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Idir Eatarthu is Achrann

The Framing of Women's Agency in Northern Ireland's Counterterrorism Legislative Discourse during the Troubles

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IRELAND'S COUNTERTERRORISM LEGISLATIVE DISCOURSE
DURING THE TROUBLES (1968-98)

FOREWORD

The European Master's Degree in Human Rights and Democratisation (EMA) is a one-year intensive programme launched in 1997 as a joint initiative of universities in all EU Member States with support from the European Commission. Based on an action- and policy-oriented approach to learning, it combines legal, political, historical, anthropological and philosophical perspectives on the study of human rights and democracy with targeted skills-building activities. The aim from the outset was to prepare young professionals to respond to the requirements and challenges of work in international organisations, field operations, governmental and non-governmental bodies, and academia. As a measure of its success, EMA has served as a model of inspiration for the establishment of six other EU-sponsored regional master's programmes in the area of human rights and democratisation in different parts of the world. Today these programmes cooperate closely in the framework of the Global Campus of Human Rights, which is based in Venice, Italy.

Up to 90 students are admitted to the EMA programme each year. During the first semester in Venice, they have the opportunity to meet and learn from leading academics, experts and representatives of international and non-governmental organisations. During the second semester, they relocate to one of the 42 participating universities to follow additional courses in an area of specialisation of their own choice and to conduct research under the supervision of the resident EMA Director or other academic staff. After successfully passing assessments and completing a master's thesis, students are awarded the European Master's Degree in Human Rights and Democratisation, which is jointly conferred by a group of EMA universities.

Each year the EMA Council of Directors selects five theses, which stand out not only for their formal academic qualities but also for the originality of topic, innovative character of methodology and approach, potential usefulness in raising awareness about neglected issues, and capacity for contributing to the promotion of the values underlying human rights and democracy.

The EMA Awarded Theses of the academic year 2020/2021 are:

- Boatright, Katie, *Re-imagining Truth and Redress: Racial Injustice against African Americans in the United States and the Current Push for Transitional Justice*. Supervisor: Stephan Parmentier, KU Leuven.
- Boeren, Annelie, *Refugees' Experiences in Sites of Prolonged Displacement, Liminality, and Exception: A Case Study of the Diavata Refugee Camp in Northern Greece*. Supervisor: Georgios Agelopoulos, Aristotle University of Thessaloniki.
- Heinrich, Agnes, *Handle with Care. How to Improve Access to Healthcare for Deaf People in a Pandemic*. Supervisors: Kalliope Agapiou-Josephides, Aristotelis Constantinides, University of Cyprus.
- Lombardi, Federica, *From Myanmar to The Hague. A Feminist Perspective on the Search for Gender Justice by Rohingya Women before the International Criminal Court*. Supervisor: Dolores Morondo Taramundi, University of Deusto, Bilbao.
- McCall Magan, Ríon, *Idir Eatarthu is Achbrann. The Framing of Women's Agency in Northern Ireland's Counterterrorism Legislative Discourse during the Troubles (1968-1998)*. Supervisor: Martin Kahl, University of Hamburg.

The selected theses demonstrate the breadth, depth and reach of the EMA programme and the passion and talent of its students. We are particularly proud of EMA's 2020/21 students: as teachers and students across the world can testify, the COVID-19 pandemic brought many different challenges for teaching and learning. It is fair to say that our students researched and wrote their theses in turbulent times. On behalf of the Governing Bodies of EMA and of all participating universities, we applaud and congratulate them.

Prof. Manfred NOWAK
Global Campus Secretary General

Prof. Thérèse MURPHY
EMA Chairperson

Dr Orla Ní Cheallacháin
EMA Programme Director

This publication includes the thesis *Idir Eatarthu is Achrann. The Framing of Women's Agency in Northern Ireland's Counterterrorism Legislative Discourse during the Troubles (1968-1998)* written by Ríon McCall Magan and supervised by Martin Kahl, University of Hamburg.

BIOGRAPHY

Prior to graduating from the Global Campus of Human Rights, Ríon McCall Magan studied at University College Maastricht where she obtained a Bachelor of Arts in Social Science, exploring peace and conflict through a sociological lens. She is currently completing a traineeship in the European Union's Delegation to the State of Israel. Ríon works continuously in her professional, academic and personal life to develop and support her interests in topics relating to political participation, inclusive governance, diplomacy, dialogue and mediation, conflict transformation, peace and gender.

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ABSTRACT

Homer's pithy phrase that war is comprised of 'men killing and man being killed' aptly illustrates the historically dominant discourse surrounding armed conflict and political violence, with constructions of male gender armed with agency and equated with warriors. Subsequently, the female gender holds a domestic and voiceless role, with any capacity to exercise agency discounted. The sustained exclusion of women's voices and experiences impacts our general understanding of violence, including political violence, and also how we substantially counter it. These narratives have also been utilised to justify and legitimise states involvement in conflict, especially since the era of the War on Terror. In light of these considerations, this thesis explores how women's agency has been framed in the discourse surrounding the Northern Irish counterterrorism legislation during the Troubles (1968-98). It argues that the government's approach to countering the political violence was implemented and can be seen in three distinct phases, namely: reactive containment (1968-75); criminalisation (1976-81); and, finally, managerialism (1981-98). Through employing the methodologies of critical discourse analysis and critical policy analysis, the framing of women's agency can be seen to evolve in parallel to these three diverging phases of the conflict. Though women exercised their capacity to politically and morally challenge power in each of these phases of the Northern Irish conflict, the British government framed them as actors who harboured no agency. Rather, within the state's discourse, they were framed as illegitimate and invalid actors of political violence. Hence, the women faced a form of double subjugation in which they were oppressed for both their political ideology and gender by the state's counterterrorism legislative discourse.

Keywords: counterterrorism; women; agency; Northern Ireland; discourse; power.

PREFACE

The title of this thesis, *Idir eatarthu is achrann*, translated in its most basic form merely means, in-between things and conflict. However, as with many terms and phrases as Gaeilge (in the Irish language) this translation does not allow for the plethora of connoted meanings and possible interpretations the phrase carries.

Idir eatarthu is not in-between ‘simple’ things but rather larger, abstract things. Things that surround and affect us daily yet remain hidden from the average eye – societal structures, assumptions, norms and stereotypes.

Achrann can refer to conflict, a bicker, quarrel or strife. However, it can also allude to a tangled growth, an undergrowth that is growing in on itself with prickles or thorns such as that as of a bramble or rose.

So *Idir eatarthu is achrann* in this context alludes to being caught in-between imposed societal structures of power and dominance, in addition to a tangled conflict, that is growing in on itself. This was the place of the women who lay at the heart of this thesis. Not only did they find themselves in battle and disempowered by the counter terrorism legislation but also within the greater society of the time in Ireland. Their actions challenged the surrounding structures, and hence their actions could be seen as a form of growth due to the transgression of associated gender norms of the time. Yet this growth, is a prickly, conflicting one as the women themselves, in addition to the general society, would not have unanimously agreed with this feminist angle. Hence, these hegemonic structures remained in place, leaving the women *idir eatarthu is achrann*.

TABLE OF ABBREVIATIONS

CDA	Critical discourse analysis
CPA	Critical policy analysis
DTO	Detention of Terrorism Order
EPA	Emergency Provisions Act
HMP	Her Majesty's Prison
IRA	Irish Republican Army
NGO	Non-governmental organisation
PTA	Prevention of Terrorism Act
RAC	Relatives Action Committee

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INTRODUCTION

Homer's pithy phrase that war is comprised of 'men killing and man being killed'¹ aptly illustrates the historically dominant discourse surrounding armed conflict. Women's involvement with violent actors, whether characterised as terrorists or insurgents, nonstate or paramilitary actors, is consistently met with surprise, concern and in some cases, denial by members of the public and media.² Yet worldwide, women have participated in political violence for decades, if not centuries.³ Examples include states as far reaching as Algeria, Colombia, Iran, Ireland, Italy, Japan, Kenya, Sri Lanka and West Germany to name but a few.⁴ This perceived invisibility of women's agency arises from the sustained exclusion of their voices due to contemporary constructions of masculinity that equate man as the warrior, the violent, dominant, powerful actor.⁵ Hence, within this framing the woman is depicted as the antithesis, she is the victim, helpless and in need of a saviour.⁶ Such narratives have been utilised to justify and legitimate states' involvement

¹ Homer, *Iliad* (EV Rieu tr, 1st edn, Penguin Books 1950) in Fionnuala Ní Aoláin, 'Situating women in counterterrorism discourses: undulating masculinities and luminal femininities' (2013) 93 BUL Rev 1085, 1086.

² Jessica Davis, Leah West and Amarnath Amarasingam, 'Measuring Impact, Uncovering Bias? Citation Analysis of Literature on Women in Terrorism' (2021) 15 Perspectives on Terrorism 58.

³ Karla J Cunningham, 'Cross-Regional Trends in Female Terrorism' (2003) 26 Studies in Conflict and Terrorism 171.

⁴ Mia Bloom, *Bombshell: The many faces of women terrorists* (1st edn, Penguin 2011); Paige Whaley Eager, *From freedom fighters to terrorists: women and political violence* (1st edn, Routledge 2016).

⁵ Anna T Höglund, 'Justice for women in war? Feminist ethics and human rights for women' (2003) 11 Feminist Theology 346; Fionnuala Ní Aoláin, 'Situating women in counterterrorism discourses' (n 1).

⁶ Laura Sjoberg and Jessica Peet, 'A(nother) dark side of the protection racket: targeting women in wars' (2011) 13 International Feminist Journal of Politics 163.

in conflict, especially since the era of the War on Terror.⁷ Whenever women drastically stray from this gendered stereotype by engaging explicitly in violent activity, she receives more attention than her male counterparts.⁸ Narratives of deviance can nonetheless continue to reinforce societal assumptions regarding women by emphasising that they are emotional, not political, easily manipulated, and often deranged or unintelligent. The problem is not that the frame is factually wrong (women, akin to men, globally are undoubtedly affected as victims by conflict) but the lack of a holistic and critical lens that is consequently utilised to explore women's agency within armed conflict.

This critical and holistic lens is necessary to further our understanding of the role of women in conflict, their behaviour practices, and mediations. The underexplored nature of this important aspect of armed conflict, reinforces and affirms preconceptions, domestic narratives and societal assumptions regarding the role of women in society. Not only are these preconceptions and narratives reinforced they also serve to exclude, and render invisible, the actual voices and tangible experiences that do occur. This sustained exclusion of women's voices and experiences impact our understanding of political violence but also how we substantially counter it.⁹ Practitioners and policy-makers alike rely upon academic research when providing foundations and frameworks for counter-extremism and counterterrorism schemes. Thus the lack of a holistic understanding may also result in the reinforcement of norms surrounding women's involvement. In practice, this can lead to the exclusion of women in peace-building and reintegration programming as they are not considered as a valid or meaningful target group.¹⁰ In turn, the central objective of such schemes – to curb the cycle of radicalisation and violence – is merely undermined as gender inequality is often cited as a driving factor in the radicalisation of woman.¹¹ Hence,

⁷ Maryam Khalid, 'Gender, Orientalism and Representations of the "Other" in the War on Terror' (2011) 23 *Global Change, Peace & Security* 15.

⁸ Mia Bloom and Ayse Lokmanoglu, 'From Pawn to Knights: The Changing Role of Women's Agency in Terrorism?' [2020] *Studies in Conflict & Terrorism* 1.

⁹ Rachel Schmidt, 'Duped: Examining gender stereotypes in disengagement and deradicalization practices' [2020] *Studies in Conflict & Terrorism* 1; Davis, West and Amarasingam (n 2).

¹⁰ Miranda Alison, 'Women as agents of political violence: Gendering security' (2004) 35 *Security Dialogue* 447.

¹¹ Bloom (n 4); Jennie King and Eisha Maharasingam-Shah, 'The Under-Told Story of Women in Extremist Movements' (*PeaceLab*, 29 July 2020) <<https://peacelab.blog/2020/07/on-the-frontline-the-under-told-story-of-women-in-extremist-movements>> accessed 15 April 2021.

the agency of women within conflict and political violence must be considered because only then can drivers of radicalisation be addressed and recruitment efforts undermined.

In light of these considerations, and using the Troubles in Northern Ireland as a context for research, this thesis will set out to explore the research question: how was women's agency framed in the discourse surrounding the Northern Irish counterterrorism legislation during the Troubles (1968-98)? The case study of the Northern Irish conflict is relevant to situate the analysis of the framing of women's agency as researchers are yet to systematically analyse the extent to which the state's counterinsurgency legislation actively targeted women and the impact it had upon them.¹² Furthermore, counterterrorism has been found to be the least researched topic in relation to women and terrorism¹³ and hence is considered a relevant scope for this research. Before commencing however, it is important to clarify what is meant by two terms, agency and terrorism/counterterrorism.

Due to the various levels and scopes of analysis that engage with the concept of agency, the term can often serve as a source of debate in social thought, often in contradictory and overlapping ways.¹⁴ Agency in this research study will be defined as the capacity held, individually or collectively, to independently exercise political and moral autonomy in the face of power.¹⁵ Rather as a mere synonym for resistance, it is the 'capacity for action that historically specific relations of subordination enable and create (...) the capacity to realise one's own interests against the weight of custom, tradition, transcendental will or other obstacles'.¹⁶ Hence it is a relational concept that calls for a reconceptualization of power as a set of relations that do not merely dominate the subject but form the conditions of its possibility. In following Foucault, feminist theorist Judith Butler coins this paradox of subjectivation, as the processes and conditions that fortify a subject's subordination, simultaneously are the means by which they become a self-conscious

¹² Ní Aoláin 'Situating women in counterterrorism discourses' (n 1).

¹³ Davis, West and Amarasingam (n 2).

¹⁴ Mustafa Emirbayer and Ann Mische, 'What Is Agency?' (1998) 103 *American Journal of Sociology* 962.

¹⁵ Saba Mahmood, 'Feminist theory, embodiment, and the docile agent: Some reflections on the Egyptian Islamic revival' (2001) 16 *Cultural Anthropology* 202; Frances Cleaver, 'Understanding agency in collective action' (2007) 8 *Journal of human development* 223.

¹⁶ Mahmood (n 15) 203-06.

identity and agent.¹⁷ Within the context of this analysis, the concept is applied to explore the capacity of women in Northern Ireland to formulate and enact self-determined goals and interests in the face of the state patriarchal authority.

Akin to agency, the concepts of terrorism and counterterrorism pose theoretical and methodological challenges due to the lack of an agreed definition by the international community and the ubiquitous manner in which it features in contemporary state discussions.¹⁸ It is an intentionally provocative and pejorative term, precluding complex conversations regarding the causalities of violence, in addition to the conducive conditions within the state that engender such acts of violence. In any jurisdiction, triggering a conversation about how, why and with what baggage, we use the term puts one in the category of an apologist and sympathiser for unacceptable acts, or has the potential to result in superficial engagement. Though it is not the objective of this research to debate the lack of legal or definitional clarity that surrounds terrorism, it is important to acknowledge how the ‘focus on particular acts of violence (...) avoids state engagement with structural and pervasive violence’.¹⁹

In order to explore how women’s agency was framed by the Northern Irish counterterrorism legislative discourse during the Troubles, this thesis is structured into four chapters. Chapter one commences by delineating the research design of the analysis. In order to situate the research in the larger field of peace and security research, an overview of the current state of literature is depicted in so far that it is relevant for the research at hand. Furthermore, the methods utilised are expanded upon to depict how the processes of a critical discourse analysis (CDA) and critical policy analysis (CPA) are combined to operationalise the analysis. Chapter two illuminates the agency held and exercised by women in Northern Ireland during the Troubles. This is done by depicting their activities both within the community struggle and armed struggle. Chapter three outlines the legislation that formed Northern Ireland’s counterterrorism strategy, namely the Detention of Terrorism Order

¹⁷ Michel Foucault, *Power/knowledge: Selected interviews and other writings, 1972-1977* (1st edn, Random House 1980); Judith Butler, *The psychic life of power: Theories in subjection* (1st edn, Stanford UP 1997).

¹⁸ Ní Aoláin ‘Situating women in counterterrorism discourses’ (n 1).

¹⁹ *ibid* 1090.

(DTO),²⁰ the Emergency Provisions Act (EPA)²¹ and the Prevention of Terrorism Act (PTA).²² The essences of these pieces of legislation are considered with regards to what they govern, how the scope of regulations was defined, and how they developed over the course of the conflict. Finally, chapter four situates the framing of the women's agency within the legislative discourse over each developmental phase of the conflict: reactive containment (1968-75); criminalisation (1976-81); and managerialism (1981-98). A conclusion is then presented in which the overall argument is summarised, that throughout the diverging phases of the conflict in Northern Ireland the state's counterterrorism legislative discourse framed women as invalid and illegitimate actors of political violence.

²⁰ Detention of Terrorist Order 1972 (Northern Ireland) (DTO).

²¹ Northern Ireland (Emergency Provisions) Act 1972 (EPA 1972); Northern Ireland (Emergency Provisions) Act 1978 (EPA 1978).

²² Prevention of Terrorism (Temporary Provisions) Act 1974 (Northern Ireland) (PTA 1974); Prevention of Terrorism (Temporary Provisions) Act 1976 (Northern Ireland) (PTA 1976); Prevention of Terrorism (Temporary Provisions) Act 1989 (Northern Ireland) (PTA 1989).

1.

RESEARCH DESIGN

1.1 LITERATURE REVIEW

In order to situate this research in the larger field of peace and security research, an overview of the current state of literature will now be depicted in so far that it is relevant for the research at hand. There has been formidable growth in literature focusing upon women, gender and political violence over the last two and a half decades.²³ Between 1983 and 2000, Jacques and Taylor identified only a handful of publications about women in terrorism – with an average of less than one publication being produced in the subfield each year.²⁴ Notably, the rate of production was seen to increase to approximately one piece of research per year from 1996 to 2004. This growth in scholarship has continued, making research on what roles women hold and the framing of their involvement available. This rise mirrors the overall growth in literature on political violence following the terror attacks of 9/11²⁵ and answers calls to incorporate a gender lens in research on political violence.

A seminal calls for the incorporation of women and gender was put forth by Enloe in her book, *Bananas, Beaches and Bases: Making Feminist Sense of International Politics*.²⁶ In this text, Enloe revolutionised how conflict and global politics were explored by asking the seemingly simple question, where are the women? With this line of

²³ Davis, West and Amarasingam (n 2).

²⁴ Karen Jacques and Paul J Taylor, 'Female terrorism: A review' (2009) 21 *Terrorism and Political Violence* 499.

²⁵ Davis, West and Amarasingam (n 2).

²⁶ Cynthia Enloe, *Bananas, Beaches and Bases: Making Feminist Sense of International Politics*, (1st edn, University of California Press 1990).

questioning, she acknowledged both the apparent invisibility of women and the subsequent neglect of their places and positions in international relations. She highlights that ‘rare is the professional commentator on international politics who takes women’s experiences seriously’ in a world where ‘only men, not women or children, have been imagined capable of the sort of public decisiveness international politics is presumed to require’.²⁷ The trouble is, Enloe argues that ‘if we employ only the conventional, ungendered compass to chart international politics, we are likely to end up mapping a landscape peopled only by men, mostly elite men’.²⁸ Hence, Enloe argues for holistic understandings that incorporate previously silenced voices, experiences that have been rendered invisible and lives that have been previously marginalised sovereignty.²⁹ For example, in analysing the location of military bases, Enloe illuminates how conventional debates focus on geopolitical issues that dictate the location of the military bases, the strategic imperative to maintain military presence in certain areas, or concerns regarding the erosion of state.³⁰ She argues to enable a comprehensive understanding of these bases an examination of the everyday interactions that surround them is necessary. This includes exploring: the lives of sex workers who are used and regulated by military personnel; individuals who have been sexually assaulted by members of the military; and groups who work to help those affected. Thus she argues for exploring how the presence of the military bases have altered local economies, race relations and the sexual politics of the surrounding society. In the revised edition she expands upon this discussion, exploring the variety of ways women have resisted the impact of violence and war, illuminating the efforts of Syrian and Iraqi feminists and Afghan women – in addition to the network of transnational activists – that is typically overlooked.³¹ Hence she insists upon recognising that the ‘personal is international’ and that the ‘international is personal’.³² She invites both the academic and professional community to not only take the lives and experiences

²⁷ Enloe, *Bananas, Beaches and Bases* (1st edn) (n 26) 3.

²⁸ *ibid* 1.

²⁹ Cynthia Enloe, Anita Lacey and Thomas Gregory, ‘Twenty-five years of *Bananas, Beaches and Bases*: A conversation with Cynthia Enloe’ (2016) 52 *Journal of Sociology* 537.

³⁰ Enloe, *Bananas, Beaches and Bases* (1st edn) (n 26).

³¹ Cynthia Enloe, *Bananas, Beaches and Bases: Making Feminist Sense of International Politics* (revised edn, University of California Press 2014).

³² Enloe, *Bananas, Beaches and Bases* (1st edn) (n 26) 195; Enloe *ibid* 343.

of ordinary people seriously when seeking to understand the violence that surrounds us but also to examine how these violent practices often rely upon the reproduction of gendered assumptions about roles, behaviours, structure and power itself.

Following calls for scholarship focusing on women in political violence and conflict, such as that depicted by Enloe, scholars have explored why this gap has existed in previous research in the field. One of the central explanations for this has linked foundational feminist critiques of international law with security topics such as counterterrorism strategies and discourses.³³ Namely, the critique draws upon the early feminist assault on the public/private divide in the normative structures of international law as established by Charlesworth, Chinkin and Wright's seminal text, 'Feminist approaches to international law'.³⁴ The public realm is comprised of the workplace, the law, politics, economics, intellectual and cultural life, and is where power and authority is exercised. Contrastingly, the private realm is placed within the home, the hearth and children. The former is regarded as the natural domain of men, whereas the latter is the appropriate province of women. Traditionally, these two spheres are accorded asymmetrical value in which the public is afforded greater significance in comparison to the private. Charlesworth, Chinkin and Wright argue that this distinction vindicates and naturalises the allocation of resources and division of labour.³⁵ In turn, its reproduction and acceptance confers the primacy of the male world, upholding male dominance within international law and beyond. Johnstone links the feminist critique of the public/private divide to the terrorist attacks of 9/11 due to how the events triggered a questioning of state accountability for the unlawful actions of non-state actors.³⁶ She argues, that though states and international organisations depicted an enthusiasm to enlarge the range of state responsibility and thus undermine the public/private divide, a simultaneous dependence on the divide remained by states who are most deeply engaged in counter-terrorist operations in Afghanistan and Iraq. Therefore,

³³ Ní Aoláin, 'Situating women in counterterrorism discourses' (n 1); Hilary Charlesworth and Christine Chinkin, 'Sex, gender, and September 11' (2002) 96 *American Journal of International Law* 600; Rachel Lorna Johnstone, 'Unlikely Bedfellows: feminist theory and the war on terror' (2009) 9 *Chi-Kent J Int'l & Comp L* 1.

³⁴ Hilary Charlesworth, Christine Chinkin and Shelley Wright, 'Feminist approaches to international law' (1991) 85 *The American Journal of International Law* 613.

³⁵ *ibid.*

³⁶ Johnstone (n 33).

Johnstone concludes that women's experience of violence within this context was considered as a non-political issue.³⁷ This line of reasoning echoed that of Chinkin and Charlesworth who analysed media response to the immediate aftermath of 9/11.³⁸ They found that women largely featured as heavenly rewards for terrorists, as victims of the attack, or as widows of murdered men, rather than those women who worked in the twin towers or as part of the rescue service. Such findings reinforce the explanation that women have been neglected in research on political violence due to the assumed traditional norm that their place lies within the private sphere.

In addition to explaining why women have been neglected, scholars have additionally mapped where women are in conflict, examining what organisations they participate in and what roles they hold, in order to compensate for the academic gap. Not only have findings been made with regard to the general activities such as women's advocacy for peace in time of conflict³⁹ but also their role in active combat. Taking a cross-national approach, Henshaw analysed 72 armed group spanning different ideological backgrounds to illuminate women's involvement.⁴⁰ Utilising a data-set from Uppsala Conflict Data Program and the Peace Research Institute Oslo, she assessed the validity of three key assumptions about women in armed groups drawn from mainstream scholarship: women do not participate in the majority of armed rebel groups; participation by women in active combat or leadership roles is infrequent or non-existent; and women are more likely to be present where forced recruitment or coercive recruitment tactics are used. She found that women are actively involved in nearly 60% of all rebel groups examined; women are combatants in nearly one third, holding leadership positions in over one-quarter of all groups in the sample; and most movements where women are active rely primarily on the voluntary recruits. From such mappings, it is evident that women, regardless of the lack of an account, actively participate in armed conflict.

³⁷ Johnstone (n 33).

³⁸ Charlesworth and Chinkin (n 33).

³⁹ Catia Cecilia Confortini, *Intelligent Compassion: Feminist Critical Methodology in the Womens International League for Peace and Freedom* (1st edn, OUP 2012); Adrienne Harris, Ynestra King and Carol Cohn, *Rocking the ship of state: Toward a feminist peace politics* (1st edn, Routledge 2019).

⁴⁰ Alexis Leanna Henshaw, 'Why women rebel: Greed, grievance, and women in armed rebel groups' (2016) 1 *Journal of Global Security Studies* 204.

These roles have been further examined by scholars such as Bloom and Lokmanoglu, to explore the extent to which these roles have developed and whether this indicates a move toward women's empowerment.⁴¹ Taking a comparative approach, the cases of Al-Qaeda, the Islamic State of Iraq and Syria, and the Kurdistan Worker's Party were utilised to argue that women, even within highly patriarchal ideologies are entering and carving their roles within terrorism, ultimately becoming key players. Furthermore, though women's participation can indicate a more equal status of women in society and hence reflect a growing equality, their agency within these organisations needs to be further understood.

Considering such explanations of why women have been neglected and a mapping of their involvement, it is evident that women are no longer invisible within scholarship on war and conflict.⁴² Though scholars have now worked to document and incorporate women's voices and experiences in violence, recognising these roles does not disrupt 'inherited perceptions of women as maternal, emotional, and peace-loving'.⁴³ In fact female perpetrators have been found to be either totally ignored or sensationalised – making their violence appear singular, abnormal and outside the capacity of normal women.⁴⁴ In the widely cited book, *Mothers, monsters, whores: women's violence in global politics*, Sjoberg and Gentry argued that said sensationalism fit into three standard narratives.⁴⁵ Firstly, the mother narrative places women in a biologically determined categorisation, attributing their violence to maternal or domestic instincts. By engaging in violent activity, they are thus seen to be fulfilling the loss of a loved one and/or avenging the destruction of their happy home, aspects of their biological destiny as mothers and/or wives. Secondly, the monster narrative frames women's

⁴¹ Bloom and Lokmanoglu (n 8).

⁴² Laura Sjoberg, 'Jihadi brides and female volunteers: Reading the Islamic State's war to see gender and agency in conflict dynamics' (2018) 35 *Conflict Management And Peace Science* 296; Davis, West and Amarasingam (n 2).

⁴³ Laura Sjoberg and Caron E Gentry, *Mothers, monsters, whores: women's violence in global politics* (1st edn, Zed Books 2007) 1.

⁴⁴ *ibid*; Laura Sjoberg and Caron E Gentry, 'Reduced to bad sex: Narratives of violent women from the bible to the war on terror' (2008) 22 *International Relations* 5; Megan MacKenzie, 'Securitization and Desecuritization: Female soldiers and the reconstruction of women in post-conflict Sierra Leone' (2009) 18 *Security Studies* 241; Sandra McEvoy, 'Loyalist women paramilitaries in Northern Ireland: Beginning a feminist conversation about conflict resolution' (2009) 18 *Security Studies* 262; Swati Parashar, 'Gender, jihad, and jingoism: Women as perpetrators, planners, and patrons of militancy in Kashmir' (2011) 34 *Studies in Conflict & Terrorism* 295.

⁴⁵ Sjoberg and Gentry, *Mothers, monsters, whores* (n 43).

violence as a biological flaw that disrupts their natural femininity due to psychologically disturbed or their own self-denial of womanhood. Hence within this narrative, women's violence characterises them as evil and ridicules them for it. The third and final narrative, the whore narrative, equates women's violence with their sexuality depravity, particularly hyper-sexuality. This narrative is related predominantly to women who engage in proscribed violence such as terrorism. They are othered, reduced to sexual objects and made subhuman in part by the fetishization of their existence and their actions. Ultimately, Sjoberg and Gentry argue that by limiting our understanding of women's agency to these narratives, research has suffered a fundamental flaw, failing to consider women as members of terrorist movements with agency and choice.⁴⁶

Furthermore, the substantive impact of gendered narratives that encompass discourses on women and conflict, such as those delineated by Sjoberg and Gentry, has been explored by scholars such Schmidt who analysed 'how and why are gender stereotypes affecting disengagement and deradicalization practices'⁴⁷ aimed specifically at Islamic violent extremism. Utilising a single hypothesis generating case study, 18 semi-structured interviews were conducted with practitioners, counter-terrorism prosecutors, police officers, non-governmental organisation (NGO) staff, academics and former fighters (now working on counter violent extremism), from the United Kingdom, Ireland, Denmark and Germany. Though Schmidt's research was conducted 13 years after Sjoberg and Gentry's depict the three standardised narratives of women in conflict, Schmidt's findings are strikingly similar as interviewees depicted three narratives that lead to women being ignored or downplayed within disengagement and de-radicalisation practices.⁴⁸ The first narrative was that of the stupid victim, which presents women as easily manipulated or unwitting conspirators. Secondly, the good mother narrative depicts the role of naturally peaceful mothers who have a role in preventing violent extremism due to the educative role in their family and Muslim women being more moderate than men. The final narrative, the monster narrative, again depicts women involved in violence as deranged, unpredictable and savage. Schmidt argues that due to the

⁴⁶ Sjoberg and Gentry, *Mothers, monsters, whores* (n 43).

⁴⁷ Schmidt (n 9) 2.

⁴⁸ *ibid.*

reduction of women to these stereotypes, they are not considered to be key actors, if even actors at all. In turn, this led interviewees to claim that the United Kingdom does not ‘consider de-radicalisation for women as a targeted group (...) [as] government-funded women’s CVE programmes in the United Kingdom had been repeatedly cut after only one year’.⁴⁹ Hence, Schmidt concludes asserting that gender stereotypes that reduce women’s agency have led to profound gaps in preventing and countering violent extremism programming.

Considering the above, it is highly evident that calls to incorporate and examine where the women are in relation to conflict, such as that made by Enloe⁵⁰ are beginning being answered by current research in the field of peace and security studies. Rather than being rendered invisible, women’s experiences are now (to a certain extent of course) being mapped in relation to where they are, who they are with, and what they are doing.⁵¹ Furthermore, explanations for why women have been historically neglected by academic, governmental and civil society actors have also been depicted.⁵² Though women’s voices and experiences are now researched, underlying gendered assumptions about their capabilities and experiences still define and impact efforts to prevent and counter terrorism.⁵³ Not only do many of these accounts sensationalise women’s agency but the majority of the case studies explored are geographically located within the Global South.⁵⁴ The most studied cases are: the Islamic State; Liberation Tigers of Tamil Eelam; Jihadist groups; Boko Haram; and the Revolutionary Armed Forces of Colombia (FARC). Hence, not only does this thesis contribute to the aforementioned gap in research to systematically document the extent to which the Northern Irish state’s counterterrorism activity targeted women and the effects of such policies on women, but also the geographical gap. Building upon the current academic knowledge about the women in conflict, some of which has been noted here, the methodological framework that will be utilised to analyse their participation will now be expanded upon.

⁴⁹ Schmidt (n 9) 13.

⁵⁰ Enloe, *Bananas, Beaches and Bases* (1st edn) (n 26); Enloe *Bananas, Beaches and Bases* (revised edn) (n 31).

⁵¹ Confortini (n 39); Henshaw (n 40); Harris, King and Cohn (n 39); Bloom and Lokmanoglu (n 8).

⁵² Ní Aoláin ‘Situating women in counterterrorism discourses’ (n 1); Johnstone (n 33).

⁵³ Sjoberg and Gentry, ‘Reduced to bad sex’ (n 44); Schmidt (n 9).

⁵⁴ Davis, West and Amarasingam (n 2).

1.2 METHODS

In order to conduct this research, a case study method grounded in qualitative approaches will be applied. According to Yin, a case study design should be considered as a method for research when: the focus of the research is to answer ‘how’ and/or ‘why’ questions; the researcher cannot manipulate the behaviour of participants involved in the investigation; the researcher wants to consider and analyse contextual conditions as they are relevant to the phenomenon being explored; or the boundaries are not clear between the phenomenon and context.⁵⁵ As noted above, the central objective of this research is to explore how women’s agency is framed in the discourse surrounding Northern Irish counterterrorism legislation during the troubles. Researching the intersection of gender, counterterrorism and state discourse would be problematic without a deep analysis of the contextual conditions that are relevant to both the phenomenon and specific case. Hence, due to the framing and objective of this research – to explore how women’s agency was framed in Northern Irish counterterrorism legislative discourse during the Troubles (1968-98) – a case study approach is highly appropriate and relevant method to utilise.

Furthermore, a case study approach facilitates the exploration of a phenomenon within its respective context, utilising a wide array of data sources.⁵⁶ This ensures that the topic is not explored through one singular lens, but rather a variety of lenses, which in turn enables multiple aspects of the phenomenon to be revealed and understood. Therefore, the data analysed in this research study originates from a multitude of sources. At the core is the Northern Irish counterterrorism legislation itself that operated during the Troubles, namely the DTO,⁵⁷ the EPA⁵⁸ and the PTA.⁵⁹ Though these pieces of legislation were originally introduced as emergency acts, merely intended to expire

⁵⁵ Robert K Yin, *Case study research: Design and methods* (3rd edn, Sage 2003).

⁵⁶ Pamela Baxter and Susan Jack, ‘Qualitative case study methodology: Study design and implementation for novice researchers’ (2008) 13 *The Qualitative Report* 544.

⁵⁷ Detention of Terrorist Order 1972 (Northern Ireland).

⁵⁸ Northern Ireland (Emergency Provisions) Act 1972 (EPA 1972); Northern Ireland (Emergency Provisions) Act 1978 (EPA 1978).

⁵⁹ Prevention of Terrorism (Temporary Provisions) Act 1974 (Northern Ireland) (PTA 1974); Prevention of Terrorism (Temporary Provisions) Act 1976 (Northern Ireland) (PTA 1976); Prevention of Terrorism (Temporary Provisions) Act 1989 (Northern Ireland) (PTA 1989).

after six months, they were continuously renewed (with amendments) and implemented throughout the Troubles. In order to contextualise the legislation, the government sponsored reviews and reports of the legislation are also utilised, namely the Diplock Commission (1972),⁶⁰ Gardiner Commission (1975),⁶¹ Murray Commission (1975),⁶² Baker Report (1984)⁶³ and the Llyod Report (1996).⁶⁴ The annual reports by the Northern Irish Prison Service and official documentation from the Northern Irish Office (such as governmental fact sheets, pamphlets etc) substitute the analysis. Lastly, written documents and video material that depict a first-person perspective of the women who were impacted by the counterterrorism legislation were utilised. Such material originated from books written by the women prosecuted with the aforementioned legislation, archival material such as the Northern Irish Prison Memory Archive, and secondary academic literature in which interviewing was used as a primary method. Through analysing such a wide array of data sources, not only is it possible to highlight multiple lenses but ‘triangulation’ of the data is possible.⁶⁵ This adds data credibility, as sources can be converged in the process of analysis in order to identify trends and patterns in discourse.

Though it is crucial to utilise a wide variety of data to provide a rich analysis of the state’s framing of women’s agency in counterterrorism legislation, it is equally as important to establish a workable scope. Therefore, the data utilised was subject to certain criteria. Sources had to originate from or relate to the period of the Troubles (1968-98). This time bracket is indicated as it can be seen to demarcate the beginning and end of violent hostilities in Northern Ireland. The conflict began in 1968 with a march for civil rights in Derry city on the 5th of October

⁶⁰ Lord Diplock, ‘Report of the Commission to consider legal procedures to deal with terrorist activities in Northern Ireland’ (Her Majesty’s Stationery Office 1972).

⁶¹ Lord Gardiner, ‘Report of a Committee to consider, in the context of civil liberties and human rights, measures to deal with terrorism in Northern Ireland’ (Her Majesty’s Stationery Office 1975).

⁶² Lord Murray, ‘Report on a Local Inquiry Held to Consider a Proposal by the Department of Finance to Acquire Compulsorily under the Above Order Certain land at Maghaberry, County Antrim for the Purpose of Providing Prison Accommodation and Facilities on that land’ (Her Majesty’s Stationery Office 1975).

⁶³ George Baker, ‘Review of the operation of the Northern Ireland (Emergency Provisions) Act 1978’ (Her Majesty’s Stationery Office 1984).

⁶⁴ Lord Llyod and Lord Kerr, ‘Inquiry Into Legislation Against Terrorism’ (Cm 4178 Her Majesty’s Stationery Office 1996).

⁶⁵ Baxter and Jack (n 56).

1968, with the central slogan: one man one vote.⁶⁶ Paramilitary groups were overtly violent, until they eventually committed to and sustained a ceasefire in 1994. The end of overt violence made negotiation between actors involved in the conflict possible and ultimately led to the 1998 Good Friday Agreement that concluded the war.⁶⁷ Furthermore, in order to be considered for the analysis, the data source had to represent either the state perspective on the counterterrorism legislation (through the legislation itself; material that explained or justified their position, such as speeches, written answers or addresses within parliament; or reports highlighting its implementation) or the perspective of the women who were prosecuted by it.

These sources were chosen as the data set for this research as by analysing the discourses and narratives within text (both written and visual) one can come to understand the subjective perceptions an actor holds.⁶⁸ Through evaluating such texts dynamically, in terms of how social agents construct social relations between elements, the interactive process and meaning making of an author is illuminated.⁶⁹ In other words, by evaluating the framing represented in the counterterrorism legislation, an understanding can be reached regarding the discursive fields the actor is attached to. Discursive fields can be defined as the 'symbolic space or structure of what is being talked about, often defined by some fundamental opposition of binary concepts'.⁷⁰ Thus by analysing these texts, this research highlights the underlying dynamics and political cleavages of the surrounding context that subsequently impacts the state's creation, evaluation and implementation of legislation. Therefore, through seeing the world from their perspective, an understanding can be reached about the gendered meaning and subsequent implementation of the Northern Irish counterterrorism legislation during the Troubles.

⁶⁶ Christopher Hewitt, 'Catholic Grievances, Catholic Nationalism and Violence in Northern Ireland during the Civil Rights Period: A Reconsideration' (1981) 32 *The British Journal of Sociology* 362; Robert W White, 'From peaceful protest to guerrilla war: Micro-mobilization of the Provisional Irish Republican Army' (1989) 94 *American Journal of Sociology* 1277.

⁶⁷ Marie-Therese Fay, Mike Morrissey and Marie Smyth, *Northern Ireland's Troubles: The Human Costs* (1st edn, Pluto Press 1999).

⁶⁸ David E Gray, *Doing research in the real world* (1st edn, Sage 2014).

⁶⁹ Norman Fairclough, *Analysing discourse: Textual analysis for social research* (1st edn, Psychology Press 2003).

⁷⁰ Roy Johnston, *Century of endeavour: A biographical and autobiographical view of the 20th century in Ireland* (1st edn, Academia Press 2003) 67.

1.3 OPERATIONALISING A DISCURSIVE POLICY ANALYSIS APPROACH

In order to systematically analyse the data and operationalise the case study, the methodological process of CDA and CPA are combined. This is feasible as they share common ground with one another, both holding comparable objectives while recognising the discursive character of policy, policy making and policy analysis.⁷¹ The central focus of CDA is analytical research that primarily examines the way social-power abuse and inequalities are enacted, reproduced, legitimated and resisted by discourses in the social and political context.⁷² This critical analysis of social problems is typically multidisciplinary, attempting to describe discourse structures in terms of properties of social interaction and especially social structures. Fairclough and Wodak summarised the main principles that CDA rests upon as ‘power relations are discursive; discourse constitutes society and culture; discourse does ideological work; discourse is historical; the link between text and society is mediated; discourse analysis is interpretative and explanatory; and, discourse is a form of social action’.⁷³ Hence, in focusing upon questions about discursive structure and the reproduction of social domination, CDA bridges the gap between macro (structural, institutional, organisational) and micro (interactional, agency) approaches. CPA builds on the same central notions and structures, examining how to integrate such notions of power and domination into critical explanations of policy problems.⁷⁴ In this conception, the exercise of said power constitutes and (re) produces practices and social relations through techniques of political management and the elaboration of certain ideologies to normalise relations of domination. It does so through an analysis of what the policy says and what the policy does.⁷⁵ Hence it is evident that both CDA and CPA revolve around the same key notions of power, dominance, ideology, reproduction, social structures, social orders and so on.⁷⁶

⁷¹ David Howarth and Steven Griggs, *Poststructuralist policy analysis: discourse hegemony and critical explanation* (1st edn, Duke UP 2012); Norman Fairclough, ‘Critical discourse analysis and critical policy studies’ (2013) 7 *Critical policy studies* 177.

⁷² Teun A Van Dijk, ‘Critical Discourse Analysis’ in Deborah Tannen, Heidi E Hamilton and Deborah Schiffrin (eds), *The handbook of discourse analysis* (2nd edn, John Wiley and Sons 2015).

⁷³ *ibid* 467.

⁷⁴ David Howarth, ‘Power, discourse, and policy: articulating a hegemony approach to critical policy studies’ (2010) 3 *Critical policy studies* 309.

⁷⁵ Sarah Diem and others, ‘The intellectual landscape of critical policy analysis’ (2014) 27 *International Journal of Qualitative Studies in Education* 1068.

⁷⁶ Howarth (n 74); Van Dijk (n 72).

Though the same key concepts guide both CDA and CPA, they do differ slightly on their understanding of what constitutes discourse.⁷⁷ CDA takes a more refined approach, in which discourse is seen merely as a language or semiotic element. Hence the methodology is concerned with the articulation of language, actions and objects as they are articulated in practice. CPA goes further than this, arguing that discourse is comprised of language, actions and objects and hence, the scope of analysis moves beyond merely ‘text and talk in contexts’,⁷⁸ rather highlighting the social actions and political practices. Hence their definition of discourse does not directly oppose one another, CPA is merely more expansive and active in its conceptualisation. Due to the case at hand and scope of analysis, the latter definition employed by the CPA methodology is utilised for this analysis. This will allow for the language objects, actions and practices of the Northern Irish counterterrorism legislation to be fully analysed and thereby address the research question in the framing of women’s agency. Therefore, both methodologies prove highly relevant for the discourse analysis at hand of Northern Irish counterterrorism legislation as the central themes in focus are gender, agency, power and discourse.

However, neither CDA nor CPA subscribe to one exact method for analysis.⁷⁹ Therefore, borrowing from both, in order to operationalise the analyse of the case-study at hand the following steps were adhered to. On a descriptive textual level, the wording and contents of the legislation were examined. Key questions include: what does the legislation govern? What definitions are depicted? What powers does it delineate to state authorities to practice the legislation? And how does it develop over the duration of the conflict? At a discursive level, the implementation of these strategies is examined to illuminate the gendered narratives that underlie them. Here, key questions focused upon include: how was the legislation implemented with regards to female actors? How was said implementation explained and/or justified by state bodies? How did this develop over time in relation and/or response to the activities of the women? And finally, what underlying discourse structures can be seen to be employed by state bodies?

⁷⁷ Fairclough (n 71).

⁷⁸ Fairclough (n 71) 1818.

⁷⁹ Howarth (n 74); Van Dijk (n 72).

1.4 LIMITATIONS

Before elaborating upon the analysis, it is important to note the caveats that apply to this research. Firstly, with regards to the methodology utilised, as Silverman notes qualitative research has the potential to be a form of manufactured data where people's behaviours and interactions become over-emphasised, over-interpreted and exist because of the research process itself.⁸⁰ He suggests that as a counter to this, researchers consider 'naturally occurring data', and use what ordinarily happens in the world around us.⁸¹ This means 'we can start with things that are not currently imaginable, by showing that they happened'.⁸² Therefore, in order to avoid any form of manufactured data, the state's explicit actions and explanations in the implementation of the counterterrorism legislation and the women's direct and overt acts of agency, as they occurred in the real world and in real time are the basis on this analysis. This approach is worthy of comment and critical analysis as the happenings are previously unimaginable experiences but did occur in the context of the Troubles.

Secondly, it is important to note that as I am an Irish woman, there is no doubt that my own personal bias applies in analysing the framing of women's agency in Northern Ireland during the Troubles. Though I have been active in attempting to negate the effect such a personal bias has had upon my research, there is a need to move away from the idea of the research as a detached, neutral observer and the subject under study its passive actor. So while criticality needs to be retained by the researcher, the subjectivity of reflexivity can be mobilised in service to a deeper understanding of subject.⁸³ As Khan notes 'objectivity is often a false mask that researchers hide behind in order to assert their scientific authority. To stand outside people, looking in at their lives as if they were in some laboratory or snow globe, is not to understand them'.⁸⁴ Having an embedded understanding in the 'study of human relations', Khan suggests is key to successful qualitative research.⁸⁵ This follows Silverman's preference for unremarkable and naturally occurring information and the value of exploring the framing of women's agency.

⁸⁰ David Silverman, *A very short, fairly interesting and reasonably cheap book about qualitative research* (2nd edn, Sage 2013).

⁸¹ Gail Jefferson and Emanuel A Schegloff, *Lectures on conversation* vol 1 and 2 (Wiley-Blackwell 2010) cited in David Silverman, *Doing qualitative research* (4th edn, Sage 2014) 51.

⁸² Silverman (n 81) 51.

⁸³ Shamus Rahman Khan, *Privilege: The making of an adolescent elite at St. Paul's School* (1st edn, Princeton UP 2012).

⁸⁴ *ibid* 201.

⁸⁵ *ibid* 202.

2.

WOMEN'S AGENCY DURING THE TROUBLES

In order to conduct an analysis upon the framing of women's agency in the discourse of Northern Irish counterterrorism legislation, it must first be established how their agency manifested. As defined above, agency here is considered as the capacity held, individually or collectively, to independently exercise political and moral autonomy in the face of power.⁸⁶ Women have displayed their capacity for action in the struggle for Irish independence from as early as the 18th century onwards.⁸⁷ This was no different during the Northern Irish conflict, where they successfully organised and partook in a range of campaigns against the state, fighting for justice and equality.⁸⁸ Subsequently, their activities blurred the boundaries between the public and private sphere, and ultimately proved crucial to the nationalist movement.⁸⁹ The agency of the women involved is depicted by their behaviours, practices and reflexivity activities within both the community struggle and armed struggle.

2.1 WOMEN'S AGENCY WITHIN THE COMMUNITY STRUGGLE

From the beginning of the Northern Irish conflict, women organised into collective groupings to provide support structures and effect change within their localities.⁹⁰ These forms of activism defy stereotypical

⁸⁶ Saba Mahmood, 'Feminist theory, embodiment, and the docile agent: Some reflections on the Egyptian Islamic revival' (2001) 16 *Cultural Anthropology* 202; Frances Cleaver, 'Understanding agency in collective action' (2007) 8 *Journal of human development* 223.

⁸⁷ Laura Weinstein, 'The Significance of the Armagh Dirty Protest' (2006) 41 *Eire-Ireland* 11.

⁸⁸ Monica McWilliams, 'Struggling for peace and justice: Reflections on women's activism in Northern Ireland' (1995) 7 *Journal of Women's History* 13.

⁸⁹ Azrini Wahidin, *Ex-combatants, Gender and Peace in Northern Ireland* (1st edn, Palgrave MacMillan 2016).

⁹⁰ *ibid.*

notions of women's capabilities, breaking their confinement to the domestic roles conventionally depicted as the private sphere. As the British military presence turned homes and communities into political and military battlegrounds, women exercised agency to defend these environments becoming key actors in the public domain. Though there are countless examples of women's capacities and actions within the community from throughout the Troubles (see for example, the Turf Lodge Campaign; the Mothers of Belfast; Derry Women's Aid; Belfast Women's Collective; Women Against Imperialism and so on) the two most structured and subscribed to collectives deserve particular attention: the Hen Patrol and the Relatives Action Committee (RAC).

In July 1970, the first action by women as a female collective was organised in response to the Falls Road (a working class, Irish Nationalist area in Belfast) curfew imposed upon the introduction of internment.⁹¹ In the face of the British Army preventing food trucks from entering the area, women from the community marched down the Falls Road with milk and bread for those inside the curfew zone. By the evening of the 3rd of July, they returned but this time with 3,000 women who had gathered to break the curfew, displaying a clear identification and unification of working-class nationalist women in defiance of the British Army. Nonetheless, violence continued to erupt between the Army and Republican groups, leading thousands of British troops to move into the curfew zone and conduct house-raids. House searches then became a key feature of British security force measures and were arguably utilised to subjugate, harass and intimidate communities and women in particular.⁹² The raids were commonly carried out between 10pm and 4am, when people were at their most vulnerable.⁹³ They lasted long after the curfew was put in place, with records showing that approximately 250,000 house searches took place in a five-year period, meaning that virtually every working-class Catholic home was routinely raided.⁹⁴ Having been described as an 'armed patriarchy',⁹⁵ the actions

⁹¹ McWilliams (n 88); Simona Sharoni, 'Rethinking women's struggles in Israel–Palestine and in the north of Ireland' in Caroline Moser and Fiona Clark (eds), *Victims, Perpetrators or Actors: Gender, Armed Conflict and Political Violence* (1st edn, Palgrave Macmillan 2001).

⁹² Wahidin (n 89).

⁹³ Eileen Fairweather, Roisin McDonough and Melanie McFaydyeon, *Only the rivers run free: Northern Ireland, the women's war* (1st edn, Pluto Press 1984).

⁹⁴ John Newsinger, 'British Security Policy in Northern Ireland' (1995) 37 *Race and Class* 83.

⁹⁵ Lynda Edgerton, 'Public protest, domestic acquiescence: Women in Northern Ireland' in Rosemary Ridd and Helen Callaway (eds), *Caught up in conflict: Women's responses to political strife* (Macmillan 1986) 76.

taken by the British troops raised substantial human rights questions.⁹⁶ Ultimately, the house raids, in addition to the introduction of internment, caused the boundaries between household and community to blur and at certain moments, practically disappear.⁹⁷ The women's collective mobilisation in response to the curfew demonstrates their capacity for action in spite of the obstacles imposed upon them by state powers.

The 'women in the ghettos' defended their communities by creating an alarm signal to signify that the British Army was patrolling certain areas, by 'rattling dustbin lids to alert the inhabitants'.⁹⁸ Their tactics of banging bins and whistling was inherited from the 1950s, when women in public housing estates in Northern Ireland did the same to warn neighbours of the arrival of housing officials who typically arrived unannounced to inspect homes.⁹⁹ During the Troubles, the women would take turns to patrol the street, following the soldiers everywhere they went in order to deter them in their search for Republican activity. As a participant recalled:

The women banged bin lids and whistled because of internment, because they [the British Army] were coming doing dawn raids and pulling people out of bed, and then that process continued. Any time the Army came on the streets of these estates the women would get out and rattle their bins and blow their whistles. So the IRA [Irish Republican Army], the movement was warned when there were Brits about. So if they were carrying out operations or moving gear or anything, they knew where the Brits were because the women always gave them warning. The women in the houses came out, if they saw something happening they all ran out and got round the soldiers. So the soldiers would have got a wee bit panicky because crowds of women came out and were lambasting and shouting at them. So nine times out of ten they walked the length of the fella and they [the soldiers] would walk away. Sometimes they didn't. Sometimes we just trailed a fella and that would just throw him.¹⁰⁰

⁹⁶ Amnesty International, 'Report of an Amnesty International Mission to Northern Ireland' (*Cain Web Service*, 1977) <<https://cain.ulster.ac.uk/issues/police/docs/amnesty78.htm>> accessed 3 June 2021; Helsinki Watch, 'Northern Ireland: Human Rights Abuses By All Sides' (*Human Rights Watch*, 1992) <<https://hrw.org/reports/UK935.PDF>> accessed 31 May 2021; Amnesty International, 'United Kingdom: Summary of Human Rights Concerns' (*Cain Web Service*, 1995) <https://cain.ulster.ac.uk/othelem/organ/ai/1995-08-01_ai.pdf> accessed 3 June 2021.

⁹⁷ Begoña Aretxaga, *Shattering the silence: Women, nationalism and political subjectivity in Northern Ireland* (1st edn, Princeton UP 1997).

⁹⁸ Michael Farrell, *Northern Ireland: The orange state* (1st edn, Pluto Press 1980) 282-83.

⁹⁹ McWilliams (n 88).

¹⁰⁰ As cited in Wahidin (n 89) 72.

These women soon became known as Hen Patrols. Their comical nickname originated from how they would ‘quack-quack’ and sing the nursery rhyme, ‘Old MacDonald Had a Farm’, at the soldiers as they entered communities.¹⁰¹ They were the antithesis of the highly structured soldiers, with no uniform or formal weapons, merely bin lids and whistles. Hence, the women’s comical but effective actions of resistance, demystified and counteracted the power of the British Army as they challenged the state authoritarianism.¹⁰² This display of agency through collective resistance is an example of how women used available resources and means to achieve non-violent actions and effect change. Furthermore, how the women themselves have reported their struggle depicts the self-awareness and political consciousness that lay behind their patrol:

We came out in protest and I mean for me bin lidding was part of Republicanism. It alerted the community that houses were being raided. We immediately ran for our bin lids and whistles and surrounded the British Army and that to me was all part of the struggle — that was Republicanism. That was resistance. That was fighting back.¹⁰³

Hence in opposition to security forces claiming homes and communities as a site of struggle and conflict, women recognised themselves as agents of retaliation, and thus acted to serve and warn their communities. This interaction can be considered a direct example of Butler’s paradox of subjectivation,¹⁰⁴ as the subjugation imposed upon the women was the means by which the women became self-conscious agents. Through displaying collective strength and unity, the women of the Hen Patrol exercised their agency in opposition to the broader structures of militarised gendered power. In turn, this serves to re-negotiate norms through blurring of the boundaries between the public and private spheres.

Women continued to exercise agency in 1976, following the phasing out of internment and the withdrawal of Special Category Status leaving support for prisoners at an all-time low.¹⁰⁵ Concerned that this would enable the British government to succeed in cutting relatives off from

¹⁰¹ Wahidin (n 89) 72..

¹⁰² Aretxaga (n 97).

¹⁰³ As cited in Wahidin (n 89) 70.

¹⁰⁴ Judith Butler, *The psychic life of power: Theories in subjection* (1st edn, Stanford UP 1997).

¹⁰⁵ McWilliams (n 88).

the rest of their communities through a process of ideological isolation, four women met in Derry and formed the RAC. Their main objectives were to inform the public of the operating prison system, to support those in jail, and to mutually support each other.¹⁰⁶ As Mary Nellis, an active member of the Derry RAC, recalled:

People were frightened and didn't talk to you. If you had a relative inside you were mother of a 'terrorist'. I think if the group hadn't started, then we would all have gone quietly mad. It was wonderful to meet together each week, and know that you were talking to a group of women who understood what you were going through. Mind you, don't get the impression that we met to support each other and that's it, 'cos it wasn't like that. We met to work and campaign too, and that was the basis of the group. It's true we helped each other in all sorts of ways, but our strength developed by working together.¹⁰⁷

With time, the organisation grew and local branches were established throughout Northern Ireland, working on a wide range of activities. In order to raise awareness about the prison struggle, some RAC women travelled throughout Ireland in addition to Britain, Canada and the United States.¹⁰⁸ Their activities abroad ranged from giving interviews, meeting with prominent figures such as Congressmen and Senators in the US, in addition to holding protests. For example, while in London members of the Belfast RAC chained themselves to the rails outside of Downing Street¹⁰⁹ – an action that clearly demonstrates their capacity to exercise political autonomy in the face of power. On a local level, RAC women coordinated countless protests, street theatre performances and street art pieces to draw attention to the ongoing events and actions of those imprisoned. When prisoners in the H-Block, Long Kesh Detention Centre, were campaigning for political status, the Turf Lodge RAC staged a week-long 'fast and vigil'.¹¹⁰ As part of this campaign prisoners went on the blanket protest, in refusal to wear the prison uniform due to the removal of Special Category Status, akin to those imprisoned, the women in the Derry RAC held their own version of the protest by standing outside the house of a Catholic Bishop wearing

¹⁰⁶ Weinstein (n 87).

¹⁰⁷ As cited in McWilliams (n 88) 23.

¹⁰⁸ Weinstein (n 87).

¹⁰⁹ McWilliams (n 88).

¹¹⁰ Weinstein (n 87) 16.

nothing but a blanket.¹¹¹ Through utilising their naked female bodies – a concept filled with shame and taboo in the society – these women directly challenged the social conventions and authorities of state and church. During a summer parade in Derry, the women coordinated a truck to depict a traditional Irish scene of a woman, wearing traditional dress, playing an Irish harp outside of a quaint country cottage. Though they won first prize, people became confused and began to snigger as the set appeared to fall apart halfway through the parade. However, the display had been designed in order to do so, as the sides of the cottage separated from the truck to reveal a scene of a cell smeared with what looked like excreta and ten men sitting in blankets. Akin to other RAC campaigns, this act stood in solidarity with and drew attention towards the no-wash protest of prisoners and their demand for Special Category Status. Each of the campaigns coordinated by the women brought them beyond their typical identity as a mere relative of a Republican prisoner, an other. Rather they propelled themselves beyond the restrictions of the private domain into the public sphere, by raising political and moral questions. This form of collective action enables them to engage with and question the essence and application of authority within Northern Ireland, ultimately leading to become key voices in the struggle against the state authority.¹¹²

These forms of agency, exercised through community activism, was a space created by and for women in Northern Ireland to resist the occupying state authority, and hence traditional notions of gender identities during the Troubles.¹¹³ It placed them at the forefront of the community struggle, and hence permanently disturbed the relationship of power between men and women within nationalism.¹¹⁴

In 1969 (...) I became involved in the marches and tenants' associations by seeing what was happening. It made a change for me. I wasn't a housewife anymore. I became more aware of injustice, of the interdependence of people for help and of international politics.¹¹⁵

¹¹¹ McWilliams (n 88).

¹¹² Aretxaga (n 97).

¹¹³ Peter Shirlow and Lorraine Dowler, "'Wee women no more': female partners of republican political prisoners in Belfast' (2010) 42 *Environment and Planning* 384; Wahidin (n 89).

¹¹⁴ Aretxaga (n 97); Cynthia Cockburn, *The space between us: Negotiating gender and national identities in conflict* (1st edn, Zed Books 1998); McWilliams (n 88).

¹¹⁵ Aretxaga (n 97) 54.

In analysing women's agency during the Troubles, many academics have labelled their engagement within the community sphere to be a form of 'accidental activism'.¹¹⁶ Accidental activism is a term coined in reference to those who become involved with acts of social resistance due to the immediate experience of social injustice, rather than as a consequence of a pre-existing belief.¹¹⁷ This line of reasoning can be seen to mirror that of Butler in her paradox of subjectivation,¹¹⁸ as it is through the structures imposed by the dominant power that one is not only subordinated but one also becomes a self-conscious agent and thus capability of acting with agency. Undoubtedly, this is the case of the Northern Irish women in collectives such as the Hen Patrol and RAC units as it was in response to the acts of the British state that they consciously and collectively mobilised to re-negotiate norms, challenge inequality and claim their rights. Though the essence of the concept of accidental activism is highly relevant in illuminating the women's agency, the terminology of 'accidental' is arguably undermining the women's capacities and power. It was not through sheer chance that the woman became engaged, as the term accidental would suggest. They did not merely get handed a poster at a protest or told to chant at a rally. Rather, they individually and collectively reflected upon, formulated and enacted self-determine goals for the benefit of their communities. In other words, they exercised their capacity for agency in the face of the state's patriarchal authority.

2.2 WOMEN'S AGENCY WITHIN THE ARMED STRUGGLE

In addition to women exercising agency within the community struggle, women also engaged in the Republican armed struggle through a variety of groups. In this capacity, the women-only auxiliary group to the Irish Volunteer Army and later Provisional Irish Republican Army (IRA), Cumann na mBan (Committee of Women) was a key actor. They had a longstanding involvement with the Republican movement,

¹¹⁶ McWilliams (n 88); Wahidin (n 89).

¹¹⁷ Susan Hyatt, *Accidental Activists: Women and Politics on a Council Estate* (University of Massachusetts 1991); Claire Hackett, 'Narratives of political activism from women in West Belfast' in Louise Ryan and Margaret Ward (eds), *Irish women and nationalism: Soldiers, new women and wicked bags* (Irish Academic Press 2004).

¹¹⁸ Butler (n 104).

holding their first inaugural meeting on the 2nd of April 1914 in Wynne's Hotel Dublin.¹¹⁹ Here they outlined the role of women in the nationalist movement, to 'put Ireland first, by helping to arm men'¹²⁰ as 'each rifle we put in their hands will represent to us a bolt fastened behind the door of some Irish home to keep out the hostile stranger, each cartridge will be a watchdog to fight for the sanctity of the hearth'.¹²¹ The constitution of the group reiterated the parameters of the supporting role women were expected to play, under the three domains of military (first aid, signalling, scouting, cleaning and unloading rifles), educational (Irish language and history classes, conduct of public affairs) and social and commercial (formation of Dáil Éireann (Irish Parliament), loan clubs, concerts, organising and fundraising Gaelic social life activities).¹²² Though women were seconded into the IRA – which meant that they were on active service – they had their own structure, rules and an all-female leadership. This point of autonomy yet inferiority has been stressed by many previous volunteers, 'although the Cumann na mBan were affiliated to the IRA, they had a different manifesto. A different structure. The women were responsible for certain activities but they were there to help the IRA men to carry weapons'.¹²³ Hence, their longstanding history from the beginnings of the Irish struggle for independence clearly depicts that though holding an inferior status to the IRA, women exercised a certain degree of agency within the Cumann itself.

By the late 1960s, as tensions in Northern Ireland heightened, an increasing number of women became disillusioned with their subsidiary role and the strict parameters set by Cumann na mBan.¹²⁴ At the same time however, tensions between Cumann na mBan and the IRA became apparent due to an internal ideological difference. Following the failure of the border campaign from 1956-62, known as Operation Harvest, a faction within the IRA led by Tomás MacGiolla, Séan Garland and

¹¹⁹ Wahidin (n 89).

¹²⁰ As cited in Margaret Ward, *Unmanageable revolutionaries: Women and Irish nationalism* (1st edn, Pluto Press 1995) 93.

¹²¹ The Irish Volunteer as cited in Wahidin (n 89) 80.

¹²² Lil Conlon, *Cumann na mBan and the women of Ireland 1913-1925* (1st edn, Kilkenny People 1969).

¹²³ As cited in Wahidin (n 89) 88.

¹²⁴ Miranda Alison, 'Women as agents of political violence: Gendering security' (2004) 35 *Security Dialogue* 447.

Cathal Goulding, aimed to lead the movement into communism.¹²⁵ Their vision included abandoning one of the founding aspects of the Republican movement, namely abstentionism and thus transforming Sinn Féin from an Irish Republican party into a nationalist people's front. This opposition to the traditional Republican values created a divide within the Republican movement, led by Cumann na mBan, who were vehemently opposed to socialism and communism due to their deep-seated catholic beliefs. This tension surfaced at the annual commemoration for Theobald Wolfe Tone in Bodenstown in 1968, when Cumann na mBan refused to march as the flag of the youth organisation of the Communist Party was carried. Though the women explained to those passing by why they did so, the official reason given by Goulding was that Cumann na mBan ceased to be recognised any longer as part of the Republican movement.¹²⁶

The women did not succumb to their expulsion from the Republican Movement by their male counterparts but rather they continued their activities independently, while resisting their removal.¹²⁷ For example, the IRA physically threw them out of their office space in the Thomas Ashe Hall, Cork the week following the Bodenstown parade and armed the door with a guard. Cumann na mBan's Officer in Command, Agnes MacCárthaigh, however noticed that the guard was removed three weeks later. Hence, the women seized the opportunity and barricaded themselves inside the hall, holding their meeting as the IRA attempted to break down the door and later marched out. Thus, though they had been expelled from the Republican movement by the men, the women resisted subjugation. In this way they demonstrated agency, through collective action, an extension and reclamation of their rights, political resistance and gendered empowerment.

The following year at the Bodenstown, though their expulsion remained in place, Cumann na mBan attended the parade to inform participants and spectators what had occurred the year prior and why the organisation had been dismissed from the Republican Movement. They did this, as Gearóid MacCárthaigh explained, by distributing

¹²⁵ Dieter Reinisch, 'Women's agency and political violence: Irish Republican women and the formation of the Provisional IRA, 1967-70' (2019) 34 *Irish political studies* 420.

¹²⁶ Roy Johnston, *Century of endeavour: A biographical and autobiographical view of the 20th century in Ireland* (1st edn, Academica Press 2003) 67.

¹²⁷ Reinisch (n 125).

leaflets ‘giving the whole story and mentioning the ten commandments of 1965’.¹²⁸ This was the first time these commandments were made public and they were well received by the public as ‘the spirit began to change (...) people were beginning to realise what was afoot’.¹²⁹ Namely, that change was a split within the Republican movement on a whole due to the ideological difference among the traditionalists and communists. Though it took to December of that year to be formalised, the IRA broke into two factions, the Provisional IRA led by Séan MacStiofáin with the traditional Republican values, and the Official IRA, led by Cathal Goulding with a leftist viewpoint.¹³⁰ Following this separation of the movement along ideological lines, the leading members of the Provisionals met with Cumann na mBan formally inviting them for their support. This offer was accepted on the 25th of January 1970 when the Cumann realised a statement recognising the authority of the Provisionals in rejection of any form of socialism.¹³¹ Hence, contrary to general assumptions of women as passive actors during the factional struggle, women exercised agency by foreshadowing the split within the Republican Movement, essentially making them the first Provisionals.¹³² As Eithne, a leading member of Cumann na mBan attested:

When you look at the history of Cumann na mBan and the Republican movement, Cumann na mBan were always the leaders to keep them [the Republican Movement] on the street. They never deviated from the ideals and principles of the Republican movement and they always stood firm and true to it. And that was the same then. So, they were the first Provisionals to come into being after Bodenstown in ‘69.¹³³

The Cumann na mBan women operated throughout the Northern Irish conflict, taking on a variety of roles including gathering intelligence, making bombs, scouting, patrolling, providing warnings upon the presence of the British Army and so on.¹³⁴ Utilising their gender however, a common task for the female volunteers was to act as

¹²⁸ Reinisch (n 125) 430.

¹²⁹ *ibid* 430.

¹³⁰ Tim Pat Coogan, *The IRA: A history* (1st edn, Roberts Rinehart Publishers 1993); John Horgan and Max Taylor, ‘Proceedings of the Irish Republican Army general army convention, December 1969’ (1997) 9 *Terrorism and Political Violence* 151.

¹³¹ Matt Treacy, *The IRA 1956-69: Rethinking the republic* (1st edn, Manchester UP 2011).

¹³² Reinisch (n 125).

¹³³ *ibid* 436.

¹³⁴ Wahidin (n 89).

a decoy as part of a couple¹³⁵ or to act as a honey-pot trap to lure British soldiers to a particular location for them to be assassinated.¹³⁶ However, the organisation remained as an auxiliary organisation integrated into the Provisional IRA, and was seen to be serving them. Thus, though it is evident that the organisation exercised a great deal of agency in the separation of the Republican Movement, women became increasingly frustrated with the secondary role they were ascribed.¹³⁷ This led to increasing numbers of women joining the Provisional IRA directly which had been permitted since the split.

Across the course of the conflict, women in the Provisional IRA accounted for approximately 1 in 20 volunteers and played crucial operational roles from both the front-lines and behind the scenes.¹³⁸ It is evident that throughout the length of the Troubles, women recruits engaged in violent activity consistently, hence occupying combatant roles. In the earlier phases, women would target areas where they would go largely unnoticed such as shops that sold women and children's items, whereas a man would have stuck out and thus attracted suspicion. The women would hide bombs in discreet, 'feminine' areas such as their clothing, a fake pregnancy bump, in their underwear or platform heels, so that not to be detected in the case of being searched by police. In certain events, as many as ten explosive devices would be uncovered in shops in Belfast, all timed to detonate when shops were closed. Hence they would disrupt the economic life, aiming 'to make it so expensive for the British government to remain and maintain their presence in Ireland'.¹³⁹ Many of the Provisional IRA women died themselves due to premature explosions, especially in the early years of the conflict.¹⁴⁰ Additionally, smaller numbers of female members took part in shootings, assassinations, gunrunning activities and raising illicit funds. Though it highly evident that women exercised agency through their actions to confront state authorities in these activities, women did have to work to earn respect before being treated as an equal:

¹³⁵ Mia Bloom, *Bombshell: The many faces of women terrorists* (1st edn, Penguin 2011); Paige Whaley Eager, *From freedom fighters to terrorists: women and political violence* (1st edn, Routledge 2016).

¹³⁶ Martin Dillon, *The dirty war: Covert strategies and tactics in political conflicts* (1st edn, Routledge 1999).

¹³⁷ Wahidin (n 89).

¹³⁸ Mia Bloom, Paul Gill and John Horgan, 'Tíocfaidh ár Mná: Women in the Provisional Irish Republican Army' (2012) 4 *Behavioral Sciences of Terrorism and Political Aggression* 60.

¹³⁹ Bloom, Gill and Horgan (n 138) 68.

¹⁴⁰ *ibid.*

Any people I worked with, especially in the cells, [groupings of agents working within a sub-group of the larger structure] treated me with respect. At the early start of the Conflict they were 'do this and do that'. [I'd say] 'Well, would you do it?' So you learn. You would maybe come across men who would push their luck, 'I don't think so. Hello. Can you do it?' So they would soon realise that 'she's no mug. She knows her stuff'. I knew what I was doing.¹⁴¹

Women's roles cannot be mistaken for equality within the movement,¹⁴² yet individual women who were most persistent, sharing the purist of interpretation of Republicanism were able to rise to the top of the Provisional IRA and influence the politics of the organisation.¹⁴³ Among the most notable female figures was Máire Drumm who had been a member of the movement since the 1940s as a leading activist of Cumann na mBan.¹⁴⁴ She was one of the organisers of the women of West Belfast in their effort to break the Falls Road curfew, before being arrested for chanting, 'don't shout IRA, join the IRA'.¹⁴⁵ When the leader of the Provisionals was arrested, Ruairí Ó Brádaigh, Máire became Acting President. Furthermore, in 1974 and 1975, she took part in ceasefire talks on behalf of the Provisional IRA with the British government. However, in the autumn of 1976 upon being hospitalised, Máire was murdered in her hospital bed by a Loyalist death squad dressed as doctors. Another noteworthy female Provisional IRA figure is Mairéad Farrell whose involvement mirrored the evolution of women in the organisation.¹⁴⁶ Her involvement in the movement began when she was a young child throwing rocks at British forces and banging bin-lids. As a teenager she acted as a weapon carrier and look-out. Upon graduating to active service, she was tasked with throwing petrol bombs – the activity she was carrying out when she was infamously killed by the SAS in Gibraltar alongside fellow volunteers Sean Savage and Danny McCann. Though she was merely 31 years old when killed, her career in the Provisional IRA made her one of the highest operational members serving on bodies such as the Provisional's General Headquarters, the

¹⁴¹ As cited in Wahidin (n 89) 97.

¹⁴² Reinisch (n 125).

¹⁴³ Bloom, Gill and Horgan (n 138); Wahidin (n 89).

¹⁴⁴ Reinisch (n 125).

¹⁴⁵ *ibid* 438.

¹⁴⁶ Bloom, Gill and Horgan (n 138).

force tasked with the overall maintenance and conduct of activities as directed by Army Council policies.¹⁴⁷ The activities and respect held for these women, during their service and after their deaths, reflects that though women were not treated equally within the Republican movement, the purists and most militant could climb the ranks, to ultimately exercise their authority through the acknowledgement and recognition of their capacity for agency.

Therefore, by exercising agency within both the community struggle and armed struggle, women played a crucial role in the Northern Irish conflict. In each of their actions such as breaking curfew, organising patrols, spreading information, protesting, and joining the ranks of organised groups such as Cumann na mBan and the Provisional IRA, women challenged subjugation from the British government and military. Hence, these women transgressed and thwarted traditional boundaries of femininity by entering the public domain of warfare. Displaying their capacity for reflexivity and action, they demonstrated the reconceptualization of power as a set of relation that both dominate the subject but also form the conditions of its possibility. Through their experience of oppression, they formulated and enacted self-determined goals and interests in the face of the state's patriarchal authority. Hence, the women did not allow the regimes to determine their experiences, the ways in which they can exercise their reason, the beliefs they can adopt or the actions they can attempt to perform. Rather, they collectively participated to harness their power, to re-negotiate norms, claim their rights and extend their access within the public sphere. In exercising their agency, they thus challenged the power relationship within the 'armed patriarchy',¹⁴⁸ moving to be recognised as equals in the opposition to British rule.

¹⁴⁷ John Horgan and Max Taylor, 'The provisional Irish Republican army: Command and functional structure' (1997) 9 *Terrorism and Political Violence* 1.

¹⁴⁸ Edgerton (n 95) 76.

3.

THE COUNTERTERRORISM LEGISLATION: CONTENT,
DISCOURSE & DEVELOPMENT

The state's counterterrorism legislation during the Northern Irish conflict contained no specificity with regards to gender. Women who were allegedly involved with terrorist activity were governed and prosecuted under the same laws as their male counterparts, namely the DTO,¹⁴⁹ the EPA¹⁵⁰ and the PTA.¹⁵¹ Nonetheless, in order to situate how they were framed in the legislative discourse, an overview of the exact nature of the counterterrorism laws must be considered with regards to what it governs, how the scope of regulations was defined and how this developed over the course of the conflict.

A key feature shared by each of these pieces of legislation is that they were all introduced as emergency legislation. This characteristic however far predates the period of political instability in the jurisdiction during the Troubles, but rather it finds itself in the very foundation of the Northern Irish state.¹⁵² The existence of the state as a separate political entity emerges from the partitioning of the island of Ireland in 1920, in which the utilisation of emergency powers became entrenched and normalised in the everyday procedures. The reliance upon the structure of emergency legislation portrays the historically defining duality of the Northern Irish penal system as a mechanism for punishing crime but also as a coercive apparatus against political disorder and resistance to

¹⁴⁹ Detention of Terrorist Order 1972 (Northern Ireland) (DTO).

¹⁵⁰ Northern Ireland (Emergency Provisions) Act 1972 (EPA 1972); Northern Ireland (Emergency Provisions) Act 1978 (EPA 1978).

¹⁵¹ Prevention of Terrorism (Temporary Provisions) Act 1974 (Northern Ireland) (PTA 1974); Prevention of Terrorism (Temporary Provisions) Act 1976 (Northern Ireland) (PTA 1976); Prevention of Terrorism (Temporary Provisions) Act 1989 (Northern Ireland) (PTA 1989).

¹⁵² Fionnuala Ní Aoláin, 'The fortification of an emergency regime' (1996) 59 *Alb L Rev* 1353.

colonial rule.¹⁵³ Hence, the entrenchment, normalisation and impact of the ‘emergency’ became a primary focus for discontent surfacing in the civil rights movement of the 1960s that led to the ignition of the Troubles.¹⁵⁴ It was during this resurgence of political violence that the Northern Irish penal system reacted to contain the ‘emergency’ presented by terrorism.¹⁵⁵ However, the severity of this containment became a point of contention between those in Belfast and London, leading James Chichester-Clark, then Prime Minister of Northern Ireland, to resign as he could see no alternative ‘of bringing home to all concerned the realities of the present constitutional, political and security situation’.¹⁵⁶ In April 1972, his successor, Brian Faulkner (in addition to the rest of the Northern Irish cabinet), resigned in protest of the British government’s insistence that all security powers be brought under the control of London. This in effect suspended Stormont and imposed Direct Rule.¹⁵⁷ Sir Edward Heath’s, then Prime Minister of the United Kingdom, perspective was that:

The transfer of security powers is an indispensable condition for progress in finding a practical solution in Northern Ireland. The Northern Ireland government’s decision [to refuse the transfer] leaves us with no alternative to assuming full and direct responsibility for the administration of Northern Ireland.¹⁵⁸

Upon the introduction of Direct Rule, the Heath government modified the Stormont Special Powers Act¹⁵⁹ which governed internment orders to include a quasi-judicial element, with the introduction of the DTO which came into effect on the 1st of November 1972.¹⁶⁰ Under this new legislation,

¹⁵³ Sean McConville, *Irish political prisoners 1848-1922: Theatres of war* (1st edn, Routledge 2003); Mary Siobhán Corcoran, *Out of order: the political imprisonment of women in Northern Ireland 1972-1998* (1st edn, Routledge 2013).

¹⁵⁴ Ní Aoláin, ‘Situating women in counterterrorism discourses: undulating masculinities and luminal femininities’ (2013) 93 BUL Rev 1085, 1086.

¹⁵⁵ Mary Siobhán Corcoran, ‘Doing Your Time Right: The Punishment and Resistance of Women Political Prisoners in Northern Ireland, 1972-1995’ (Dphil thesis, Liverpool John Moores University 2003).

¹⁵⁶ Kieran McEvoy, *Paramilitary imprisonment in Northern Ireland: Resistance, management, and release* (1st edn, OUP 2001) 13.

¹⁵⁷ *ibid.*

¹⁵⁸ *ibid* 78.

¹⁵⁹ Civil Authorities (Special Powers) Act) 1922 (Northern Ireland).

¹⁶⁰ Gerard W Hogan and Clive Walker, *Political violence and the law in Ireland* (1st edn, Manchester UP 1989); McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156); Corcoran, *Out of order* (n 153).

the Secretary of State for Northern Ireland could ‘make an interim custody order for the temporary detention of that person [suspected of terrorist activity]’.¹⁶¹ The detainees were treated as a remand prisoner in custody and could be held for up to twenty-eight days ‘unless his case is referred by the Chief Constable to a commissioner for determination’,¹⁶² said commissioner had to be ‘at least a person of legal experience’¹⁶³ and had the power to extend the detention indefinitely.¹⁶⁴ An advisory commission was appointed to hear representation from internees, however as it lacked full judicial powers, it also lacked key judicial safeguards.¹⁶⁵ Detainees’ rights of counsel were limited as hearings were held in private and thus their lawyers could merely aid in the preparation of written submissions but not attend hearings. Furthermore, the hearings admitted less stringent standards of evidence than required for criminal trials, with the evidence being anonymously submitted and respondents often being excluded from all or part of their hearings.¹⁶⁶ However, this introduction of internment through the DTO became an unmitigated disaster due to the degree and intensity of violence it ignited.¹⁶⁷ Hence, the DTO’s primary objective to detain principal paramilitary actors and hence contain the violence through disturbing the campaigns and gathering intelligence, had not been achieved.

In order to address and contain the violence, the British government appointed Diplock Commission, who were responsible for considering:

what arrangements for the administration of justice in Northern Ireland could be made in order to deal more effectively with terrorist organisations by bringing to book, otherwise than by internment by the Executive, individuals involved in terrorist activities, particularly those who plan and direct, but do not necessarily take part in, terrorist acts; and to make recommendations.¹⁶⁸

¹⁶¹ DTO, para 11.

¹⁶² *ibid* para 11 (author’s emphasis).

¹⁶³ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156) 213.

¹⁶⁴ Hogan and Walker (n 160).

¹⁶⁵ Corcoran, *Out of order* (n 153).

¹⁶⁶ Hogan and Walker (n 160); *ibid*.

¹⁶⁷ Marie-Therese Fay, Mike Morrissey and Marie Smyth, *Northern Ireland’s Troubles: The Human Costs* (1st edn, Pluto Press 1999); McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156).

¹⁶⁸ Lord Diplock, ‘Report of the Commission to consider legal procedures to deal with terrorist activities in Northern Ireland’ (Her Majesty’s Stationery Office 1972) para 1.

Upon their review, the Commission proposed a range of measures intended to overhaul the criminal justice system, by facilitating easier convictions of those suspected of involvement in paramilitary activities, and thereby reducing reliance upon internment as was delineated in the DTO.¹⁶⁹ A wide array of recommendations were made regarding the extension of army and police powers to enable stop and question, search and seize, arrest and detain. Furthermore, the limitations on the availability of bail were made more stringent and the regulation on the admissibility of confessions was relaxed as to enable convictions solely based upon confession. A list of offences typically associated with the activities of paramilitary organisations – including murder, manslaughter, serious offences against the person, arson, malicious damage, riot, offences, robbery and aggravated burglary, intimidation, membership of proscribed organisations and collecting information likely to be of use to terrorists – was created and known as ‘scheduled offences’.¹⁷⁰ The Diplock Commission concluded that these offences should not be brought before a jury trial as it was ‘not practicable in the case of terrorist crimes in Northern Ireland because of the threat of intimidation of witnesses’.¹⁷¹ However, rather than recommending the abolition of internment, the Commission asserts that ‘detention offered a temporary substitute for the rule of law’.¹⁷² This perspective was supported by the British government in the hopes that as the court system strengthened it would be able to contain the violence effectively but that they were not there yet.¹⁷³

The majority of recommendations made in the Diplock Commission were enacted by Parliament in the EPA 1972.¹⁷⁴ This piece of legislation repealed the Special Powers Act, which represented the dominance and undemocratic nature of the authority to the minority Catholic community.¹⁷⁵ However, in following the Diplock Commission recommendations the legislation paradoxically re-enacted many of the same provisions of the Special Powers Act, and thus reinforced the system of internment under the so-called Diplock Courts with the scheduled offences. In addition to detainment powers, the EPA 1972 additionally

¹⁶⁹ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156).

¹⁷⁰ Hogan and Walker (n 160).

¹⁷¹ Diplock (n 168) para 17.

¹⁷² *ibid* para 27.

¹⁷³ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156).

¹⁷⁴ Northern Ireland (Emergency Provisions) Act 1972 (EPA 1972).

¹⁷⁵ Ní Aoláin ‘Situating women in counterterrorism discourses’ (n 154).

allowed the Royal Ulster Constabulary, without prior judicial approval, to stop and question individuals regarding their identity and movements, to search people and their places of dwelling, and to seize documents.¹⁷⁶ In extending the powers of arrest, detention and conviction, not only did it connect a wider range of activities to terrorist offences but it also granted authorities the scope to apply these charges retrospectively.¹⁷⁷ The enhanced security powers were only intended to combat terrorist offenders, who were identified on the basis of the political nature of their crimes from ordinary criminals.¹⁷⁸ Terrorism within the act was interpreted as the ‘use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of the public in fear’.¹⁷⁹ Hence, due to this political conceptualisation, those who were detained, convicted and sentenced to over nine months under the EPA were granted Special Category Status. Therefore, due to the explicit recognition of the political nature of the paramilitary prisoner convictions, they were legally distinct from the other ‘ordinary’ criminals. Given a greater deal of autonomy while completing their sentence in prison, they rarely interacted with the prison guards, rather represented by a Compound Leader. The leader acted as a commanding officers to the Special Category Status prisoners, organising their daily schedules, as well as their military orders and training.¹⁸⁰ Held separately from the ordinary prisoners, they were segregated by perceived paramilitary affiliation.¹⁸¹ The prisoners were exempted from the regular prison work, they were allowed to wear their own clothes as opposed to prison uniforms, they were permitted to spend their own money in the canteen and could receive more frequent visitors. Thus in effect, these prisoners enjoyed prisoner of war status.¹⁸²

¹⁷⁶ Northern Ireland (Emergency Provisions) Act 1972 (EPA 1972), see paras 16, 17, 22, 23 and 24.

¹⁷⁷ Corcoran, *Out of order* (n 153).

¹⁷⁸ Samantha Anne Caesar, ‘Captive or Criminal: Reappraising the Legal Status of IRA Prisoners at the Height of the Troubles under International Law’ (2016) 27 *Duke J Comp & Int’l L* 323.

¹⁷⁹ Northern Ireland (Emergency Provisions) Act 1972 (EPA 1972), para 28.

¹⁸⁰ Jay M Spillane, ‘Terrorists and Special Status: The British Experience in Northern Ireland’ (1985) 9 *Hastings Int’l & Comp L Rev* 481.

¹⁸¹ Kieran McEvoy, ‘Political Prisoners, Resistance and the Law in Northern Ireland: A Paper for Palestinian Activists’ (*Lawyers Conflict & Transition*, April 2015) <<https://lawyersconflictandtransition.org/themainevent/wp-content/uploads/2015/04/POLITICAL-PRISONERS-RESISTANCE-AND-THE-LAW-ENGLISH-APRIL-2015.pdf>> accessed 8 June 2021.

¹⁸² *ibid.*

Akin to the EPA, the PTA was ‘designed to obtain convictions in cases involving those suspected of paramilitary activity, based on confessions obtained through prolonged detention and intense interrogation’.¹⁸³ It was enacted in 1974 following the Birmingham pub bombings and derived from two prior pieces of legislation: the EPA and the Prevention of Violence (Temporary Provisions) Act,¹⁸⁴ which had been utilised against an earlier campaign by the IRA. A range of powers were included in the PTA 1974 that complement those within the EPA, such as powers to arrest, without a warrant, detain and interrogate anyone ‘who in a public place — (a) wears any item of dress, or (b) wears, carries or displays any article, in such a way or in such circumstances as to arouse reasonable apprehension that **he** is a member or supporter of a proscribed organisation’¹⁸⁵ or merely ‘a person whom **he** reasonably suspects to be a person guilty of an offence’.¹⁸⁶ Furthermore, the legislation enables the government to prohibit paramilitary organisations and membership to such organisations.¹⁸⁷ Lastly, it provided the legal grounds to issue exclusion order banishing citizens of the United Kingdom from particular areas of the state.¹⁸⁸

These three pieces of legislation, the DTO, EPA and PTA, formed the British government’s counterterrorism response to the ‘emergency’ presented to them in the late 1960s to early 1970s. The period of time during which they were enacted can be seen to mark the first phase of the Troubles, known as reactive containment (1968-75).¹⁸⁹ In British political and security circles, the surge of violence within Northern Ireland at this time was perceived as a quasi-colonial insurrection, comparable to those witnessed in Kenya, Malaysia, Cyprus, Aden and Oman.¹⁹⁰ Hence, the government’s response was to adopt their previous colonial strategies in order to contain the violence in Northern Ireland through the legislation governing the criminal justice and judicial system and the *de facto* recognition of the political nature of the paramilitary

¹⁸³ As cited in Ní Aoláin, ‘The fortification of an emergency regime’ (n 152) 1354.

¹⁸⁴ Prevention of Violence (Temporary Provisions) Act 1939 (Northern Ireland).

¹⁸⁵ Prevention of Terrorism (Temporary Provisions) Act 1974 (Northern Ireland) (PTA 1974), para 2.1 (author’s emphasis).

¹⁸⁶ *ibid* para 2.2 (author’s emphasis).

¹⁸⁷ *ibid* para 1.

¹⁸⁸ *ibid* paras 3-6.

¹⁸⁹ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156).

¹⁹⁰ Michael Dewar, *The British Army in Northern Ireland* (1st edn, Arms & Armour Press 1985).

actors through the granting of Special Category Status.¹⁹¹ This period of the government's approach became 'something of a golden era'¹⁹² in the history of the Northern Irish conflict, provoking wistful and nostalgia among actors due to the subsequent phase known as criminalisation.

This departure in the government's strategy in 1975/1976 was marked by the reports of the Gardiner Commission¹⁹³ and the Murray Commission.¹⁹⁴ Such government sponsored reviews were a regular companion of the emergency legislation, so as the perceived emergency evolved, the legislation did too in parallel.¹⁹⁵ The Gardiner Commission was appointed:

to consider what provisions and powers, consistent to the maximum extent practicable in the circumstances with the preservation of civil liberties and human rights, are required to deal with terrorism and subversion in Northern Ireland, including provisions for the administration of justice, and to examine the working of the Northern Ireland (Emergency Provisions) Act 1973; and to make recommendations (...) As we [the Commission] were completing our Report Parliament passed the Prevention of Terrorism (Temporary Provisions) Act 1974; we have reviewed our findings in the light of its provisions at the appropriate points in our Report.¹⁹⁶

The Commission painted a bleak picture in their analysis of the legal and security reforms, arguing that tolerance for 'terrorism' and 'subversion' had become endemic and hence, the legitimacy of the legal system was undermined and needed to be re-established through institutional reforms.¹⁹⁷ They quickly situated the prison system as the central component of the reforms, claiming that it 'plays a most important role in the maintenance of law and order' which it was currently 'not fulfilling (...) [as] certain aspects of the prison situation

¹⁹¹ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156); McEvoy, 'Political Prisoners, Resistance and the Law in Northern Ireland' (n 181).

¹⁹² McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156) 225.

¹⁹³ Lord Gardiner, 'Report of a Committee to consider, in the context of civil liberties and human rights, measures to deal with terrorism in Northern Ireland' (Her Majesty's Stationery Office 1975).

¹⁹⁴ Lord Murray, 'Report on a Local Inquiry Held to Consider a Proposal by the Department of Finance to Acquire Compulsorily under the Above Order Certain land at Maghaberry, County Antrim for the Purpose of Providing Prison Accommodation and Facilities on that land' (Her Majesty's Stationery Office 1975).

¹⁹⁵ Ní Aoláin 'Situating women in counterterrorism discourses' (n 154); Ní Aoláin, 'The fortification of an emergency regime' (n 152).

¹⁹⁶ Gardiner (n 193) 1.

¹⁹⁷ Corcoran, *Out of order* (n 153).

are considered to be appalling'.¹⁹⁸ The Commission asserted that the prison authorities ceased to maintain disciplinary control or security as the limited manpower of the staff meant that:

the layout and construction of the compounds make close and continued supervision impossible (...) [because each compound] was virtually a self-contained community which keeps the premises it occupies to such standard's as it finds acceptable and engages, if it so wishes, in military drills or lectures on military subjects.¹⁹⁹

Hence, the Commission recommended to put an end to the Special Category Status at 'the earliest practicable opportunity', as it was a 'serious mistake'²⁰⁰ to introduce such a structure that allowed for the autonomy of certain prisoners. They claimed that there was no justification that could account for granting 'privileges' on the claim of 'political motivation', as the system merely enabled the detainees 'to emerge with an increased commitment to terrorism than as reformed citizens'.²⁰¹ Regarding internment, the Commission asserted that ending it was a matter of time rather than principle but that it was not yet the time. Ultimately, they argued that new high-security prisons need to be constructed and that such sources of instability, namely the Special Category Status, should be eliminated, as it would diminish external support for politically motivated prisoners would diminish and hence, the conflict resolved. The Murray Commission were responsible for providing the architectural blueprint for the Gardiner Commission recommendations with regards to the penal system.²⁰² They proposed the expansion of the prison system through the construction of two maximum security prisons, Her Majesty's Prison (HMP) Long Kesh (known colloquially as the Maze) and HMP Maghaberry. The latter was to replace Belfast prison for men and Armagh prison for women, rather accommodating the male and female detainees in the same establishment.

The analysis and recommendations made by these two commissions marked the turn by the British government to a strategy of criminalisation to approach the terrorist emergency they faced, which continued

¹⁹⁸ Gardiner (n 193) 1.

¹⁹⁹ *ibid* 33.

²⁰⁰ *ibid* 34.

²⁰¹ Gardiner (n 193) 34.

²⁰² Murray (n 194).

from 1976 to 1981. In implementing the proposed recommendations the government made the required amendments to the governing legislation, adjustments were made to the EPA, which by 1978 was consolidated with its 1973 parent act into one piece of legislation.²⁰³ In addition to the removal of the Special Category Status, the scope of terrorist offences were further broadened to include recruitment. Furthermore, the PTA was re-enacted in 1976 and the period of renewal it was subject to by Parliament was altered from every six months to every year.²⁰⁴ By relegating the actions of paramilitaries to the sphere of common criminality, the authorities attempted to delegitimise that which had been hitherto accepted as political violence.²⁰⁵ This approach saw a fusion of political and military thought, in which prison managers became key actors involved in the implementation of counterterrorism legislation as dictated by their political authorities.²⁰⁶ This is evident in the consistent political interference of senior politicians in the management of the prisons, including the then Prime Minister, Margret Thatcher, who stated during a speech at Stormont that ‘there is no such thing as political murder, political bombing or political violence. There is only criminal murder, criminal bombing and criminal violence. We will not compromise on this. There will be no political status’.²⁰⁷ Thus this turn in strategy deliberately sought to obscure the political nature of the paramilitaries actions, placing prisoners at the centre for the broader political and ideological battle of the conflict.

Following criminalisation, the third and final stage of the government’s counterterrorism approach is evident in the evolution of the state’s legislation, known as managerialism (1981-98).²⁰⁸ This stage was defined by the governments attempt to normalise the emergency, through the transference of the emergency powers into the ordinary law.²⁰⁹ Their approach was no longer presented as the means by which

²⁰³ Ní Aoláin ‘Situating women in counterterrorism discourses’ (n 154).

²⁰⁴ Ní Aoláin, ‘The fortification of an emergency regime’ (n 152).

²⁰⁵ Michael Tomlinson, Liam O’Dowd and WJ Rolston, *Northern Ireland: Between civil rights and civil war* (1st edn, CSE books 1980); Paddy Hillyard, ‘The normalisation of special powers: from northern Ireland to Britain’ in Phil Scranton (ed), *Law, order and the Authoritarian State* (Open UP 1987); McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156).

²⁰⁶ McEvoy, ‘Political Prisoners, Resistance and the Law in Northern Ireland’ (n 181).

²⁰⁷ Margaret Thatcher, ‘Speech in Belfast’ (Stormont, Belfast, 5 March 1981) <<https://margarethatcher.org/document/104589>> accessed 1 November 2021.

²⁰⁸ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156); McEvoy, ‘Political Prisoners, Resistance and the Law in Northern Ireland’ (n 181).

²⁰⁹ Ní Aoláin, ‘The fortification of an emergency regime’ (n 152).

terrorism would be defeated but rather as a strategy designed to diminish its effectiveness and impact.²¹⁰ Through the continuous use of state sponsored reviews to amend the emergency legislation to match the ‘emergency’ at hand, and the modification of ordinary laws to deal with the civil strife, the barrier between the ordinary and extraordinary was swept away during this final phase of the Northern Irish conflict.²¹¹ In 1984, an additional government review was established and published, namely the Baker Report. This body was tasked with reviewing the operation of the emergency legislation of the EPA and PTA to deal with terrorism in this final phase. The report concluded that there was little scope for fundamental changes to the act but that certain areas could be adjusted – namely technical elements regarding the length of time that should pass before Parliament review them and so on. Furthermore, following from the Gardiner Commission, Baker agreed that internment should end and that jury trial should be restored, however it was argued that it was still not possible in the present conditions.²¹² Ultimately, these recommendations were incorporated and the EPA was re-enacted in 1987, further consolidating the legislation in addition to bringing into the EPA’s domain provisions of the PTA.²¹³ However, from this review process what became most apparent was that there was a growing appetite within government to prolong the space between reviews, to create a more permanent and subtle manner of approaching terrorism. As was outlined by the Secretary of State:

Mr. Rowe recommends that the Northern Ireland (Emergency Provisions) Act, which applies only to Northern Ireland, and the Prevention of Terrorism Act (Temporary Provisions) Act 1989, which applies in the main to the United Kingdom as a whole, should be consolidated in one comprehensive statute, providing all that is needed to cope with the perceived threat of terrorism anywhere in the United Kingdom (...) I believe that there is much merit in that.²¹⁴

²¹⁰ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156).

²¹¹ Fionnuala Ní Aoláin, ‘The politics of force: Conflict management and state violence in Northern Ireland’ (2000) Transitional Justice Institute Research Paper <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2143132> accessed 1 November 2021.

²¹² George Baker, ‘Review of the operation of the Northern Ireland (Emergency Provisions) Act 1978’ (Her Majesty’s Stationery Office 1984).

²¹³ Ní Aoláin ‘Situating women in counterterrorism discourses’ (n 154); Ní Aoláin, ‘The fortification of an emergency regime’ (n 152).

²¹⁴ As cited in Ní Aoláin ‘The politics of force’ (n 211) 75.

The want for a permanent framework led to the appointment of Lord Llyod and Mr Justice Kerr by the Secretary of State for Northern Ireland to carry out ‘a powerful, authoritative and independent review’.²¹⁵ Hence, they were invited to ‘consider the future need for specific counter terrorism legislation in the United Kingdom, if the cessation of violence connected with the affairs of Northern Ireland leads to a lasting peace, taking into account the threat from other kinds of terrorism, and the United Kingdom’s obligations under international law’.²¹⁶ Aligned to the preferences of the Secretary of State, Llyod and Kerr recommended to impose permanent counterterrorism legislation into the normal legal framework as part of ordinary law. This conclusion rested upon their argument that terrorism presented a continuous and serious threat to society and that terrorists have proven difficult to contain without the special offences and additional police powers.²¹⁷ Ultimately, they conclude the special challenges presented by terrorism and its distinguishing features justify the creation of special legislation.²¹⁸ Upon these recommendations, the EPA ran for an additional two years, commencing from August 1996. The overall outcome, however, was the formation of the Terrorism Act²¹⁹ which is based upon many of the provisions of the EPA and PTA, and remains in force in the United Kingdom today.²²⁰ Hence, the outcome of the Llyod and Kerr review demonstrates how the use and reliance upon emergency legislation leads to its seepage into permanent and ordinary law. Considering how the emergency was created and mobilised by the British government in the 1960s/1970s, it can be noted that a permanent state of emergency was thus normalised within Northern Ireland during this final phase of the Troubles.²²¹ Furthermore, it displays how it is near impossible to dislodge crisis powers and mindset once they have become institutionalised within the state setting.

Though the powers were consistently amended during the phase of managerialism, the attitude towards the prison system as a key component

²¹⁵ Ní Aoláin ‘The politics of force’ (n 211) 75.

²¹⁶ Lord Llyod and Lord Kerr, ‘Inquiry Into Legislation Against Terrorism’ (Cm 4178 Her Majesty’s Stationery Office 1996) 1.

²¹⁷ *ibid* para 5.10.

²¹⁸ *ibid* para 5.12.

²¹⁹ Terrorism Act 2000 (UK).

²²⁰ Ní Aoláin ‘Situating women in counterterrorism discourses’ (n 154).

²²¹ Ní Aoláin ‘The politics of force’ (n 211).

of the state's counterterrorism approach followed from that established during criminalisation. In line with this, the paramilitary prisoners were merely treated as one special client group amongst others such as sex offenders, young offenders, remandees and so on.²²² However, the prison service in Northern Ireland was impacted by the wider changes in public policy in Britain under the Thatcher government, namely to transform the public sector into a more 'efficient, effective, and value for money endeavour'.²²³ Private sector management and planning techniques were incorporated in the delivery of prison services, which consequently altered the framing of paramilitary prisoners management by strategic business plans and performance indicators. These changes decreased the interference of politics in relation with prisoners but the increase in the independence of prison managers. This permitted them greater flexibility in responding to prisoners activities and demands at both an local and institutional level, as they essentially became independent embodiments of the state's counterterrorism strategy. This stage of managerialism was not the government surrendering to the paramilitary actors but rather a more subtle way of undermining their influence and actions as they were merely to be seen as a normal, unremarkable part of the society.

Ultimately the British government's counterterrorism response was based upon three fundamental pieces of legislation, the DTO, the EPA and the PTA. Through continuous state sponsored reviews, such as the Diplock Commission, Gardiner Commission, Murray Commission, Baker Report and the Llyod Report, among others, the government amended the legislation and their approach to target the perceived emergency at hand. The developments of their approach can be largely seen to be implemented in three phases, reactive containment (1968-75), criminalisation (1976-81) and, finally, managerialism (1981-98). By re-enacting and relying upon emergency legislation various international human rights bodies have found the operation of Northern Ireland's 'draconian legislative measures'²²⁴ to be in breach of the United Kingdom's human rights treaty obligations.²²⁵ However, the

²²² McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 156).

²²³ *ibid* 251-252.

²²⁴ Ní Aoláin 'Situating women in counterterrorism discourses' (n 154) 1114.

²²⁵ David Turns, 'The "War on Terror" Through British and International Humanitarian Law Eyes: Comparative Perspective on Selected Legal Issues' (2007) 10 *City University of New York Law Review* 435.

gendered impact of these breaches has not been addressed or raised in said analyses nor in the state sponsored reviews. Hence, the gendered narrative will now be illuminated in order to analyse how women's agency was framed in the implementation of the legislative discourse over the course of the Troubles.

4.

SITUATING WOMEN'S AGENCY IN THE
COUNTERTERRORISM LEGISLATIVE DISCOURSE

Though the Northern Irish counterterrorism legislation was written with no gender specificity, exploring how the discursive structures of the related legislation utilised by state bodies during the Troubles can contribute to analysis of the framing of women's agency. This is achieved through exploring how was the legislation implemented with regards to female actors; how was the implementation explained and/or justified by state bodies; and lastly, how has this developed over time in relation to, and/or in response to, the activities of the women. As this chapter depicts, the state's response to female paramilitary actors, however, is situated within the larger evolution of the British government's response to the Northern Irish conflict, from reactive containment to criminalisation and finally to managerialism.

4.1 THE FRAMING OF WOMEN DURING REACTIVE CONTAINMENT, 1968-75

The government's strategy towards female terrorist actors evolved from a series of political and institutional actions and reactions, which were designed to contain female actors role in political violence. This strategy equally emanated from gendered structural and stereotypical narratives regarding women's agency.²²⁶ Women were subject to this response from the first phase of the Northern Irish conflict. This period was termed: reactive containment and was characterised by the state's immediate need to respond to the outbreak of political violence. This response was orchestrated in such a way as to contain those allegedly involved in said violence, and suppress the actors and their supports,

²²⁶ Mary Siobhán Corcoran, *Out of order: the political imprisonment of women in Northern Ireland 1972-1998* (1st edn, Routledge 2013).

until a resolution could be reached.²²⁷ This led the government to enact the three core pieces of legislation that formed their counterterrorism efforts: the DTO, the EPA and the PTA. On a textual basis, each of these pieces of legislation solely utilise male pronouns when referring to the terrorist offenders, for example: ‘his case’;²²⁸ ‘his conviction’²²⁹ and ‘he is a member’.²³⁰

If this is taken literally, then we can interpret this to mean that the state’s view is that males alone are capable of (and conduct) acts of terrorism of against the state; and that women do not engage in acts of terrorism against the state. As such, the actor that is envisioned to have the capacity to commit such offences is conceived of, by the state, to be male. If we interpret the legislation in this literal sense, then women are clearly not considered to be an actor in this regard. Rather, the behaviours they do engage in are in support of the state, are with the state and are not acts of terrorism against the state. Notably, the use of such gendered language is not isolated to this British counterterrorism legislation, as it has been in use in English-language legislative texts for nearly two hundred years, having first appeared in British legislation in 1827.²³¹ This is worthy of comment because it can be seen to reflect a certain way of viewing the world, and the discursive field held by the state. However, this framing depicted by the text within the counterterrorism legislation fails to acknowledge women as valid actors of political violence, rather it reproduces and reinforces the stereotype that women are not valid actors within the public domain.

Paradoxically however, though women were neglected on a textual level, the offences listed in the reactive legislation directly targeted the large majority of their involvement in that stage of the conflict. Having adopted the recommendations of the Diplock Commission, the EPA

²²⁷ Kieran McEvoy, *Paramilitary imprisonment in Northern Ireland: Resistance, management, and release* (1st edn, OUP 2001); Kieran McEvoy, ‘Political Prisoners, Resistance and the Law in Northern Ireland: A Paper for Palestinian Activists’ (*Lawyers Conflict & Transition*, April 2015) <<https://lawyersconflictandtransition.org/themainevent/wp-content/uploads/2015/04/POLITICAL-PRISONERS-RESISTANCE-AND-THE-LAW-ENGLISH-APRIL-2015.pdf>> accessed 8 June 2021.

²²⁸ DTO, para 11 (author’s emphasis).

²²⁹ Emergency Provisions Act, para 2.6(a) (author’s emphasis).

²³⁰ Prevention of Terrorism (Temporary Provisions) Act 1974 (Northern Ireland) (PTA 1974), para 2.1 (author’s emphasis).

²³¹ Sandra Petersson, ‘Locating Inequality – The Evolving Discourse on Sexist Language’ (1998) 32 U Brit Colum L Rev 55.

and PTA expanded the scope of terrorist offences.²³² This expansion not only made a range of activities terrorist offences and thus required lesser safeguards than those under normal criminal law but it also granted wider powers to authorities to arrest, detain and convict individuals. As the essence of the legislation was that the context of an arrest was enough to determine an offence, merely being in the vicinity of a political demonstration, riot or security incident could be prosecuted under the legislation. This presence – in addition to collecting money, organising welfare for prisoners, wearing paramilitary-style dress, resisting personal or property searches – could all be seen as a positive intention to belong to a proscribed organisation under section 21 of the EPA, for which membership could receive a sentence of five to ten years. As highlighted in chapter two, women within their communities organised and engaged with many examples of such acts through groups akin to the Hen Patrol and the RAC. As a former member recalled:

membership was used as a holding charge, especially if they could not find any evidence against you and you have been arrested and charged. So if you got off on those other charges if they could prove membership in what they had termed an illegal organisation you would be sentenced anyways.²³³

Moreover, other sections of the EPA and PTA governed combat related offences such as transporting, couriering and/or harbouring arms and planting explosive devices in commercial and other premises – tasks which women predominated within organisations such as Cumann na mBan and the Provisional IRA. By enacting legislation that directly targeted the Republican women’s operations within their communities and organisations, they were inexplicitly acknowledged as terrorist actors by the British state. The detention and prosecution of these women, as delineated by the legislation, was argued by government actors ‘to be a necessary preventive course of action in order to thwart the IRA strategy of introducing “lilywhites”, or previously unsuspected

²³² Lord Diplock, ‘Report of the Commission to consider legal procedures to deal with terrorist activities in Northern Ireland’ (Her Majesty’s Stationery Office 1972); Northern Ireland (Emergency Provisions) Act 1972 (EPA 1972); Prevention of Terrorism (Temporary Provisions) Act 1974 (Northern Ireland) (PTA 1974).

²³³ As cited in Mia Bloom, Paul Gill and John Horgan, ‘Tíocfaidh ár Mná: Women in the Provisional Irish Republican Army’ (2012) 4 *Behavioral Sciences of Terrorism and Political Aggression* 69-70.

new recruits, into the field'.²³⁴ Such logic portrays how in efforts to repress all and any forms of political violence, the British state targeted the auxiliary republican roles that women predominantly occupied. Hence this strategy is situated within the state's overall approach of reactive containment, targeting and charging woman on the basis of questionable crimes such as being in the vicinity of a demonstration portrays how the state utilised the women as a means to their end. Though the government failed to recognise women's agency on a textual basis, by expanding the scope of terrorist offences in the EPA and PTA they instrumentalised women by strategically targeting their activities. Hence, the government paradoxically formally ignored women's agency within the legislation yet simultaneously targeted the women for the same of acts of agency.

In practice, this expansion of powers and the subsequent introduction of the Diplock Courts lead to an influx of women into the prison population. The first woman to be interned was Elizabeth McKee in 1972 under the DTO. Elizabeth McKee was arrested in Belfast during a house raid for aiding the escape of an IRA volunteer from the Lagan Valley Hospital.²³⁵ By 1975, there were 31 female internees, alongside a consistently rising number of women remanded and sentenced for scheduled offences and public order. However, as the prosecutor had admittedly not been gathering intelligence on the women's involvement in the Republican campaign previously, a retrospective career was constructed in the process of internment and used to sentence the women.²³⁶ This course of action was justified by the claim that women were highly dangerous as they had previously escaped military attention. For example, in the prosecution of Elizabeth McKee, it was claimed that she was a 'high-ranking officer of the Provisional [Irish Republican] Army'.²³⁷ Once again, through this line of reasoning the government displays their historical blatant lack of consideration of women as valid and meaningful actors within political violence. Through emphasising the alleged dangerous nature of these women however, the prosecutor accentuates what they are not but should be, good, quiet women who

²³⁴ As cited in Mary Siobhán Corcoran, 'Doing Your Time Right: The Punishment and Resistance of Women Political Prisoners in Northern Ireland, 1972-1995' (Dphil thesis, Liverpool John Moores University 2003) 11.

²³⁵ Azrini Wahidin, *Ex-combatants, Gender and Peace in Northern Ireland* (1st edn, Palgrave MacMillan 2016).

²³⁶ Corcoran, *Out of order* (n 226).

²³⁷ As cited in Corcoran, 'Doing Your Time Right' (n 234) 11.

remain within the private, domestic realm of their homes. Hence, though the state previously neglected the women as paramilitary actors, the government are now directly targeting them and punishing them for their gendered deviance.

Furthermore, though the prison system was not as strong a feature of the legislative discourse during this phase of the Northern Irish conflict, the internal penal system still displayed gendered disparities. Armagh jail was the facility used for female prisoners at the time (replaced by Mourne House in HMP Maghaberry in 1986), however it had not substantially altered from the paternalistic ethos of a penal institution that had previously functioned to house socially vulnerable minor offenders.²³⁸ Not only was the facility ill-prepared but also vastly overcrowded due to the vast influx of detainees through internment and the scheduled offences system. The conditions were exacerbated by the fact that the prison had to be shared but segregated by male and female detainees due to the overflow of prisoners from HMP Crumlin Road (a male prison located in Belfast), who remained in Armagh until 1973. The men were housed on the ground floor of one wing, while the females on the ground floor of another.²³⁹ Due to the introduction of male prisoners in the jail, the women prisoners were confined to recreational facilities on one floor, a small room for all female detainees. The introduction of the Special Category Status to female paramilitary prisoners also displayed a gender disparity, as the implementation was introduced later than in the male establishments and in an uneven and tenuous form. The official tolerance for the women's political structures was tempered by trivialising their objectives and assumptions about their capacity to limit their political development through ideological and behavioural deterrents. This was done for example through the education and training programme available to the female detainees, which consisted of 'remedial subjects'²⁴⁰ including cooking, needlecrafts and laundry – a curriculum that portrays the oppressive perception regarding what was appropriate for women. When the women challenged this through confrontation, the use of force was officially endorsed by authorities as a 'legitimate, appropriate and efficient mode of restoring order'.²⁴¹

²³⁸ Neil McCafferty, *The Armagh Women* (1st edn, Co-Op Books 1981).

²³⁹ Corcoran, *Out of order* (n 226).

²⁴⁰ Northern Ireland Prison Service, 'Annual Report of the Prison Service for 1972-1976' (Her Majesty's Stationery Office 1977) 15.

²⁴¹ Corcoran, 'Doing Your Time Right' (n 234) 41.

This echoes the larger pattern found that female detainees were charged more regularly and given proportionately greater punishments for lesser infractions against the prison regulations, in comparison to male prisoners.²⁴² Hence in essence, the women were punished for objecting to the demeaning and paternalistic roles and capabilities placed upon them by prison authorities.

Thus, in sum, it is evident that during the reactive containment phase of the Troubles, the framing of women's agency by government forces evolved from blatant ignorance to being instrumentalised to suit the overall political and military objectives that characterised this phase. Their agency was subsequently acknowledged indirectly through the targeting and prosecution of their actions, though gendered narratives regarding the appropriate capabilities and the misrecognised roles of women persisted. Through this lens, placed in a distinctive place of governmental discourse as dangerous and disorderly women who needed to be punished for their deviance, and re-educated as to how to be a proper woman. Hence, women's agency is framed within a double jeopardy oscillating between the simultaneous denial of gendered difference in the normative construction of the legislation yet in its implementation, women are subject to gendered strategies that target them as deviant, transgressive women.

4.2 THE FRAMING OF WOMEN DURING CRIMINALISATION, 1976-81

As depicted in chapter three, the legislative discourse shifted from a focus upon containing the political violence to criminalising the actors with the state-sponsored reviews of the Gardiner Commission and the Murray Commission. Here, the prisons became the epicentre of the state's focus in which they situated their battle to repress the emergency presented by the violence.²⁴³ Hence, the political nature of the detainees was refused through the revocation of the Special Category Status, replaced by a strategy to portray them as banal, ordinary criminals.²⁴⁴ The month following the revocation of political status, the female paramilitary

²⁴² Home Office, 'Statistics of Offences Against Prison Discipline and Punishments in England and Wales' (Her Majesty's Stationery Office 1995).

²⁴³ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 227); McEvoy, 'Political Prisoners, Resistance and the Law in Northern Ireland' (n 227).

²⁴⁴ Samantha Anne Caesar, 'Captive or Criminal: Reappraising the Legal Status of IRA Prisoners at the Height of the Troubles under International Law' (2016) 27 *Duke J Comp & Int'l L* 323.

detainees of Armagh jail went on protest, which was conducted alongside and in solidarity with the protests of male republicans in the Maze, HMP Long Kesh. The Republican women indicated their withdrawal from the work, welfare and educational programmes, in addition to any of the prison activities that were introduced by the state. This ‘fight for the retention of political status’²⁴⁵ was coined the non-cooperation strike and as a previous volunteer depicts, entailed:

[a] policy of non-participation with the governor in the running of the jail. By this course of action [we] will show our disgust at the British government in trying to class anyone charged with a political offence committed after March 1st as a criminal. We will support those affected by the removal of political status until they get what is rightfully theirs. The only way open to us is to make the systems within the jail unworkable. They can imprison our bodies, but not our spirits.²⁴⁶

Within the year, 14 prisoners refused to engage in compulsory prison activities and by 1979, 34 sentenced and 4 remand prisoners were on the protest. Thereafter, in February 1980, these women escalated their protest by refusing to wash, change into clean clothes, accept clean bed sheets or use the toilets.²⁴⁷ Rather, they smeared their cell walls with their excrements and menstrual blood, while draining their urine underneath their cell doors.²⁴⁸ The conditions of the so-called no-wash or dirty protest emerged through communications smuggled from the protest wing:

We have been here on ‘A’ wing since the 15th of February, and conditions have rapidly deteriorated. We are on a twenty three hour lock up and are living in cells completely covered with excreta (...) After three months of living under inhuman conditions, surrounded by our own excreta and denied basic human rights, we are suffering considerably. Our bodies are encrusted with dirt, our hair is matted and greasy to the touch, and the smell emanating from our bodies is really disgusting. To lie in a cell smeared with excreta is a hideous experience, but we have to endure it. It is either this or accept the label ‘criminal’ and none of us here on this protest are criminals. We are prisoners of war, gaoled for political acts and firm in the knowledge that what we are fighting for is just.²⁴⁹

²⁴⁵ Corcoran, *Out of order* (n 226) 34.

²⁴⁶ *ibid* 34.

²⁴⁷ Laura Weinstein, ‘The Significance of the Armagh Dirty Protest’ (2006) 41 *Éire-Ireland* 11.

²⁴⁸ Margaretta D’Arcy, *Tell them everything: A sojourn in the prison of her majesty Queen Elizabeth II at Ard Macha (Armagh)* (1st edn, Pluto Press 1981).

²⁴⁹ Anna Freil as cited in Corcoran, *Out of order* (n 226) 39.

Regardless of the degrading state these woman were in, they refused to avail themselves of toilets or washing facilities, rather they placed the republican struggle above their basic needs:

If these women had chosen to submit to the prison system – to accept whole-heartedly its rules, regulations and accompanying abuse – then like the women serving time for robbery, assault or other non-republican crimes, republican women would have had access to all the sanitary products they needed. Instead, these women were subjecting themselves to sterility and even death by participating in the Dirty Protest.²⁵⁰

These acts of protest were responded to by prison and state officials in a discourse that not only reflected the overall political goal of criminalisation but also one that downplayed and de-legitimised the agency of the female prisoners in comparison to their male counterparts. The rhetoric of authorities minimised the extent of the women's protest arguing that 'at Armagh, some women continued to refused to work but otherwise did not actively seek confrontation with the prison authorities'²⁵¹ and that there had 'been no change in the regime other than that self-imposed by the prisoner'.²⁵² Furthermore, state officials claimed that the women's actions were inferior in comparison to their male counterparts in the Maze and that their actions had been blown out of proportion:

During the last few weeks some women prisoners at Armagh have escalated their protest by refusing to wash. There is also some dirtying of the cells but the situation is by no means comparable with that at Maze [the male prison]. There is no truth in the allegations, inherently unlikely, that the women were forced into this form of protest by being denied access to toilets.²⁵³

This argumentation put forth by state officials ignores the regime changes in the revocation of the Special Category Status and the expansion of offences within the legislation that came into effect during the period of criminalisation. Furthermore, prison records show a vast increase in the disciplinary actions carried out during this period in

²⁵⁰ McCafferty (n 238) 13.

²⁵¹ Northern Ireland Prison Service, 'Annual Report of the Prison Service for 1978' (Her Majesty's Stationery Office 1979) 16.

²⁵² Northern Ireland Prison Service, 'Annual Report of the Prison Service for 1982' (Her Majesty's Stationery Office 1983) 11.

²⁵³ Humphrey Atkins, then Secretary of State for Northern Ireland, as cited in Corcoran, 'Doing Your Time Right' (n 234) 50.

Armagh, amounting to a ratio of 21 punishments for every convicted prisoner in 1979. The discourse employed by state parties portrays the Republican female detainees as: a couple of disorderly, dishonest women whose acts are silly, childish and fabricated in comparison to the male detainees whose behaviours are treated with a notable degree of respect and due consideration. Their acts of retaliation are portrayed to be motivated by false premises. Therefore, though the women are acknowledged as actors of violence, their acts exercising agency are ridiculed by the state's discourse in the implementation of the legislation.

Ending on the 1st of December 1980, the no-wash protest was succeeded by the participation of three Republican women (Mairéad Farrell, Mary Doyle and Mairéad Nugent) in the republican hunger strikes that had been ongoing in the Maze since the 27th of October.²⁵⁴ After her release, Farrell stated that the women's decision to go on hunger strike was 'prompted partly by the need to create an additional source of pressure on the prison authorities and also because of a "calculated risk" that the deaths of women in prison would place, additional oral pressure on the government to come to an agreement with republican prisoners'.²⁵⁵ The women refused all food but drank water and took salt tablets, however their deteriorating condition was reported by their fellow prisoners:

Three women on hunger strike. It was absolutely terrible. Absolutely terrible. Each day you were watching them and you wanted to be on it yourself. It was like we're all in this together. We're all comrades. We're all working towards the same goal. There was a lot of feeling for them but a lot of guilt and also each day watching them getting weaker and becoming more emaciated. You see, 19 days. After a week (...) and if you remember, after a year being on the no wash protest everybody had already lost so much weight. So it was bad. It was really bad.²⁵⁶

On the 11th day of the hunger strike, all three women were experiencing difficulty swallowing and were thus moved to the prison hospital. With this move, the government argued that 'medical supervision of the protesters continues as far as they themselves allow it. There have been no cases of illness attributable to the conditions,

²⁵⁴ Jim Smyth, 'Unintentional mobilization: The effects of the 1980–1981 hunger strikes in Ireland' (1987) 4 *Political Communication* 179; Weinstein (n 247); Wahidin (n 235).

²⁵⁵ Corcoran, *Out of order* (n 226) 13.

²⁵⁶ Wahidin (n 235) 161-62 (emphasis in original).

which the prisoners concerned have created for themselves'.²⁵⁷ Though the government framed themselves as the humane and legitimate actor who sought medical attention for the hunger strikers, they once again delegitimised the woman's agency by emphasising the self-imposed nature of the protest rather than the political motivations that lay behind their actions. However, the treatment of this medical supervision towards the prisoners has been since documented by the female detainees, who assert that the prison doctor referred to their conditions as a 'honeymoon disease' caused by 'nerves' and advised them to 'get pregnant [as] it will clear your skin up'.²⁵⁸ Employing concepts that revolve around marriage and children emphasises the roles attested to woman within the private domain, aspects of their perceived biological destiny as mothers and wives. The connotations that lay behind such comments 'was that women are physically and mentally too weak to defy the government, and therefore they should give in and avail themselves of the selection of tranquillisers always ready in surgery'.²⁵⁹ Thus, not only was the women's credibility undermined within the public forum by the government but also privately by the actors who were put in place by the government.

Hence during this phase of criminalisation, the legislative discourse employed by the state towards female paramilitary actors echoes that of the overall characteristic of this phase, to portray Republicans as banal, ordinary criminals rather than those motivated by a higher political ideology. The women faced a doubled subjugation, insofar as they were actors oppressed due to their Republican aspirations and simultaneously as a result of their gender. Through asserting that their actions were inferior to their male counterparts and portraying the lack of a substantial basis for their resistance, the state's discourse delegitimised and demeaned the women's agency.

²⁵⁷ HC Deb 12 November 1980, vol 992, col 245W.

²⁵⁸ D'Arcy (n 248) 86.

²⁵⁹ *ibid* 86.

4.3 THE FRAMING OF WOMEN DURING MANAGERIALISM, 1981-98

The third and final stage of the Northern Irish conflict, managerialism, was marked by the government's focus upon normalising and managing the conflict through continuing their focus upon the prison system and making further amendments to the legislation.²⁶⁰ As depicted in chapter three, the prison systems were modernised and given a greater deal of autonomy in order to 'efficient, effective, and [provide more] value for money'.²⁶¹ Subsequently subject to less interference from political bodies, a number of reforms were made in the penal institutions which lead to an increased reliance on strip searching as a security procedure.²⁶² Searches began being applied systematically at the 'time of reception and discharge, before and after visits, attendance at court, entry and exit from temporary and compassionate leave, inter-prison visits and attendance at outside hospitals'.²⁶³ However, upon review the guidelines for use were reformed by the prison department to be applied on a 'random basis only'.²⁶⁴ This enabled the practices to be implemented at the discretion of prison officers which was asserted to follow an 'almost arbitrary risk-assessment'.²⁶⁵ These procedures were carried out on both male and female paramilitary detainees, however the amount, in addition to the physical invasiveness of procedures and context entailed gendered divergences. The previously detained women have recounted how they were strip searched as many as 40 times a day, with some having reporting being searched over 120 times in the space of two years.²⁶⁶ Furthermore, as outlined by a previous prisoner the gravity of internal searches cannot be effaced:

They'd come into your cell to search your cell. There was only a bed in the cell and a few photographs and there were no toilets. We had a chamber pot. They [the prison officers] would search the cell and pull the mattress off. They would just totally pull the cell apart, and then you were told to strip and

²⁶⁰ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 227); McEvoy, 'Political Prisoners, Resistance and the Law in Northern Ireland' (n 227).

²⁶¹ McEvoy, *Paramilitary imprisonment in Northern Ireland* (n 227) 251-52.

²⁶² Standing Advisory Commission on Human Rights, 'Strip Searching of Women Prisoners' (1986).

²⁶³ Corcoran, *Out of order* (n 226) 52.

²⁶⁴ Northern Ireland Office, 'Armagh Prison Strip Searching: The Facts' (Her Majesty's Stationery Office 1985) 4.

²⁶⁵ National Council for Civil Liberties, 'Strip Searching: An Inquiry into the Strip Searching of Women Remand Prisoners at Armagh Prison between 1982 and 1985' (1986) 15.

²⁶⁶ Bloom, Gill and Horgan (n 233); Corcoran, *Out of order* (n 226).

you wouldn't. **Well I wouldn't. Most of us wouldn't.** So they then proceeded to bring in more officers to hold you down while they took your clothing off and when you were completely naked you were then bent over and they would do an internal search of your anus and vagina, and all the while you're struggling and struggling and then you'd end up getting punched and stuff like that. **It's sexual assault.** You know when they strip-searched you they are looking in your body cavities... Quite rapidly, we decided it was worse with having a man there present so you would just not struggle so much. Plus you were frightened. You were **frightened of getting torn down there or getting hurt down there.** All the women **resisted** to taking our clothes off. It was sort of **passive resistance** when it came to the searching because you were terrified of them **really hurting you, you know hurting your internal organs.**²⁶⁷

Others have reported knowing a Republican woman prisoner who, while having a miscarriage, 'was haemorrhaging and on her way to the hospital, and they stopped her and strip searched her while she was bleeding'.²⁶⁸ Accounts of strip searching prevail throughout the phase of managerialism, outliving the women's time in Armagh jail by following them to HMP Maghaberry, the new prison facility proposed in the Murray Commission. For example, on the 2nd of March 1992, a mass strip search was conducted on all 35 prisoners of Mourne House, the female facility in HMP Maghaberry.²⁶⁹ That morning, female officers dressed in full protective clothing and helmets, accompanied by male officers in riot-control gear, entered the corridors where the Republican prisoners were housed. The women were stripped in their cells, searched and then dragged down the corridor while their cells were searched. Prisoners reported that the officers shouted obscenities and made sexual gestures to them. Others testified that the guards were signing 'Happy Days Here Again' when entering the wing and alleged that there was a smell of alcohol from them.

In defence of their actions and criticism from bodies such as the British Medical Agency, the government attempted to legitimise the procedures of strip searching as it was 'deemed necessary for security reasons'.²⁷⁰ When addressing the House then Secretary of State, Sir Nicholas Scott, drew attention to the 'Whitaker committee of inquiry into the penal system in the Irish Republic [that] concluded that there

²⁶⁷ As cited in Wahidin (n 235) 120-21 (emphasis in original).

²⁶⁸ Elizabeth Shannon, *I am of Ireland: Women of the North speak out* (1st edn, University of Massachusetts Press 1997) 118.

²⁶⁹ Corcoran, *Out of order* (n 226).

²⁷⁰ HC Deb 18 June 1992, vol 209, col 644W.

appears as yet “to be no acceptable alternative means of guarding against bodily concealment of contraband”. That is why strip-searching is important in ensuring the security of the prisons in Northern Ireland’.²⁷¹ When question regarding any differences in procedures towards male and female inmates, the Secretary of State responded stating that:

Strip searches are carried out on male prisoners in a wider range of circumstances than on females, and the procedures differ in detail. With male prisoners the search consists of a visual check of the upper and lower parts of the body in turn; no sheet or alternative prison clothing is provided, and the search may take place in a cell, search cubicle or room. With female inmates the search consists of a visual check either of the upper and lower parts of the body in turn or of the entire body at the choice of the inmate; a top and skirt or a freshly laundered sheet is available for use by female inmates during the searches, which are carried out in a search cubicle affording some degree of privacy.²⁷²

In a similar vein, the prison service argued that it was ‘regrettable that many grossly inaccurate, and often malicious accounts of the procedures have been and still are in circulation’²⁷³ as there was ‘no physical contact involved between the prisoner and the searching officers and there is no internal searching or examination of intimate areas of the body’,²⁷⁴ and that searches were carried out ‘only by, and only in the presence of, officers of the same sex’.²⁷⁵ Furthermore, the dangerous nature of the female prisoners was provided as a justification of the practice as they emphasised that ‘three quarters of the women prisoners in Armagh prison are charged or convicted of terrorist-related offences, including murder, attempted murder and possession of explosives and firearms’.²⁷⁶

Hence, through employing these narratives the government’s discourse legitimised and securitised the procedure of strip searches carried out by the prison authorities. By entrenching the procedure as a practice that is necessary and merely a part of routine security measures, they construct a legit framework, emphasising the banality and unremarkable nature of the regulations – a discourse that can

²⁷¹ HC Deb 12 December 1985, vol 88, cols 1058.

²⁷² HC Deb 6 March 1986, vol 93, col 226-8W.

²⁷³ Northern Ireland Prison Service, ‘Annual Report of the Prison Service for 1982’ (n 252) 10.

²⁷⁴ Northern Ireland Office, ‘Armagh Prison Strip Searching: The Facts’ (n 264) 3.

²⁷⁵ Northern Ireland Office, ‘Day to Day Life in Northern Ireland Prisons’ (Her Majesty’s Stationery Office 1981) para 5.

²⁷⁶ Northern Ireland Office, ‘Armagh Prison Strip Searching: The Facts’ (n 264) 4.

be seen to reflect the overall phase of managerialism. This is further emphasised by referring to the offences the woman have committed and hence, their perceived dangerous nature. By depicting the essential nature of these woman as one of violence, any aberrations from the official discourse – such as claims of sexual assault or drunken, singing prison guards – are much easier to discount. In addition to legitimising themselves, the state's official discourse de-legitimises the testimonies of the detainees through claiming that they are false accounts, fabricated in spite and vengeance. Though the factual nature of how these strip searches occurred is cannot be commented upon within the scope of this analysis, by publicly and privately casting doubt upon their perceived legitimacy, honesty and validity, the state's legislative discourse continues to undermine the agency of the detainees.

Through outlining the state's counterterrorism legislative discourse in the implementation of the DTO, EPA and PTA throughout the diverging phases of the conflict in Northern Ireland, it is evident that the government framed women as invalid and illegitimate actors of political violence. Akin to all paramilitary actors, the Republican women were repressed due to their political aspirations and actions. However, these women were further subjugated by the state's discourse due to their gender. This rested upon stereotypical assumptions regarding their capacities, as individual and collective female actors, to autonomously challenge power and subordination. Rather than being portrayed by the discourse as actors with such agency, their roles as mothers and wives were emphasised. Hence notions surrounding women's place within the domestic sphere, the confines of the home and private life were reinforced. The paramilitary women's deviance from this assumed position within society through their acts of terrorism were punished and ridiculed by the state's legislative discourse. Though formally the women were discounted as actors in the text of the legislation, their acts of were instrumentalised by the government to achieve their political and military goals. The motivations that lay behind their acts of agency were portray as ungrounded and illegitimate. Comparisons between the male and female Republicans were repeated, depicting the woman as the inferior of the them to their male counterparts in an inferior light. Thus, though the capacity the Republican woman had to exercise political and moral autonomy in the face of power is evident, the government framed them as actors who harboured no agency. Rather, within the state's discourse they were merely illegitimate and invalid actors of political violence.

CONCLUSION

In conclusion, this thesis set out to explore the research question: how was women's agency framed in the discourse surrounding the Northern Irish counterterrorism legislation during the Troubles (1968-98)? It asserts that women held agency in Northern Ireland during the Troubles through their community engagement and participation in the armed struggle. In each of their activities which ranged from actions such as: breaking curfew; organising patrols; spreading information; protesting; and joining the ranks of organised groups such as Cumann na mBan and the Provisional IRA, women challenged subjugation from the British government and military. This collective participation harnessed their capacity for power, and hence re-negotiated norms, made claims for their rights and extended their access within the public sphere. In exercising their agency, they thus challenged the power relationship within the 'armed patriarchy',²⁷⁷ moving to be recognised as equals in the opposition to British rule. In response, to repress such forms of political violence, the British government enacted their counterterrorism strategy through three core pieces of legislation, namely the DTO, the EPA and the PTA. Through continuous state sponsored reviews, such as the Diplock Commission, Gardiner Commission, Murray Commission, Baker Report and the Llyod Report, among others, the government amended the legislation and their approach to target the perceived emergency at hand. The developments of their approach were implemented in three phases, reactive containment (1968-75), criminalisation (1976-81) and, finally, managerialism (1981-98).

²⁷⁷ Lynda Edgerton, 'Public protest, domestic acquiescence: Women in Northern Ireland' in Rosemary Ridd and Helen Callaway (eds), *Caught up in conflict: Women's responses to political strife* (Macmillan 1986) 76.

Through employing the methodologies of CDA and CPA, the framing of women's agency can be seen to evolve in parallel to these three diverging phases of the conflict. Firstly, within reactive containment, the government's discourse simultaneously neglected and instrumentalised the women's capacities. Though through the use of male pronouns the women were ignored at a textual level, the expanded scope of the legislation directly targeted women in order to maximise the powers to arrest, detain and convict politically violent actors. While undergoing prosecution, women were punished for their deviance and re-educated in alignment to the social norms of womanhood. Secondly, during criminalisation, the legislative discourse employed by the state framed female paramilitary actors as banal, ordinary criminals rather than those motivated by a higher political ideology. Furthermore, through asserting that their actions were inferior to their male counterparts and arguing that their acts of resistance lacked a substantial basis, the state's discourse de-legitimised and demeaned the women's agency. Lastly, during managerialism, the state legitimised and securitised the humiliating procedures the women were subject to by entrenching these practices in a discourse that emphasised its necessity and routine nature. This was further emphasised in referring to the offences the woman had committed and, hence, their perceived dangerous nature. In addition to legitimising themselves, the state's official discourse attacked the women's perceived legitimacy, honesty and validity.

Through outlining the state's counterterrorism legislative discourse in the implementation of the DTO, EPA and PTA throughout the diverging phases of the conflict in Northern Ireland, it is evident that the government framed women as invalid and illegitimate actors of political violence. This rested upon stereotypical assumptions regarding their capacities, as individual and collective female actors, to autonomously challenge power and subordination. Rather than being portrayed by the discourse as actors with agency, the women's roles within the domestic sphere, as mothers and wives, were emphasised. The paramilitary women's deviance from this restricted positioning within society through their acts of terrorism were responded to be the state through punishment and ridicule. Thus, though the capacity the Republican woman had to exercise political and moral autonomy in the face of power is evident, the government framed them as actors who harboured no agency. Rather, within the state's discourse they were merely framed as illegitimate and invalid actors of political violence.

Hence, the women faced a form of double subjugation as the state's counterterrorism legislative discourse oppressed them for both their political aspirations and actions and gender.

Therefore, this analysis demonstrates how the dominant discourses employed during the Northern Irish conflict over the duration of the Troubles (1968-98) sustained the exclusion of women's voices and experiences in the face of counterterrorism efforts. This research demonstrates that a critical and holistic lens is necessary in order to further our understanding of the role of women in conflict, their behaviour practices, and mediations. It also demonstrates how this underexplored area of research and policy, reinforces preconceptions and narratives that serve to exclude, and render invisible, the actual voices and tangible experiences that do occur, working to further reinforce societal stereotypes regarding women's lack of agency within the public sphere.

Given the absence of a gendered narrative on the experience of women under the emergency legislation and the wholesale exportation of these laws to the current day counterterrorism approach in the United Kingdom, an increased awareness of the role counterterrorism norms has in gendered power relations is important to tracking and challenging contemporary manifestations of these norms. It is only through recognising the agency of women within conflict and political violence that drivers of radicalisation can be addressed, recruitment efforts undermined and the balance of peaceful and equal relations encouraged.

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