

The fortunes of the legal and medical professions during the “Troubles” - Presentation to The Northern Ireland Medicolegal Society - October 14 2014

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The seed for my presentation emerged from Mr Justice Ben Stevens’ eloquent Presidential address last year. In thanking him I reflected that we have taken for granted how, after 1969, while much of civil society failed to function, lawyers and doctors maintained the highest professional and ethical standards, with many developing national and international reputations. Most crucially, law and medicine never compromised themselves by acquiescing in the divisions which have riven our community.

Against a background of incipient chaos, doctors and lawyers performed their duties with integrity and impartiality, providing a bulwark against breakdown.

THE LEGAL PROFESSION

Unlike doctors, lawyers were directly targeted by paramilitaries.

On 11 October 1972 Resident Magistrate William Staunton (fig 1) was leaving his daughters at St Dominic’s School on the Falls Road. A motorcycle drew alongside. The pillion passenger opened fire. Mr Staunton died later. This was a clear threat by the IRA to Catholic judicial figures.



Fig 1. RM William Staunton ©VICTOR PATTERSON

September 16 1974 was a black day for the legal profession.

At 8.30am, an IRA gunman shot dead Judge Rory Conaghan. 8 year old Deirdre witnessed her father’s murder.

The IRA said: “He was collaborating with the British War Machine”.

The Irish Times said: ‘He restored the confidence of many members of the minority in the judicial process. He awarded damages to 16 people against the Army for mistreatment. He jailed Ian Paisley.’

At 8.50am Resident Magistrate Martin McBirney (fig 2) was at breakfast. A gunman came round the back of his house and killed him. He was a friend of Louis McNeice and TP Flanagan, whose painting, ‘Victim’, is in his memory.



Fig 2. Police at house of RM Martin McBirney
©VICTOR PATTERSON

In October 1979, John Donaldson, 23, a Protestant solicitor was leaving Andersonstown RUC Station. A van came alongside. He was shot dead. The IRA said it was ‘a mistake.’

In January 1983 Judge Billy Doyle was leaving Mass at St. Brigid’s Church in Derryvolgie Avenue. A man approached and shot him dead.

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In 1978 the Economist ran an article alleging he was appointed not on merit, but because he was a Catholic. He sued and was awarded £50,000.

In December 1983 Edgar Graham, Barrister, Law Lecturer and Unionist Assembly member was shot dead in University Square.

Two former students were convicted of withholding information.

In April 1984 Resident Magistrate Tom Travers was at Mass at St Brigids. Two gunmen approached, shooting him six times. His 21 year old daughter Mary was shot dead.

Later Mr Travers recalled: 'as the man prepared to fire, I saw the hatred on his face, a face I will never forget'. At the trial a reporter wrote: 'Mr Travers broke down in the witness box, weeping openly. Hardened reporters said it was the most upsetting courtroom spectacle they had ever witnessed. The man Mr Travers identified as his daughter's killer walked free, after the judge said there was a possibility he could have been mistaken.'

In April 1987 Lord Justice Gibson and his wife were travelling across the border when a massive bomb exploded. Appointed Lord Justice of Appeal in 1975 he presided over many high profile cases including the 'shoot to kill' trial of 3 RUC officers, whom he found not guilty. He acquitted all the defendants in the Grimley Supergrass Trial. In 1985 he quashed the murder conviction of prominent republican Dominic McGlinchey.

In February 1989 Belfast solicitor Pat Finucane was shot dead at home.

He had a high profile, dealing with cases which typically involved republicans.

Much controversy has surrounded the killing. The most recent investigation in 2012, led to David Cameron acknowledging the level of State involvement had been "shocking".

In March 1999 Rosemary Nelson, a Lurgan based solicitor died when a loyalist bomb exploded under her car. She had represented a number of prominent republicans. She had alleged that she had received death threats from policemen.

There have been several investigations. The most recent in 2011 stated that RUC members had 'legitimised' her as a target and that security force members had possibly been involved in the attack.

A number of other lawyers escaped death in assassination attempts, including Lord Chief Justice Lowry on three occasions. In 1988 the Hanna family died in an explosion intended to kill Judge Eoin Higgins and his wife.

Did the legal system deliver justice?

It is accepted that some convictions were unsafe. In recent years a number have been overturned, and more cases are to come before the courts.

Professor Brice Dickson¹ wrote in 1992 of how the Emergency Provisions Act (1973) expressly altered the existing judge made rule that confessions should be excluded if obtained by 'oppression'. Despite this law, in 1975, in *R v O 'Holloran*, Lord Chief Justice Lowry reaffirmed that judges had the discretion to rule that any form of ill-treatment could render a confession inadmissible. Dickson added: 'This was courageous, because it contradicted the apparent intention of Parliament in deliberately excluding such discretion.'

Dickson also noted that the N.Ireland judiciary were often more progressive in their rulings than the House of Lords.

In the early 1980s nearly 600 people were charged on the evidence of 27 'Supergrasses'. The judiciary discharged almost every case.

David Bonner² in 'Combating Terrorism' stated: 'in executing a difficult task the NI judiciary demonstrated skill, integrity and independence of the Executive.'

'Counter- transference' describes the feelings, often unconscious, stirred up in a therapist by the patient. This is normal and universal.



Fig 3. Mr Derek Gordon

Judges are expected to look analytically at the evidence and weigh it up, unswayed by emotion. But judges are human, with normal emotions! And living with a death threat will affect any normal person. Judges will inevitably have a counter- transference towards defendants. Judges had to make decisions about defendants who were members of organisations which had killed some of their colleagues. They knew some defendants would have been delighted to hear that they had been assassinated at their home that night. Yet Northern Ireland did not have the debacle of the Maguire 7, the Birmingham 6, the Guildford 4 and the Winchester 3, in

all of which the defendants were convicted by jury. Mistakes were undoubtedly made, but on balance, during three decades of violence, we were well served by our legal system.

THE MEDICAL PROFESSION

Prior to 1969 most doctors in Northern Ireland had rarely seen a gunshot wound. Between 1968 and 1998, there were over 3,600 deaths and 47,000 people injured, in 36,900 shootings and 16,200 bombings.

Necessity drove innovation. Across specialities, doctors rose to the unprecedented challenge not only in applying best practice, but by developing new techniques and procedures.

High velocity bullets to the head often left large skull defects. Mr Derek Gordon, (fig 3) a neurosurgeon at the Royal Victoria Hospital and Gordon Blair³. of the School of Dentistry developed titanium cranioplasty, in which titanium was moulded by explosives, permitting the production of a very fine, extremely strong metal. Titanium cranioplasty proved extremely effective and, following the seminal 1973 BMJ paper, was taken up worldwide.

Kenyan- born Aires Baros D’Sa⁴ was appointed an RVH consultant in 1978. He achieved international recognition for his development of the shunt, which diverted blood flow around serious injuries. After this initial procedure the orthopaedic surgeons fixed the bones.

The vascular surgeons came back to construct a bypass graft. Finally, the plastic surgeons finished off. This became known as the Belfast Technique and was soon adopted internationally.

During the 1970s many trauma victims developed ‘blast lung’. Bob Gray, Denis Coppell⁵. and other RVH anaesthetists developed ‘Positive End Expiratory Pressure,’ which kept the lungs slightly inflated at the end of the breath, preventing lung collapse and further damage. PEEP rapidly came into use worldwide.

An orthopaedics innovation was the ‘Belfast Fixator’, used to stabilise the leg during surgery. The original device was designed by Belfast orthopaedic surgeons and manufactured in Mackie’s Foundry!

CANDLES IN THE DARK

In 2006, former Chief Medical Officer Dr James McKenna⁶ published ‘Candles in the Dark’. He and two colleagues interviewed over a hundred people, health professionals, former patients - including prisoners - and family members.

In 1971 Government introduced a Statutory Order requiring the immediate reporting of all gunshot wounds to the police or army. This caused great concern. A BMA delegation led by Mr Reggie Livingstone, from the RVH and Dr Raymond Shearer, a West Belfast GP, met the Secretary of State. Agreement was reached that staff be allowed to use their discretion, and that hospitals would aggregate figures for statistical purposes.

Hospitals were not immune to the violence. In October 1976 loyalist gunmen murdered Marie Drumm, Sinn Fein Vice-President, in the Mater.

Two off duty soldiers were killed in the grounds of Altnagelvin, an ambulance man in the RVH, and an off- duty police officer in the carpark of the Mid- Ulster. A policeman guarding a patient in the Royal was shot dead in 1981.

DOCTORS SPEAKING OUT

In 1977 the Northern Ireland Police Surgeons Association expressed concern about ill- treatment in police stations and holding centres. It issued a memorandum, describing examples of significant injuries.

The memorandum concluded: ‘Doctors have to uphold their medical position as neutrals, a role which their profession demands and which doctors carry out to the letter.’

In January 1979 Dr Robert Irwin appeared on ITV’s *This Week*⁷. He reported examining approximately 150 prisoners who had suffered injuries in custody. The evidence of Dr Irwin and colleagues led to a report by Amnesty International and subsequently the Bennett Inquiry.

After the programme Dr Irwin was subjected to criticism and abuse. Most shockingly the Daily Telegraph reported that official sources were trying to undermine his integrity, by briefing newspapers that he was embittered because his wife had been raped, allegedly by a soldier, and that the subsequent police investigation had been poor.

The doctors received full support from the British Police Surgeons Association, whose President came to Belfast. Bennett recommended that prisoners be seen by a doctor daily, and that closed circuit television be installed in interview rooms. The treatment of prisoners improved significantly, although the CCTV took a long time to implement.

The courageous stand taken by Dr Irwin and colleagues has had a major impact upon the treatment of prisoners ever since. These are doctors of whom the medical profession can be very proud.

PSYCHIATRIC RESEARCH

Alec Lyons was a Consultant Psychiatrist at Purdysburn. He noted – at first sight paradoxically – that the incidence of depression fell in areas experiencing the worst violence.

I shall be immodest enough to note that in a paper I wrote with Dr Peter Curran in 1988, we found the suicide rate declined to the lowest ever level in 1972, the most violent year of the Troubles. Another Lyons paper examined individuals arrested after riots.

He wisely noted that there was little value in attributing riots merely to: ‘so called riff raff, hoodlums or psychopaths’, adding: ‘potential riot participants are available in almost any community’. *La plus ca change!*

IRA HUNGER STRIKE

Until the mid 1970's prisoners on hunger strike were commonly force fed.

However Government then made a decision to adhere to the World Medical Association's 1975 Declaration of Tokyo which stated: 'Where a prisoner refuses nourishment and is capable of forming an unimpaired, rational judgement concerning the consequences, he or she should not be fed artificially.'

Contrast this enlightened approach with the current disgrace in Guantanamo Bay where clinicians are colluding in long-term mass force feeding. In N. Ireland we were - and are - better than that.

Dr McKenna quotes a hunger striker: 'Dr X was the senior prison doctor. He was very professional and humane. An eye specialist, Dr F. got really involved and took his professionalism to another level. The care we got was exemplary.'

A prison doctor said: 'Dr. X was the senior doctor then. He had nursed, and I mean nursed, most of the hunger strikers. He was there when many of them died. Sometime later, one Friday afternoon at 5pm we parted company at the prison gates. At 7'clock I was phoned and told he had shot himself. It never left him. He often recounted how he felt at that time and what he had gone through, not in terms of what he had suffered, but especially the families of the hunger strikers'.

Dr McKenna states: 'The three doctors who attended the prisoners are now dead. However their memories are to be honoured as exemplars in one of the most stressful experiences imaginable for members of the medical profession.'

A final year medical student at the time, I went to bed in the Mater Hospital in the early hours of May 5th, knowing Bobby Sands was dying.

The next morning the hospital was abuzz with the presence in Intensive Care of 14 year old Desmond Guiney and his father Eric, a milkman. Following Sands' death their milk float was attacked by a crowd. It struck a lamp post. Both Guineys soon died.

During the period when 10 prisoners died on hunger strike, 25 people were killed by the organisations to which they belonged.

TERRORISTS AREN'T (USUALLY) MENTALLY ILL

Politicians and media often describe paramilitaries as mad men, crazy, psychopaths, mindless or criminals.

It's fairly obvious most paramilitaries were not mentally ill. Relatively few were psychopaths, and to call them mindless..... is just mindless!

However it was convenient to assert that violent acts were from outside, not of us, caused by some kind of mental illness

afflicting people for some unexplainable reason. In truth violence reflected the reality of a bitterly divided society in which violence has been endemic - and typically justified in retrospect - for nigh on a century.

In 1986 Alec Lyons and Helen Harbinson reviewed psychiatric reports on 106 people charged with murder. They found that politically motivated killers came from backgrounds more stable than those of 'ordinary' criminals. There was a lesser family history of personality disorder, they had better educational attainment and were much less likely to have taken alcohol.

Few paramilitaries used as a defence that they were mentally ill. The vast majority released early under the Good Friday Agreement did not re-offend; not to great surprise, because these men were different from other prisoners.

Mrs Thatcher famously - and superficially- referred to terrorists as 'common criminals'. Today that same term is often used - by republicans - to describe the current reincarnation of physical force nationalism!

CONSULTANT SHOT

In November 1972 Mr Peter Gormley, Consultant Ophthalmologist (fig 4) was driving to work at the Mater Hospital along with three of his sons when UVF gunmen opened up on the car. Mr. Gormley was shot in the shoulder. 14 year old Rory was shot dead. Another son was hit in the arm and leg.



Fig 4. Mr Peter Gormley ©VICTOR PATTERSON

Three of Mr. Gormley's sons became doctors. Mark has just retired as a Physician in the Mater. He took part in a television documentary in the late 1980's. The reporter talked to him as he was driving along the Shankill Road to see a patient in their home, close to where his brother had been killed. It was a quite remarkable interview, with Dr Gormley speaking of his duties and responsibilities as a doctor. This was a testament to medicine at its very best.

Northern Ireland was not a healthy society in many ways, (nor was the Republic of Ireland). The IRA and UVF were politically motivated, and they were different from 'ordinary'

criminals. However, despite that, the killings, to use David Cameron’s phrase, were unjustified and unjustifiable. It is important that our children are not given a narrative that what happened was a legitimate campaign for justice or equality, that to shoot dead a judge in front of his 8 year old daughter or a solicitor in front of his three young children was acceptable. It wasn’t.

IN CONCLUSION

I hope this evening I have given a sense of some of the significant achievements in medicine and law over the last four decades.

I look back over that period with great pride. Both professions have acted as a bulwark against breakdown and contributed to keeping our society on a level of stability. We can be proud of our achievements. I am confident that doctors and lawyers

will continue to lead in our community and that in time our society will finally right itself.

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