
Unionist Voice Policy Studies



NORTHERN IRELAND AFFAIRS COMMITTEE
SUBMISSION- ORGANISED CRIME INQUIRY

Who are we?

Unionist Voice Policy Studies (UVPS) is a grassroots unionist think-tank designed to provide a mechanism for strategic policy discussions on an intra-unionist basis and to promote the enhancement and capacity of the Protestant, Unionist and Loyalist community (PUL) in terms of engagement with civic society, NGOs, the legal system and political institutions.

UVPS has, on a confidential basis, engaged with a range of loyalist ex-prisoners/combatants, community/political activists and members of civic society in order to develop a strategic analysis in relation to the issues currently acting as roadblocks for the development of the PUL community.

A key area is what is commonly referred to as the 'transition' of former armed groups. Whilst engaged with mediators and ex combatants/prisoners associated with such loyalist groups, UVPS is a wholly independent think-tank which is not aligned to, and does not speak on behalf of, any specific loyalist paramilitary constituency group. This submission is designed to present a broad PUL analysis of the current policing issues arising from the continued socially cohesive existence of former armed groups who are engaged in a civilianisation process.

Our policy studies group is born out of the Unionist Voice.com website which is was designed to provide a platform and advocacy opportunity for the most marginalized sections of the grassroots unionist community. Our vision for Unionist Voice.com is to provide a broad platform for challenging policy, political and community discussions and the encouraging created grassroots unionist/loyalist engagement in mainstream and social media output and discourse.

We seek to provide a fair and equal opportunity for all sections of the PUL community to have their voices heard and concerns raised via our platform, priding ourselves in offering a fair and reasonable opportunity for all persons to express their views.

Sections

- Background – Page 4
- Transition of formerly armed loyalist groups- Page 6
- Conclusion- Page 9
- Recommendations- Page 10

UNIONIST VOICE

Background

The Northern Ireland Affairs Committee (NIAC) inquiry is broadly focused on Organised Crime within Northern Ireland, however UVPS is specifically focused on the political, policing and criminal justice issues that arise from the work of the Paramilitary Crime Task Force (PCTF) which views loyalist organisations as part of their remit.

The PCTF is a section of the PSNI's Organised Crime Branch, and therefore the context and practical outcome of their work is clearly germane to the committee's current inquiry.

The PCTF was set up as an organ of the Fresh Start Agreement, designed to eradicate paramilitarism from society with a 'carrot and stick' approach. The carrot was funding and community engagement through a consortium led by Co-Operation Ireland, whilst the stick was the PCTF. This strategic multi-agency approach was born out of the Provisional IRA's murder of Kevin McGuigan in 2015.

However, the PIRA is not a target of the PCTF, despite the PSNI and security assessment that PIRA has retained their military structure and continue to have access to weapons. The approach however appears to have been to de-facto 'de-criminalise' the continued existence of PIRA, so long as within their existence there are no overt signs of criminal activity.

This therefore creates a scenario whereby to the untrained eye the policing strategy is not set up to target the structured existence of proscribed organisations, but rather to target any overt criminal manifestation of such structures. However, it is our analysis that whilst the structured existence of PIRA has been 'de-criminalised' in a covert policy sense, the structured existence of loyalist organisations (UVF/UDA/RHC) has been 'criminalised' to an enhanced level.

There is an uneven playing field in the policing policy being deployed. The layered approach is that the structured existence of loyalist organisations lends itself to the justification for labelling those groups as Organised Crime Gangs, yet the same policy is not deployed when it comes to PIRA who, as aforementioned, are not viewed as an Organised Crime Gang by mere virtue of their structured existence.

It is clear therefore that the policing policy is the complete eradication of the very existence of structured loyalist groupings, whilst there is a simultaneous tolerance of the structured existence of PIRA. If the starting point for an Organised Criminal Gang is the existence of a proscribed organisation structure, then why is PIRA not subject to the same scrutiny and robust policing approach as is deployed against loyalist groupings?

It is worth noting that PIRA criminality has moved from the sphere of low level crime to high level white collar crime, largely facilitated by the proceeds of the Northern Bank robbery. There appears to be no effort to forensically examine the various financial income streams of PIRA linked businesses, which include a number of bars, restaurants and gyms, instead focusing all economic crime attention on comparatively low level proceeds of crime investigations directed against loyalists. In our analysis there is broad feeling across the PUL community that post-98 policing has worked under a covert policy agenda of marginalising and criminalising loyalism, whilst allowing breathing space for PIRA to become normalised in a tolerated structured existence. This, naturally, has allowed space for an economic crime wave to come and go within the republican community, with the majority of illegally gained finances- including the Northern Bank money- now layered into a range of 'legitimate' businesses.

The core question which arises is that if the structured existence of a proscribed group is enough to warrant a dedicated effort to eradicate such structures through a robust policing and justice approach, then why is such an approach deployed in a two-tier manner with a clear disparity in how loyalists and republicans are treated?

It is worth noting that working class loyalist communities have suffered high levels of social deprivation and furthermore those from an ex-prisoner/combatant background within the PUL community have not been afforded the same pathways into political/civic society as was available to republicans. In any socially deprived community there will be those who out of a misguided feeling of necessity, will turn to crime in order to feed their families. This is not unique to Northern Ireland or loyalist communities, but is a societal problem across the World.

There will be some who will point to the existence of funding for community development work that poured into loyalist/republican communities post-98, however in the loyalist community often these funds were used to provide jobs to arms-length supporters of loyalist groups and/or critical friends, rather than providing genuine pathways to employment and greater capacity building for those ex-prisoners/combatants that were participants in the conflict. This, of course, is not universally true but it is our analysis that there has not been a strategic process to provide pathways for loyalist ex-prisoners/combatants to morph effectively into political activists and/or contributors to civic society.

Loyalists did not benefit from the type of huge wealth that PIRA had accrued, and therefore such wealth could not be used to create a range of social enterprises and businesses that would provide opportunities and employment for combatants coming out of conflict and seeking to rebuild their lives. Alongside this the republican movement had a ready-made transition process by virtue of moving many of their activists over into the political arena; loyalists at no stage had a comparatively strong electoral mandate that provided the opportunity for a structural transfer of combatants from militant conflict to elected office.

Transition of proscribed loyalist organisations

It is our view that transition has not been properly defined. The existence of loyalist organisations, in our analysis, is not primarily about a group name or structure, but rather is the manifestation of a strong social cohesion between persons who have developed bonds over many decades of shared history/experiences and continue pass those bonds on, and develop new bonds, with those who have a similar cultural/political viewpoint.

Therefore, in order to 'eradicate' loyalist organisations it would in essence be necessary to eradicate the social cohesion which underpins such groupings. This involves the mass criminalisation of a large section of the community. This need not actually happen via charging or convicting persons of criminal offences, but rather through a co-ordinated policing/political/media approach that is designed to marginalise and ostracise those linked to loyalist groups from society.

It is no co-incidence therefore that increasingly the laws and language being deployed are similar in nature to that deployed in America against the Mafia. Furthermore, it is no mistake that covert policing engagement with the media encourages them to use descriptive language such as 'gangsters', 'godfathers' and 'para-mafia' when describing loyalists. This is not simply lazy or malicious journalism, it is a carefully crafted means of creating a narrative and environment conducive to criminalising the very existence of socially cohesive loyalist groups. That would be an acceptable policy if it was applied on a cross-community basis, however it is not.

When is the last time you heard the media describing a PIRA member as a 'gangster', 'godfather' or 'para-mafia' boss? These descriptors are reserved solely for loyalists.

The narrative around transition is broadly understood as making groups 'go away', but this simplistic approach ignores the most fundamental question- where is it proposed such groups should go?

If you accept our analysis that loyalist groups exist as not as names or structures, but primarily as a form of social cohesion, then simply saying such groups should 'go away' may be popular, but it is entirely illogical and unworkable. Socially cohesive groups of people have nowhere to go, loyalist paramilitaries live in working class loyalist communities and are part of the fabric of that section of society.

The challenge therefore is to utilise the influence that exists within the confines of socially cohesive groups in a manner that is positive and within the confines of the law and does not cross over into illegality or coercive control.

That of course creates a paradox in of itself. There are those who call for loyalist groups to 'cleanse' themselves by 'expelling' any members involved in crime, however this raises a number of inter-connected questions; (1) how, in practical terms, would a person be expelled from an illegal organisation after being deemed to be involved in criminal activity? (2) who decides upon the moral hierarchy of what constitutes a sufficient finding of criminality that warrants expulsion? (3) what is the standard of proof required for such a finding? (4) how would such presumably adversarial inquiries be undertaken without crossing the line into illegal kangaroo courts and/or coercive control? (5) how would such expulsions be enforced, if not by force? (6) It is a crime to be a member of a proscribed organisation, therefore if the test is involvement in crime, then every member of such groups would be expelled from their respective organisations. What then happens then to all those expelled (every member) in circumstances where the same social cohesion exists?

All of the aforementioned highlights the strategic, and moral, bankruptcy of the dominate 'solutions' put forward in our current discourse, namely that loyalist organisations should 'go away', or failing that 'expel' those members involved in crime.

That is not an argument that loyalists should simply facilitate or ignore serious criminal activity; this is patently not the case. Crime is a societal problem and should be dealt with within the parameters and boundaries of our structured policing and justice systems, this means any individual involved in crime being robustly pursued by the PSNI and if evidence exists then such persons should be charged and thereafter tried by a jury of their peers.

The PCTF have, by their own admission, deployed a strategy of targeting those they believe to be involved in loyalist organisations and sought to disrupt their lives in any way possible, whether this be in relation to something as simple as a TV licence. Whilst this approach may be popular, it is fundamentally unfair. Huge policing resources are being disproportionately targeted at one section of the community- this is fostering a grave inequality in the application of the law.

For example; several loyalists have been subjected to forensic audits of their entire lives. In some cases, the only 'crime' that could be found was inflated income on a mortgage application. That, in some cases, has led to the PCTF taking persons homes from them. It is accepted that inflating your income is a crime, however how can it be that such forensic analysis of persons lives is specifically targeted at one portion of the community whilst others will never face such scrutiny?

There will be an often-repeated argument asking how many PSNI officers or PIRA members has had their finance applications forensically torn apart in pursuit of any minor discrepancy? This highlights how the PCTF, as a strategic policy, is seeking to find crime to fit the person, rather than fairly and

impartially investigating the commission or instigation of criminal offences across the entire community.

In our analysis we believe that the Fresh Start agreement does not provide any mechanism for the positive transition of loyalist groups, and instead lends itself to a deliberate policy of mass-criminalisation and marginalization of a large section of our community.

We set this apart from the legitimate and fair pursuit of criminal activity, which is a necessity in any civilised democratic society. However, such a pursuit must be driven by a desire to prevent and punish crime, not to criminalise that which is a societal and political problem.

The Fresh Start worked on the premise that the carrot and stick approach, underpinned by the opportunity of financial assistance for those deemed to be compliant and positively 'transitioning' (this is not defined and there is no clear framework/markers for how this is measured), would flush out the 'bad loyalists' and carve out a new role in society for 'good loyalists'.

This therefore created a situation that would, if allowed to play out to its natural conclusion, divide loyalism to the point of destruction. The core thought process underpinning the strategy was that if you provided a financial incentive then the separate loyalist groups would naturally clamber to benefit from such investment into their various constituency groups, and logically therefore, in order to benefit, it would be necessary for each distinct constituency to present themselves as 'good loyalists' and by extension label competing sections 'bad loyalists'. This is not to say that this happened, but it was clearly the situation that the Fresh Start agreement sought, by its very design, to create.

There are genuine concerns that given the overly political background genesis of the PCTF that by its very nature there will be political considerations in terms of PCTF policy and decision making. This, in our view, allows NGOs, politicians and other third parties to disproportionately influence operational policing decisions in a manner that is not consistent with the fair application of the rule of law.

Due to the lack of political and arms-length representation of loyalist groupings on quangos, NGOs and in established civic lobby groups- in contrast to the proliferation of comparative republican representation in such bodies- this allows for the marginalisation and enhanced criminalisation of loyalist groups who are dealt with more harshly than PIRA. This creates resentment within the PUL community and rather than encouraging forward looking strategic engagement, drives a large section of our community into a feeling of being under siege. This, either by accident or design, undermines the very purpose of the so-called Fresh Start.

Conclusion

There is, in our analysis, a differential approach deployed by the PSNI when it comes to engagement in republican communities and loyalist communities. There has been high level public PSNI engagement with senior members of PIRA, in the form of panel discussions and civic events, whilst such engagement with loyalists would be shunned by the PSNI.

There are very real challenges for policing in terms of engagement with the loyalist community, including engaging in difficult debates around the role of policing in a post-conflict society in which there has been no formal transition process, and where transition itself is not even appropriately defined. There are challenges as well for loyalism in terms of how socially cohesive structures born out of formerly armed groups can be adapted in order to exert positive influence within the confines of the law and without crossing the boundaries into illegality or coercive control.

It is fundamentally unfair to criminalise a political ideology (loyalism) on the basis that a minority of those who may be affiliated with that ideology may be involving themselves in criminal activity. Such activity happens despite their simultaneous ideological commitment to loyalism, not because of it. There is a challenge for the PSNI, and specifically the PCTF, in their public commentary in terms of making that distinction.

That challenge will raise issues for the PSNI who will inevitably say that membership of formerly armed groups is itself a criminal offence, and therefore warrants criminalisation. However, prosecutions for such offences requires a public interest test to be met, and it is our view that there needs to be mature and reasoned public discussion around whether- in a post conflict society- the public interest test would be met in terms of membership alone, in circumstances where such membership was purely in the form of using positive influence to promote and shape political/community activism by purely lawful means.

It appears that is the practical approach being deployed when it comes to PIRA; namely a blind eye being turned to the continued existence of the socially cohesive structures, so long as such structures are not being used to facilitate overt criminal activity. We would argue however that there is a much broader range of economic crime underpinning PIRA, which receives virtually no policing attention in terms of PSNI's organised crime branch or the PCTF/Economic Crime sub-branches within it.

This submission is not designed to excuse criminal activity, but rather to provide a more reasoned analysis of some of the fears and frustrations that currently exist within the broad PUL community.

Recommendations

We, in our role as an independent think-tank within the PUL community, recommend the following steps:

- PSNI/Government engagement in a more overt level with representatives of the loyalist community in order that the broader loyalist community can have an avenue to see their fears and concerns being addressed and perceived imbalances within policing being addressed. Perhaps Town Hall style public meetings to update communities on policing and allow loyalist communities to provide a grassroots response to policing issues.
- A clearly defined PSNI approach for media statements; for example, cease linking arrests to formerly armed groups, unless such arrests are genuinely connected to the activities of such groups. A difference must be made between the ideological activities of loyalist groups and their members, and criminal activity which is carried out by individuals acting on their own accord.
- A clear definition of 'transition' and a practical outline as to how this is envisaged taking shape. A clear list of descriptors as to what defines transition.
- Publication of the PSNI's methodology for assessing their 'priority targets' for their Paramilitary Crime Task Force and a rationale as to how this methodology is deployed in practice.
- A clear PSNI policy statement in relation to their approach in relation to engagement with, and or the policy approach to, the socially cohesive structures of proscribed organisation's in the context of such groups being wholly committed to civilianisation and acting within the rule of law.
- Engagement by the Northern Ireland Affairs Committee with representatives of the media in order to obtain a rationale as to the different approach deployed in terms of how loyalists and republicans are described/presented and efforts made to encourage a more fair and balanced approach.