknowledging the Limitations of the Human Rights Paradigm

119. Finally the experiences of an organisation like CAJ are instructive in highlighting that human rights actors should acknowledge the limitations of the human rights paradigm. In a conflict situation, there is sometimes a tendency to conflate human rights with conflict resolution. While human rights abuses clearly may add to a political conflict, and creating a just and fair society is an intrinsic part of peace-building, it would be wrong to overstate the peace-making potential of the human rights framework.

120. For example, in the Northern Ireland context, many commentators (including the author) felt that the early release of paramilitary prisoners was a crucial component to the conflict resolution process. However CAJ did not take a position on the issue because it is not contained within international human rights standards. Similarly with regard to the issue of orange marches, while it may be conceptually useful to remind both marchers and residents groups that one element of their dispute is a clash of rights, the human rights framework can make no pretence to have all the answers in such a dispute.

121. Human Rights actors tend by their very nature to be dynamic and energetic in seeking to resolve the problems of their and other societies. Such clear strengths need to be tempered and focused however by an acknowledgement that both human rights and humanitarian law are limiting frameworks within which to achieve those objectives. Many actors will understandably and laudably wish to focus their time and energy on peace-building or conflict resolution efforts beyond the human rights or humanitarian law framework. However rather than stretching and expanding that framework to achieve a task for which it is at best only partially suited, consideration might be given to addressing such matters under the explicit rubric of peace or conflict resolution groupings and enjoying the considerably increased flexibility that such a move would bring.

³⁸ Interview Maggie Beirne, Research and Policy Officer CAJ, 28th June 1999.

CONCLUSION

122. It is clear from this study that the principles of human rights law and those of humanitarian law are different, and that the techniques most likely to ensure their effective implementation are also different. Thus, human rights law essentially recognises the authority which is vested in states and accordingly imposes duties on states vis-à-vis the individuals and groups it has power over. Humanitarian law imposes certain legal constraints on behaviour while seeking to avoid vesting any of the parties to the dispute with legitimacy. Human rights activists, because they are insisting that states do what they have freely signed up to do, essentially seek to embarrass the state into living up to its duties.
123. The standard techniques of human rights groups involve campaigning work with the media, with civil society, with other political actors and with the international community. Except where it is necessary for the safety of the individuals involved (in extremely repressive situations), most human rights NGOs work in a very transparent and open way. Indeed human rights groups often secure their safety and their integrity by being deliberately open in their exchanges across the political spectrum. In contrast, for example, to mediation and other groups, their work is one of using public avenues of influence and pressure, rather than confidential and intensely private lobbying. These latter techniques are normally foresworn for fear that they could be mis-used to challenge the bona fides and integrity of the criticisms made.
124. One could imagine, on the basis of the typologies discussed earlier, for example comparing the work of FAIT, to Base 2, that the techniques likely to be used by groups working on humanitarian law principles may well be of a very different nature. The basis of intervention is one of humanitarianism; if it is not to be exploited for political gain by any of the parties to the conflict, it seems that interventions would be more effective if treated with absolute confidence. Looking back to all the interventions (often by individuals rather than groups) at the time of the IRA hunger-strikes, on the matter of the disappearances, or on the matter of punishment beatings, most success seems to be recorded when the avenues of influence are "back channels" or otherwise not subjected to intense public scrutiny.
125. The parallels (though obviously uneven) between the International Committee of the Red Cross and major international human rights organisations (Amnesty, Human Rights Watch etc) spring to mind. It is not accidental that the techniques used to promote humanitarian standards have been of a different order to those used to promote human rights. Perhaps we need to examine whether specific national parallels of the ICRC approach would be worth promoting to complement the work that local human rights groups are doing. Certainly the current emphasis, which appears to be on human rights groups extending their remit to work on humanitarian law, appears illogical – given that the skills, principles and tactics of engagement are of a different order. It might therefore be useful to consider what an effective "humanitarian law" NGO could usefully do; what operating principles would be important; and how it would/could it work with others such as human rights NGO's.
126. In the final analysis, there may well be a distinctive philosophy and series of techniques and practices in "holding armed groups accountable" and in encouraging such groupings to end or reduce their humanitarian abuses.

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