RIGHTS AT WAR:
BRITISH COUNTERINSURGENCY IN CYPRUS, ADEN, AND NORTHERN IRELAND

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ABSTRACT

Brian Drohan: Rights at War: British Counterinsurgency in Cyprus, Aden, and Northern Ireland
(Under the direction of Susan D. Pennybacker)

This study analyzes the role of human rights activism during three post-1945 British counterinsurgency campaigns in Cyprus (1955-1959), Aden (1963-1967), and the Northern Ireland "Troubles" (emphasizing 1969-1976). Based on material gathered from 15 archives in four countries as well as oral history records and personal papers, this study demonstrates that human rights activism shaped British operational decisions during each of these conflicts. Activists mobilized ideas of human rights to restrain counterinsurgency violence by defining certain British actions as illegal or morally unjustifiable. Although British forces often prevented activists from restraining state violence, activists forced government officials and military commanders to develop new ways of covering up human rights abuses. Focusing the analytical lens on activists and the officials with whom they interacted places rights activists on the counterinsurgency "battlefield" not as traditional arms-bearing combatants, but as actors who nonetheless influenced warfare by shaping military decisions.

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CHAPTER 1: INTRODUCTION

Introduction

The United States military expected a quick, "surgical" victory in the 2003 invasion of Iraq, but soon encountered what General John Abizaid, much to the chagrin of Defense Secretary Donald Rumsfeld, described as a "classical guerrilla-type campaign."[1] A similar situation emerged in Afghanistan as the Taliban and Al Qaeda regrouped within Pakistani sanctuaries. Military practitioners and policy makers in the United States began to grope for conceptual answers to these unexpected wartime challenges. In their search for solutions, analysts turned to narratives of European counterinsurgency campaigns—especially Britain's wars of decolonization.

Embedded within the legacies of these post-World War II campaigns were a series of assumptions about British counterinsurgency practices and cultural values. These assumptions coalesced around the notion that Britain was more successful in waging counterinsurgency than other imperial powers such as France. During the 1946-54 war in Indochina and the 1954-62 Algerian War, French forces embraced torture to obtain intelligence on insurgent activities and terror to cow civilian populations into submission. But in both conflicts, France suffered ignominious defeats. Likewise, many supporters of the "British approach" to counterinsurgency viewed the American defeat in Vietnam as the result of the United States' reliance on overwhelming firepower and technological panaceas.[2] These

[1] Brian Knowlton. "Top U.S. General in Iraq Sees 'Classical Guerrilla-Type' War," *The New York Times*. July 16, 2003. http://www.nytimes.com/2003/07/16/international/worldspecial/16CND-POLI.html. Accessed Feb 27, 2013.

[2] For criticism of the "British approach" from within the American defense establishment, see Gian Gentile, *Wrong Turn: America's Deadly Embrace of Counterinsurgency* (New York, NY: The New Press, 2013); Douglas Porch, *Counterinsurgency: Exposing the Myths of the New Way of War* (Cambridge, UK: Cambridge University Press, 2013); "The Dangerous Myths and Dubious Promise of COIN," *Small Wars & Insurgencies* 22, no. 2 (2011): 239–57; "Writing History in the 'End of History' Era—Reflections on Historians and the

failures contrasted neatly with supposed British successes. Supporters of this view claimed that British forces' counterinsurgency prowess derived from the British army's military culture, including the flexibility to adapt to changing circumstances and effectively operate in a decentralized manner. Furthermore, proponents of British exceptionalism insisted that Britain succeeded by using methods that aligned with liberal democratic values. According to this view, British forces succeeded because they achieved a kind of moral legitimacy. They won the "hearts and minds" of civilian populations by obeying the "rule of law" and using the minimum amount of force necessary against insurgents. Proponents of this narrative believed that unlike the French, British forces existed to protect, rather than harm, non-combatants.[3]

This idealized image of past British victories proved particularly compelling for American policymakers because it appeared to offer a solution that was not only effective, but also aligned with American liberal democratic ideals and contemporary international human rights norms. In December 2006, the United States military released *Field Manual 3-24: Counterinsurgency*, which wholeheartedly embraced the idea that Britain's counterinsurgency approach was both effective and moral. The manual generated instant fanfare and unprecedented attention. Pundits immediately hailed the new manual as "ground-breaking" and "paradigm-shattering."[4] Initially issued as a government document, the manual was downloaded 1.5 million times in the first month after public release. Within a year the

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GWOT," *Journal of Military History* 70, no. 4 (2006): 1065–79; and James Wirtz, "The 'Unlessons' of Vietnam," *Defense Analysis* 17, no. 1 (2001): 41–57.

[3] Robert M. Cassidy, *Counterinsurgency and the Global War on Terror: Military Culture and Irregular War* (Stanford: Stanford University Press, 2008); John Nagl, *Learning to Eat Soup with a Knife: Counterinsurgency Lessons from Malaya and Vietnam* (Chicago: University of Chicago Press, 2005). Cassidy asserts that British military culture was particularly well-suited to the demands of counterinsurgency. Nagl argues that during the 1948-60 Malayan Emergency, the British Army functioned as a "learning organization" capable of adapting its tactics, techniques, and procedures to counter a creative adversary.

[4] For the manual itself, see U.S. Army and Marine Corps. *Counterinsurgency Field Manual*. Chicago, IL: University of Chicago Press, 2007. Also see Michelle Gordon. "Army, Marine Corps unveil counterinsurgency field manual," U.S. Army News Archives. December 15, 2006. http://www.army.mil/article/1005/. Accessed March 17, 2014; and Sarah Sewall, "Introduction to the University of Chicago Press Edition," in U.S. Army and Marine Corps. *Counterinsurgency Field Manual*. xxxv.

University of Chicago Press published an edition that included an introduction written by Harvard University human rights professor Sarah Sewall. Sewall wrote that the new manual "heartily embraces a traditional . . . British method of fighting insurgency" and was "based on principles learned during Britain's early period of imperial policing and relearned during responses to twentieth-century independence struggles in Malaya and Kenya."[5] The manual was also the subject of a glowing *New York Times* book review written by prominent human rights advocate Samantha Power. Scholars, security analysts, and policymakers across the political spectrum believed that the new field manual offered a viable alternative approach to the intractable problems facing American policymakers in Iraq and Afghanistan.[6] Counterinsurgency—or "COIN"—became a fashionable policy buzzword in Washington as the idea of British "exceptionalism" rapidly gained favor within both defense and human rights policy circles.[7]

But in actuality, Britain's post-1945 counterinsurgency campaigns involved a heavy dose of brutality and coercion against combatants and non-combatants alike.[8] Against the Mau Mau in Kenya, British forces detained almost the entire Kikuyu population in a "gulag" system, depriving them of basic rights and subjecting them to physical and psychological abuse. When the International Committee of the Red Cross attempted to intervene, the

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[5] Sarah Sewall. "Introduction to the University of Chicago Press Edition," in U.S. Army and Marine Corps. *Counterinsurgency Field Manual*. Chicago, IL: University of Chicago Press, 2007. xxiv. In fairness to Sewall, however, she recognizes that "Britain sanctioned tactics that would not pass moral muster today" such as the limitation of food rations (starvation), forced relocation of civilians, and torture. See p. xxxiv.

[6] Samantha Power. "Our War on Terror." *The New York Times*, July 29, 2007. Also see Tom Hayden, "Samantha Power Goes to War," *The Nation*, March 30, 2011. For another perspective on counterinsurgency as a "new approach" to the war in Iraq, see Sarah Sewall, "He Wrote the Book. Can He Follow It?" *The Washington Post*, February 25, 2007. http://www.washingtonpost.com/wp-dyn/content/article/2007/02/23/AR2007022301741.html. Accessed March 17, 2014.

[7] See Cassidy, *Counterinsurgency and the Global War on Terror*; Nagl, *Learning to Eat Soup with a Knife: Counterinsurgency Lessons from Malaya and Vietnam*.

[8] See David H. Ucko and Robert Egnell, *Counterinsurgency in Crisis: Britain and the Challenges of Modern Warfare* (New York, NY: Columbia University Press, 2013) for a critique of the British Army's contemporary, mythologized views of its counterinsurgency expertise.

colonial government refused to admit Red Cross delegates into the colony until 1957, when the tide of the war had turned decisively in favor of the British. Colonial authorities also manipulated the judicial system by changing rules of evidence and expanding the range of crimes that qualified for capital punishment. Ultimately, the government executed 1,090 Kenyans for emergency-related offenses during the conflict, often with little evidence of guilt.[9] Torture, forced relocation, collective punishment, and other forms of coercion also occurred or were alleged to have occurred during other colonial conflicts between 1945-1967 such as the emergencies in Palestine, Malaya, Cyprus, Nyasaland, and Aden.[10]

The terror and brutality of these wars stand in marked contrast to values that formed the core of the post-1945 edifice of international order. Supported by Western powers including the United States and United Kingdom, the post-Second World War world was supposedly built on foundations of international law, justice, liberty, and equality. Ideas of "collective security," "self-determination," and "human rights" received significant attention in international politics immediately following the Second World War.[11] But this postwar

[9] David Anderson, *Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire* (W. W. Norton & Company, 2005); Huw Bennett, *Fighting the Mau Mau: The British Army and Counter-Insurgency in the Kenya Emergency* (Cambridge University Press, 2012); Caroline Elkins, *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya* (Macmillan, 2005); Fabian Klose, *Human Rights in the Shadow of Colonial Violence: The Wars of Independence in Kenya and Algeria* (Philadelphia: University of Pennsylvania Press, 2013).

[10] Caroline Elkins, "Archives, Intelligence and Secrecy: The Cold War and the End of the British Empire," in *Decolonization and the Cold War: Negotiating Independence* (London: Bloomsbury, 2015).; David French, *The British Way in Counter-Insurgency, 1945-1967* (Oxford: Oxford University Press, 2011); John Newsinger, *British Counterinsurgency: From Palestine to Northern Ireland*, 2nd ed. (Palgrave Macmillan, 2015); Martin Thomas and Gareth Curless, eds., *Decolonization and Conflict: Colonial Comparisons and Legacies* (London: Bloomsbury, 2016).

[11] For discussion of many varieties of "internationalisms" on offer during the twentieth century, see Erez Manela, *The Wilsonian Moment: Self-Determination and the International Origins of Anticolonial Nationalism* (New York: Oxford University Press, 2007); Elizabeth Borgwardt, *A New Deal for the World: America's Vision for Human Rights* (Cambridge, MA: Harvard University Press, 2007); Mark Mazower, *Governing the World: The History of an Idea* (New York: Penguin, 2012); *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton: Princeton University Press, 2009); Paul M Kennedy, *The Parliament of Man: The Past, Present, and Future of the United Nations* (New York: Vintage Books, 2007). For a sharp critique of the post-1945 international rights regime's effectiveness, see Samuel Moyn, *The Last Utopia: Human Rights in History* (Harvard University Press, 2010).

vision emerged alongside growing Cold War tensions and violent contestations over colonial rule. The post-1945 world was supposed to function according to an international politics of "rights," yet these rights appeared to have been demonstrably absent during Britain's counterinsurgency wars.

This study explores the paradox of an international politics meant to advance rights and freedoms coexisting alongside the simultaneous employment of systematic, brutal counterinsurgency methods. No matter how much they may have wished, human rights activists did not impose a set of international rights norms grounded in a common vision of humanity on British counterinsurgency campaigns. But rights activism was far from irrelevant to counterinsurgency operations. Human rights formed the basis of political claims and counter-claims that tangibly affected military decisions. In this context, rights activism shaped British operational choices. Rights activists sought to expose British forces' brutal treatment of detainees during interrogation and the use of violence against civilians, but British officials shielded their abuses from scrutiny by maintaining a façade of restraint and respectability. Although British forces often succeeded in preventing activists from achieving their objectives, rights activism forced government officials and military commanders to develop new tactics for hiding human rights abuses. British forces developed effective countermeasures by manipulating the law to their advantage, attacking the credibility of their accusers, and limiting the scope of official inquiries to keep knowledge of abuses out of public view. It was not until after the Northern Ireland "Troubles" began in 1969 that rights activists succeeded in generating a sustained public debate over issues such as detention without trial and torture during interrogation. Rather than abandon brutal methods, British forces developed dynamic responses to shield these increasingly unpopular practices from public knowledge.

Although rights activism occurred in many post-1945 counterinsurgency campaigns, this study examines three conflicts—Cyprus from 1955-59, Aden from 1962-67, and the Northern Ireland "Troubles" from 1969 to the early 1980s. In each of these conflicts, rights issues emerged as a significant dimension of the war because of activists' efforts and international organizations. Rights activists came in many forms, but the British government and security forces were the most frequent and consistent targets. Rights-based advocacy lay at the heart of activists' agendas. Some, like the Greek Cypriot legal elite and some Northern Irish civil society groups, were committed to one belligerent side or another. Other groups, such as the International Committee of the Red Cross (ICRC), strove to alleviate the suffering of vulnerable populations through the provision of humanitarian aid or, like Amnesty International (AI) in Aden, advocated for some form of civil and social justice. Organizations such as the ICRC and AI not only helped civilians, but also worked to improve conditions for captured combatants.

The Cyprus, Aden, and Northern Ireland cases also reveal that common trends in the relationship between rights activism and British counterinsurgency warfare persisted in different circumstances. The Cyprus Emergency occurred from 1955-59—a time when Britain was deeply engaged with large-scale counterinsurgencies in Malaya (1948-60) and Kenya (1952-60). This period marked the height of the colonial counterinsurgency era, as British forces contended with three simultaneous, large-scale insurgencies. Nor was Britain alone in combating the forces of anticolonial rebellion. Other European powers also waged major counterinsurgency campaigns during the 1950s, most notably the French wars in Indochina (1946-54) and Algeria (1954-62). The 1950s were therefore a particularly intense period of colonial counterinsurgency warfare.[12]

[12] For recent studies on the violent end of empire, see Christopher Bayly and Tim Harper, *Forgotten Wars: Freedom and Revolution in Southeast Asia* (Cambridge, Mass.: Belknap Press, 2010) and Martin Thomas, *Fight or Flight: Britain, France, and Their Roads from Empire* (Oxford, UK: Oxford University Press, 2014).

By the time of the 1963-67 Aden Emergency, most British wars of decolonization had ended. Prime Minister Harold Macmillan's 1960 "Wind of Change" speech in Cape Town, South Africa, signaled his desire to avoid anticolonial wars whenever possible by proceeding quickly with decolonization. By the mid-1960s, the British Empire was rapidly contracting. Britain had lost many of its most profitable colonies to independence and was actively—and often chaotically—seeking to decolonize its remaining African colonies. Anticolonial nationalism was ascendant. The war in Aden came to symbolize the end of the imperial era as the so-called "Last Post" of the British Empire.[13] In January 1968, as British troops withdrew from Aden, Prime Minister Harold Wilson announced a full-scale strategic withdrawal from areas "east of Suez." For many, this decision marked the end of Britain's position as a global imperial power.[14]

Pushing the temporal scope of this study beyond the end of the Aden Emergency in 1967 creates an opportunity to analyze the impact of rights activism on counterinsurgency warfare in a another context—a war waged within the United Kingdom, but in a region of the UK bearing a distinctive colony-like legacy. The Northern Ireland "Troubles" formally lasted from 1969-1998, but the British military operation in Northern Ireland—Operation Banner—lasted until 2007. Operation Banner was the longest single military operation in British

[13] See, for instance, Julian Paget, *Last Post: Aden 1964-67* (London: Faber & Faber, 1969). Aden gained a reputation as the empire's "Last Post," but Britain retained sovereignty over several Caribbean and Pacific island territories into the 1970s-1980s and transferred Hong Kong to China in 1997.

[14] Scholars have traditionally marked the Aden conflict as Britain's last war for empire. David French follows this approach in his comprehensive study of post-1945 colonial counterinsurgency campaigns. For example, French includes the 1958-59 Oman campaign, but not the 1962-76 Dhofar Rebellion, which is not typically categorized as a decolonization war. See French, *The British Way in Counter-Insurgency, 1945-1967.* Other studies have located the supposed "end of empire" at approximately 1970. See, for instance, John Darwin, *The Empire Project: The Rise and Fall of the British World-System, 1830-1970* (Cambridge, UK: Cambridge University Press, 2009); Bernard Porter, *The Lion's Share: A Short History of British Imperialism, 1850-1970* (New York, NY: Longman, 1975).

history.[15] Although it has officially ended, in many ways the issues at the heart of the Troubles remain relevant and unsettled today.

An analysis of these three cases also reveals the extent to which British racism influenced counterinsurgency violence. Racism played a central role in the creation and maintenance of imperial systems of rule. But the different racial contexts of Cyprus, Aden, and Northern Ireland and the similarities in British counterinsurgency practices across these three locations suggest that while racism certainly influenced British attitudes, racism alone cannot explain the violence visited upon civilian populations during counterinsurgency wars. In Cyprus, British forces fought white European Greek Orthodox Christians. Aden was a predominantly Arab, Muslim colony with a large minority of South Asians and a small community of white settlers. Although part of the UK, many British officials drew a distinction between "Britishness" and "Irishness" with regard to Northern Ireland. Northern Irish, notwithstanding their political opinions or religious preferences, fell into the latter category. But the Irish were also seen as a white Western European people, unlike Arabs and the "Mediterranean" Greek Cypriots.[16] Regardless of racial attitudes toward the local population, British forces employed remarkably similar techniques.[17] Racism therefore could be said to have influenced counterinsurgency violence, but it cannot alone account for the brutality which characterized many British campaigns.

Counterinsurgency practitioners have long recognized the importance of protecting and winning the support of the civil population.[18] But both military historians and historians

[15] For the army's official history, see Ministry of Defence. "Operation Banner: An Analysis of Military Operations in Northern Ireland," London, UK: HMSO, 2006.

[16] Peter Neumann, *Britain's Long War: British Strategy in the Northern Ireland Conflict, 1969-98* (Basingstoke: Palgrave Macmillan, 2003), 17–21.

[17] French, *The British Way in Counter-Insurgency, 1945-1967*.

[18] For a good example of a practitioner's "best practices," see Robert Thompson, *Defeating Communist Insurgency: The Lessons of Malaya and Vietnam* (New York, NY: Praeger, 1966).

of human rights have largely ignored the role of rights activists in shaping wartime policies and practices. Focusing the analytical lens on activists and the officials with whom they interacted places rights activists on the counterinsurgency "battlefield"—not as traditional arms-bearing combatants, but as actors who nonetheless influenced the conduct of war by shaping public opinion and military choices. But what, exactly, did this battlefield look like?

Counterinsurgency and the Post-1945 World

The counterinsurgency battlefield of the postwar world was rapidly changing. The Cyprus, Aden, and Northern Ireland conflicts occurred within the context of postwar transformations in British society, challenges to Britain's great power status, the emergence of the Cold War, and the collapse of European empires. The Second World War had shifted British domestic politics toward social democratic policies associated with the Labour Party. The 1942 Beveridge Report outlined a platform built on social services that sought to abolish poverty through a "cradle to grave" welfare state. After winning the 1945 general election, the Labour Party under Clement Attlee instituted social reforms to reduce poverty and unemployment, rebuild and improve housing, provide universal health care, and improve access to education. Britain was heavily in debt and had suffered immense destruction from German bombing raids throughout the war—postwar Britain was desperately in need of reconstruction. But the new Labour government also remained committed to maintaining the UK's status as a world power. After 1945 Britain extended military conscription into peacetime, developed the atomic bomb, took a permanent seat on the United Nations Security Council, and continued to cultivate close ties with the United States.[19]

[19] For an overview of the challenges facing postwar Britain, see Paul Addison, *The Road to 1945: British Politics and the Second World War* (London: Pimlico, 1994); Peter Clarke, *Hope and Glory: Britain, 1900-2000* (New York, N.Y.: Penguin, 2004); David Childs, *Britain since 1945: A Political History* (New York: Routledge, 2012); David Reynolds, *Britannia Overruled: British Policy and World Power in the Twentieth Century* (New York: Longman, 2000). For the European postwar experience more broadly, see Tony Judt, *Postwar: A History of Europe Since 1945* (New York: Penguin, 2006).

After World War II, tensions between the victorious Allies led to the emergence of the Cold War. According to historian Carole Fink, the Cold War became "a messianic contest" in which each side espoused a certain set of values.[20] The Soviet Union cast itself as a revolutionary regime seeking liberation from political and economic exploitation and oppression, whereas the Western powers—particularly the United States—advanced an ideology grounded in free capitalist economic competition and individual political liberty.[21]

Although the Western powers espoused principles of political liberty, democracy, and free markets, they also perpetuated European rule over colonized peoples—a pattern that did not align with these stated values. For example, colonial interests heavily influenced the structure and function of the United Nations—the institution which lay at the heart of the supposed new world order based on international freedom and justice. Jan Smuts, the prominent South African statesman and vocal proponent of white racial superiority, played a significant role in the creation of the United Nations and wrote the preamble to the UN Charter. Smuts saw the new organization as a means of ensuring white dominance in Africa through the continuation of the British Empire's "civilizing mission." The United Nations was, to Smuts, a means of buttressing empire rather than a path toward dismantling it.[22] Smuts' vision contrasted sharply with the aspirations of many subject peoples. Postwar anticolonial resistance movements adopted a range of ideologies, from the socialism of Indian President Jawaharlal Nehru and Indonesian President Sukarno as an alternative to colonial exploitation, to Syngman Rhee's embrace of capitalism as a force of development

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[20] Carole Fink, *Cold War: An International History*, 2014, 2.

[21] The literature on the Cold War is vast, but for an overview of recent works, see John Lewis Gaddis, *The Cold War: A New History* (New York: Penguin Press, 2005); Melvyn P. Leffler, *For the Soul of Mankind: The United States, the Soviet Union, and the Cold War* (Macmillan, 2008); Fink, *Cold War*; Odd Arne Westad, *The Global Cold War: Third World Interventions and the Making of Our Times* (Cambridge: Cambridge University Press, 2007); Vladislav M. Zubok, *Failed Empire: The Soviet Union in the Cold War from Stalin to Gorbachev* (Univ of North Carolina Press, 2009).

[22] Mazower, *No Enchanted Palace*, 28–65.

and modernization. Others, most notably Frantz Fanon, advocated for the use of violence as a legitimate response to colonial oppression.[23] Violent resistance to empire proliferated as colonial powers attempted to reassert their authority in the aftermath of the Second World War.[24] The creation of a Non-Aligned Movement at the 1955 Bandung Conference reinforced a sense of community and solidarity among newly independent "Third World" states. Many leaders of postcolonial states sought to reinforce their independence, reduce their dependence on "outside forces," and strengthen the norm of self-determination and equality of sovereign states.[25] It was in this complex context of Cold War confrontation and anticolonial struggle that the myth of British counterinsurgency "exceptionalism" was born.

Sir Robert Thompson's 1966 book *Defeating Communist Insurgency* represents the mythologized British approach to counterinsurgency. He advocated restricting violence to the minimum amount of force necessary and promoted political legitimacy by requiring colonial security forces to obey the "rule of law." Thompson's argument reflected an analysis of historical events from which he determined "best practices" for conducting counterinsurgency.[26] He did not write the book as a history of British counterinsurgency, but it contributed to the emergence of a historiography that presumed the professed liberality and humanity of British doctrine corresponded with actual wartime practices. In the 1980s, as the British government began declassifying official documents from the decolonization era, military historians turned their attention to counterinsurgency. Early studies supported the

[23] Frantz Fanon, *The Wretched of the Earth* (New York: Grove Press, 2004).

[24] For two excellent histories of the violent end of empire, see Bayly and Harper, *Forgotten Wars*; Thomas, *Fight or Flight: Britain, France, and Their Roads from Empire*.

[25] See Chapter 3 in Westad, *The Global Cold War* as well as Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton: Princeton University Press, 2011) and Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (Berkeley: University of California Press, 2005).

[26] Thompson, *Defeating Communist Insurgency: The Lessons of Malaya and Vietnam*.

belief that British forces consciously conducted counterinsurgency by obeying a given colony's local laws and minimizing the use of force. This understanding contributed to the notion that the British waged "clean" campaigns whereas the French, Portuguese, and Belgians fought "dirty wars" in Algeria, Indochina, Angola, and the Congo. Comparison of the British experience with that of other European powers generated the idea of British "exceptionalism"—that is, Britain's supposed ability to defeat insurgencies through minimum force, the rule of law, and political legitimacy rather than repression and coercion.[27]

Since those early studies, revisionist scholars have convincingly overturned the notion of British exceptionalism by demonstrating that Britain actually waged extremely violent and repressive campaigns that failed to live up to the benign claims of practitioners like Thompson. These historians have recast the British counterinsurgency narrative to reveal the consistent and pervasive application of coercion, repression, torture, forced relocation, broad rules of engagement, and draconian laws. Although British Security Forces largely obeyed colonial governments' emergency regulations, these laws routinely permitted a wide range of repression from population control measures such as food rationing to open-ended rules of engagement in which British soldiers could shoot any curfew violator who failed to stop when hailed. Under emergency regulations, "rule of law" proved quite severe.[28] These scholars' research findings and expert testimony supported a case in Britain's High Court in

[27] Thomas Mockaitis, *British Counterinsurgency, 1919-60* (Macmillan, 1990). Some recent scholarship has echoed Mockaitis's earlier views despite the wave of revisionist historiography produced since 2002. For example, see Victoria Nolan, *Military Leadership and Counterinsurgency: The British Army and Small War Strategy since World War II.* London: I.B. Tauris, 2012 and Huw Bennett's review of it in the *Journal of Military History*, Vol. 76, No. 4, October 2012, 1294-96. For more on the British counterinsurgency debate, see Huw Bennett, "Minimum Force in British Counterinsurgency," *Small Wars & Insurgencies* 21, no. 3 (2010): 459-475; Thomas Mockaitis, "The Minimum Force Debate: Contemporary Sensibilities Meet Imperial Practice," *Small Wars & Insurgencies* 23, no. 4–5 (2012): 762–80; David Martin Jones and M.L.R. Smith, "Myth and the Small War Tradition: Reassessing the Discourse of British Counterinsurgency," *Small Wars & Insurgencies* 24, no. 3 (2013): 436–64; Andrew Mumford, *The Counter-Insurgency Myth: The British Experience of Irregular Warfare* (Routledge, 2012); Porch, *Counterinsurgency: Exposing the Myths of the New Way of War*.

[28] Anderson, *Histories of the Hanged*; Bennett, *Fighting the Mau Mau*; Elkins, *Imperial Reckoning*; French, *The British Way in Counter-Insurgency, 1945-1967*; Newsinger, *British Counterinsurgency*.

which several Kenyans, formerly held prisoner during the war, filed a lawsuit against the British government alleging that British authorities had tortured them. Three historians—David Anderson, Huw Bennett, and Caroline Elkins—testified as expert witnesses. Their testimony contributed to the High Court's October 2012 decision to allow the case to go to trial.[29]

The work of these new historians gained further momentum after the "discovery" of a large collection of colonial era documents held by the Foreign and Commonwealth Office (FCO). The facility housed approximately 1.2 million files that had been missing from the National Archives. Rather than being deposited in the National Archives at Kew, the FCO had retained the documents at its Hanslope Park facility. The Hanslope Park archive's existence should have been declared after the passage of the UK Freedom of Information Act in 2000. Instead, it remained secret until April 2011, when the FCO faced judicial pressure to acknowledge what had happened to the files. Many of the documents held at this previously undisclosed archive should have been declassified under Britain's Public Record Act, in which government documents are reviewed for public release 30 years after their creation. Many of these documents were also of strategic importance during the Cold War, as they addressed security matters such as intelligence reports on prominent political figures in former colonies. The Hanslope Park archive's existence raised questions over the extent to which the British government had accounted for the "dark side" of decolonization.[30]

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[29] BBC News, "Mau Mau uprising: Kenyans win UK torture ruling." http://www.bbc.co.uk/news/uk-19843719. October 5, 2012. Accessed December 6, 2012. Several Malaysians also sought an inquiry into an alleged massacre during the Malayan Emergency, but the High Court rejected their appeals. See Richard Norton-Taylor, "Relatives lose court case for inquiry into 1948 Malaya 'massacre.'" *The Guardian*. September 4, 2012. http://www.guardian.co.uk/world/2012/sep/04/relatives-lose-inquiry-malay-massacre. Accessed December 6, 2012.

[30] David Anderson, "Mau Mau in the High Court and the 'Lost' British Empire Archives: Colonial Conspiracy, or Bureaucratic Bungle?," *The Journal of Imperial and Commonwealth History* 39, no. 5 (2011): 699–716; Caroline Elkins, "Alchemy of Evidence: Mau Mau, the British Empire, and the High Court of Justice," *The Journal of Imperial and Commonwealth History* 39, no. 5 (2011): 731–48.

According to historian Richard Drayton, "the root of these practices of secrecy appears to be a perverse kind of historical narcissism, a desire for a Whiggish gaze into an unblemished national past."[31] Laws such as the Public Record Act were enacted to curb the potential for government abuses of power. Many scholars criticized the government's failure to release official documents when legally required because such actions can undermine the transparency with which democracies are supposed to operate.[32]

The implications of historians' work on British counterinsurgency extend beyond historical questions regarding the nature of the end of empire. Past counterinsurgency practices have shaped contemporary military debates while citizens of former colonies cope with the legacies of decolonization. Rights took on a renewed importance in international discourses after the Second World War, as the creation of the United Nations and the promulgation of the Universal Declaration of Human Rights (UDHR) seemed to usher in an era in which international relations would be regulated through principles of equality, justice, and rights. This "new" international order was one articulation of many secular, utopian "internationalisms." It shared with its earlier incarnations the common desire to build a better future for humanity.[33]

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[31] Richard Drayton, "The Foreign Office Secretly Hoarded 1.2m Files. It's Historical Narcissism," *The Guardian*, October 27, 2013, http://www.theguardian.com/commentisfree/2013/oct/27/uk-foreign-office-secret-files. Accessed August 14, 2015.

[32] Newly released documents from the Hanslope Park archive form a vital source base for this study. Other recently available documents are also included. In June 2015, the International Committee of the Red Cross publicly released archival material from 1966-75. Several underutilized collections of personal papers, such as those of Amnesty International co-founder Eric Baker and Aden land forces commander Major General Sir John Willoughby, also provide valuable insight.

[33] Mazower, *Governing the World*. The historiography of pre-1945 rights concepts is vast and includes early articulations of the law of nations, the rise of legal philosophies of natural rights and legal positivism, and the relationships between international law, civilization, and imperialism. For a small sampling of the literature see Geoffrey Best, *Humanity in Warfare* (London: Wiedenfeld and Nicolson, 1980); Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (New York: Oxford University Press, 2000); Stephen Neff, *Justice Among Nations: A History of International Law* (Cambridge, MA: Harvard University Press, 2014); Stephen Neff, *War and the Law of Nations: A General History* (Cambridge: Cambridge University Press, 2008); Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870-1960* (Cambridge, UK: Cambridge University Press, 2002).

Human Rights in Context

Historians have created a thicket of competing interpretations surrounding the history of human rights. Many scholars adopt a triumphalist view of the origins of human rights, describing a story of steady progress from Enlightenment ideals toward the global realization of an ever-expanding international human rights regime.[34] A more circumspect perspective, which seeks to return agency and contingency to a deterministic literature, explains the emergence of human rights as a social movement that rose to prominence only after other utopian projects failed.[35]

In addition to debates over the rise of human rights, scholars disagree over when "human rights," as such, originated. The post-1945 era looms large in the origins debate. One group of scholars sees the post-1945 creation of the United Nations and proclamation of the Universal Declaration of Human Rights as the key moment in the emergence of international human rights norms and laws.[36] Another group finds the origins of contemporary human rights in the 1970s because the 1970s marked social movements' first widespread adoption of human rights rhetoric. Governments also linked human rights with foreign policy objectives. This dynamic was especially true of the United States under President Jimmy Carter. Rights rhetoric also shaped the course of the Cold War through the "moralization of dissent" among Eastern Bloc dissidents.[37]

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[34] Lynn Hunt, *Inventing Human Rights: A History* (New York, NY: W. W. Norton & Company, 2007); Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era* (Berkeley: University of California Press, 2004); Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (University of Pennsylvania Press, 1998).

[35] Moyn, *The Last Utopia*.

[36] Borgwardt, *A New Deal for the World: America's Vision for Human Rights*; Lauren, *The Evolution of International Human Rights*; Ishay, *The History of Human Rights*.

[37] Stefan-Ludwig Hoffmann, ed., *Human Rights in the Twentieth Century* (Cambridge, UK: Cambridge University Press, 2010); Barbara Keys, *Reclaiming American Virtue: The Human Rights Revolution of the 1970s* (Cambridge, MA: Harvard University Press, 2014); Moyn, *The Last Utopia*, 166.

Historians also argue over what "human rights" constitute. Samuel Moyn insists that the concept of human rights applies only to notions of universal individual rights that transcend the nation-state—an idea which gained prominence beginning in the 1970s. Civil and political rights accorded to citizens by virtue of their membership in the state therefore do not count as "human rights." This understanding may accurately describe the emergence of contemporary international human rights ideas in Europe and the United States, but various conceptions of rights have coexisted throughout the twentieth century. Bruno Cabanes locates the emergence of "humanitarian rights" in the aftermath of World War I. Humanitarianism is the moral sentiment to alleviate human suffering because of a shared sense of humanity. As such, humanitarianism is not necessarily political, but Cabanes engages the political effects of actions motivated by moral sensibilities. Activists, he argues, asserted that various groups of sufferers—from starving children to disabled veterans—had the right to receive care and assistance because of their common humanity.[38] But Moyn does not include group rights claims in his conceptualization of "human rights."[39] Likewise, he excludes anticolonial movements seeking national self-determination based on the concept of the equality of peoples from his paradigm of human rights.[40]

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[38] Bruno Cabanes, *The Great War and the Origins of Humanitarianism, 1918-1924* (Cambridge, UK: Cambridge University Press, 2014); for more on the conceptual entanglement of humanitarianism and human rights, see Michael Geyer, "Humanitarianism and Human Rights: A Troubled Rapport," in Fabian Klose, ed., *The Emergence of Humanitarian Intervention: Ideas and Practice from the Nineteenth Century to the Present*. (Cambridge, UK: Cambridge University Press, 2015), 31-55. For an analysis of how compassion and empathy generate political ramifications, see Didier Fassin, *Humanitarian Reason: A Moral History of the Present* (Berkeley, CA: University of California Press, 2012), x-xi. On humanitarian practices based on the notion of a common humanity, see Fabian Klose and Mirjam Thulin, eds., Humanity: A History of European Concepts in Practice (Göttingen: Vandenhoeck & Ruprecht 2016).

[39] Carole Fink, *Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection, 1878-1938* (Cambridge, UK: Cambridge University Press, 2004); Mazower, *Governing the World*; Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (New York: Oxford University Press, 2015).

[40] Moyn, *The Last Utopia*, 106–109.

In contrast to Moyn's insistence that anticolonial nationalists in pursuit of self-determination were a separate phenomenon from the human rights movement, other scholars have adopted a broader view which incorporates both group and individual rights. This approach has also connected human rights with anticolonial nationalism and the Cold War.[41] For instance, international human rights discourses played an important role in defining anticolonial struggles in Algeria and Kenya during the 1950s. Algerian insurgents' efforts in publicizing the French military's widespread use of torture and public controversy in the UK over the Kenya Hola Camp massacre ensured that both conflicts became synonymous with brutality.[42] Opposition to racism and a commitment to the equality of all peoples motivated organizations such as Britain's Movement for Colonial Freedom to support anticolonial causes.[43] Unanticipated links between European regional politics and the end of empire also emerged. The European Convention of Human Rights, which became a focal point for anticolonial politics during the Cyprus Emergency, had its origins in a politically conservative Western European desire for Cold War unity—at least of a rhetorical kind—in the face of the communist challenge.[44]

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[41] On the international history of self-determination and its relationship with human rights, see Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia: University of Pennsylvania Press, 2011); Manela, *The Wilsonian Moment: Self-Determination and the International Origins of Anticolonial Nationalism*; Brad Simpson, "'The First Right': The Carter Administration, Indonesia, and the Transnational Human Rights Politics of the 1970s," in Iriye, Goedde, and Hitchcock, eds., *The Human Rights Revolution: An International History* (Oxford, UK: Oxford University Press, 2012); Eric Weitz, "Self-Determination: How a German Enlightenment Idea Became The Slogan of National Liberation and a Human Right," *American Historical Review* 120, no. 2 (2015): 462–96; and Eric D. Weitz, "From the Vienna to the Paris System: International Politics and the Entangled Histories of Human Rights, Forced Deportations, and Civilizing Missions," *The American Historical Review* 113, no. 5 (December 1, 2008): 1313–43.

[42] Matthew Connelly, *A Diplomatic Revolution: Algeria's Fight for Independence and the Origins of the Post-Cold War Era* (New York, NY: Oxford University Press, 2002); Klose, *Human Rights in the Shadow of Colonial Violence*.

[43] Stephen Howe, *Anticolonialism in British Politics: The Left and the End of Empire, 1918-1964* (Oxford, UK: Clarendon Press, 1993). Postwar politics of antiracism drew on ideas circulating during and before the 1930s. See Susan Pennybacker, *From Scottsboro to Munich: Race and Political Culture in 1930s Britain* (Princeton, NJ: Princeton University Press, 2009).

[44] Mikael Rask Madsen, "'Legal Diplomacy' - Law, Politics and the Genesis of Postwar European Human Rights," in Stefan-Ludwig Hoffmann, ed. *Human Rights in the Twentieth Century* (Cambridge, UK: Cambridge

During the 1950s and 1960s, processes of decolonization exerted a profound impact on the UN human rights agenda. As former colonies gained independence, they formed an increasingly numerous and influential voting bloc in the UN General Assembly.[45] UN debates over self-determination and human rights merged as "Third World" postcolonial states spearheaded an effort which resulted in recognition of the right to national self-determination. In 1960, self-determination became a kind of "first right," enshrined in Article 1 of the UN Declaration on the Granting of Independence to Colonial Countries and Peoples.[46]

Anticolonial nationalists' claims for the right to sovereign statehood rested on the moral universalism of human rights, which anticolonial nationalists used to make political claims against their colonial adversaries. African nationalists such as Tanganyika's Julius Nyerere argued that colonial powers' denial of self-determination prevented colonized peoples from achieving the degree of human dignity inherent in the Universal Declaration of Human Rights. Once in power, many anticolonial nationalists jettisoned human rights ideals when it was no longer convenient for them to follow the Universal Declaration.[47] Anticolonial actors also used human rights rhetoric to highlight colonial hypocrisy in warfare. International humanitarian law and the establishment of a European human rights regime conflicted with the realities of brutal colonial counterinsurgency campaigns. In Algeria, the insurgent *Front de Libération Nationale* (FLN) ordered its fighters to obey the 1949 Geneva

University Press, 2011); Marco Duranti, "Conservatism, Christian Democracy and the European Human Rights Project: 1945-1950" (Dissertation, Yale University, 2009).

[45] Burke, *Decolonization and the Evolution of International Human Rights*.

[46] "'The First Right': The Carter Administration, Indonesia, and the Transnational Human Rights Politics of the 1970s," in Iriye, Goedde, and Hitchcock, *The Human Rights Revolution*. Also see Steven L.B. Jensen, *The Making of International Human Rights: The 1960s, Decolonization, and the Reconstruction of Global Values* (Cambridge, UK: Cambridge University Press, 2016).

[47] Andreas Eckert, "African Nationalists and Human Rights, 1940s-1970s," in Hoffmann, ed., *Human Rights in the Twentieth Century* (Cambridge, UK: Cambridge University Press, 2010), 283–300.

Conventions at a time when the French Army refused to accept that the Geneva Conventions applied to colonial wars. In Kenya, the Mau Mau adopted "Rules of Conduct" on January 4, 1954 which prohibited killing children, raping women, and attacking hospitals or schools.[48] Greek Cypriots, too, turned human rights concepts against the colonizers who professed to uphold such values.

Rights appeals often derived from international law, but formal international legal mechanisms and informal norms concerning war changed over time. In Europe, legal constraints on war emerged through medieval Christian notions of "just war." Just war took two forms—*jus ad bellum*, which held that the reasons for going to war must be just, and *jus in bello*, which articulated acceptable methods of waging war.[49] During the eighteenth century, a consensus emerged among lawyers, theologians, and statesmen which recognized the necessity of waging war while also accepting the need to limit war's destructive effects on humanity. This "Enlightenment Consensus" laid the foundations for the nineteenth and early twentieth century promulgation of two legal approaches to war.[50] The creation of the International Red Cross Society and the 1864 signing of the first Geneva Convention on the protection of the sick and wounded reflected a desire to alleviate the suffering of war victims and formed the basis for contemporary international humanitarian law. Through the 1899 and 1907 Hague Conventions, the second approach to emerge from the "Enlightenment Consensus," governments sought to restrain the conduct of war by banning or restricting the use of certain weapons and military practices.[51] This consensus, however, had its limits.

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[48] Fabian Klose, "The Colonial Testing Ground: The International Committee of the Red Cross and the Violent End of Empire," *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 2, no. 1 (Spring 2011): 107–27.

[49] Michael Howard, "Constraints on Warfare," in Michael Howard, George Andreopoulos, and Mark Shulman, eds., *The Laws of War: Constraints on Warfare in the Western World* (New Haven; London: Yale University Press, 1994), 1-11.

[50] Best, *Humanity in Warfare*, 33–53.

[51] Howard, "Constraints on Warfare," in Howard, Andreopoulos, and Shulman, eds., *Laws of War*, 6.

European legal restraints on warfare often did not apply to non-European peoples. During colonial wars, reprisals, punitive measures, and terror remained common methods for subduing supposedly "uncivilized" peoples.[52]

The unprecedented devastation of the First and Second World Wars shattered existing constraints on warfare and inspired renewed efforts to restrain violence. After the First World War, the victorious great powers attempted to build a peaceful international system on the basis of collective security. The establishment of the League of Nations was supposed to promote international cooperation.[53] Violators of international law could face punishment, but only through reparations, according to the Hague Conventions. After World War II, however, postwar international war crimes tribunals in Germany and Japan reflected a new approach to international law by holding individuals accountable for state violence.[54] Led by lawyers such as Raphael Lemkin, the UN further codified international law with the 1948 Genocide Convention, which formally prohibited the extermination of peoples based on their group identity.[55] Protections for war sufferers and victims of violence were also strengthened through the 1949 Geneva Conventions, which established protections for civilians and strengthened provisions concerning prisoners, wounded soldiers, and the sick.[56]

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[52] French, *The British Way in Counter-Insurgency, 1945-1967*, 74–138.

[53] On the interwar history of international peace and security, see Patrick Cohrs, *The Unfinished Peace after World War I: America, Britain and the Stabilisation of Europe, 1919-1932* (Cambridge, UK: Cambridge University Press, 2006); Sally Marks, *The Illusion of Peace: International Relations in Europe, 1918-1933* (New York, NY: St. Martin's Press, 1976); Pedersen, *The Guardians: The League of Nations and the Crisis of Empire*; and Zara Steiner, *The Lights That Failed: European International History, 1919-1933* (New York, NY: Oxford University Press, 2005).

[54] Geoffrey Best, *War and Law since 1945* (Oxford: Clarendon Press, 1994); Kennedy, *The Parliament of Man*; Mazower, *Governing the World*.

[55] The Genocide Convention emerged as a shell of its original form, having lost many of its strongest provisions in exchange for coming into existence at all. See Pendas, "Toward World Law? Human Rights and the Failure of the Legalist Paradigm of War," in Hoffmann, ed., *Human Rights in the Twentieth Century*, 215–228.

[56] Best, *War and Law since 1945*.

The codification of international law did not necessarily translate into stronger enforcement measures. The International Committee of the Red Cross (ICRC) could not force states to comply with the Geneva Conventions, but instead had to negotiate with belligerents for access to war victims and permission to provide humanitarian assistance. As anticolonial nationalist rebellions erupted across the world, colonial powers claimed that the Geneva Conventions did not apply to these conflicts. The British government insisted that colonial wars were internal security matters despite the inclusion of a brief, watered-down reference in Common Article 3 of the 1949 Geneva Conventions which stipulated that in "non-international armed conflicts," non-combatants and prisoners must be treated humanely. In practice, delegates from the ICRC prioritized gaining access to war-torn areas and providing humanitarian assistance over debating the interpretation of what constituted a "non-international armed conflict." In response to colonial powers' efforts to deny the applicability of international law to anticolonial wars, national liberation movements invoked *jus ad bellum*: Their cause—that is, fulfillment of the right to self-determination—justified war.[57]

Although international legal initiatives remained stilted, Europe developed a regional human rights regime in the context of Cold War politics. The first binding agreement in European human rights law was the European Convention for the Protection of Human Rights and Fundamental Freedoms, often shortened to the "European Convention on Human Rights" or "ECHR." The European human rights regime emerged at a specific historical moment. From the mid-1940s to the late 1960s, European lawyers and diplomats did not perceive the spheres of law and politics—which were distinct, separate entities in domestic affairs—as separate entities in international relations. European human rights law therefore emerged as a kind of "legal diplomacy" which played out in a specifically European context.

[57] George Andreopoulos, "The Age of National Liberation Movements," in Howard, Andreopoulos, and Shulman, eds., *Laws of War*, 191-213; Neff, *War and the Law of Nations*, 314-356.

Whereas UN human rights instruments such as the Universal Declaration derived from universalist ideologies of peace and freedom, the European Convention was a response to the collapse of basic rights protections within European legal systems and the atrocities committed under Nazi occupation. As Cold War tensions heightened during the late 1940s, many anti-communist European statesmen and lawyers feared the threat of potential Soviet domination. For these leaders, the best way to prevent the emergence of future totalitarian regimes was through a binding, enforceable agreement that protected fundamental human rights within Western European states. Secondly, in Britain, influential statesmen such as Labour Foreign Secretary Ernest Bevin supported the notion of a pan-European human rights project due to their interest in closer European security cooperation.[58] Lastly, domestic politics shaped British involvement with the European Convention. Conservative Party members sympathized with staunch anti-communists in the Labour government, but wished to restrict the Convention's purview to civil and political rights as a means of limiting Labour's ability to use the Convention as a means to transform domestic social and economic rights. Signed in 1951, the Convention came into effect in 1953. In 1953, the British government extended the Convention to apply not only in the United Kingdom, but also to 42 dependencies including Cyprus.[59]

[58] Madsen, "Legal Diplomacy," in Hoffmann, ed., *Human Rights in the Twentieth Century*, 62-81.

[59] A. W. B. Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford University Press, 2001), 824–844. Despite the government's decision to support what Simpson calls an "export trade" in human rights, Colonial Office officials largely opposed the Convention, p.824. On the origins of the Convention, also see Marco Duranti, "Curbing Labour's Totalitarian Temptation: European Human Rights Law and British Postwar Politics," *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 3, no. 3 (2012): 361–83; Marco Duranti, "Conservatives and the European Convention on Human Rights," in Norbert Frei and Annette Weinke, eds., *Toward a New World Order Menschenrechtspolitik Und Volkerrecht Seit 1945* (Weimar: Wallstein Verlag, 2013), 82–93; Andrew Moravcsik, "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe," *International Organization* 54, no. 2 (2000): 217–52; Charles O.H Parkinson, *Bills of Rights and Decolonization: The Emergence of Domestic Human Rights Instruments in Britain's Overseas Territories* (Oxford, UK: Oxford University Press, 2007); A. W. B. Simpson, "Round Up the Usual Suspects: The Legacy of British Colonialism and the European Convention on Human Rights," *Loyola Law Review* 41, no. 4 (1996): 629–711.

Legal regimes are dynamic and produced through contestation and interaction, as are notions of human rights.[60] This study uses the idea of "human rights" as outlined in the 1948 Universal Declaration of Human Rights. The Universal Declaration classified rights according to three general categories: the integrity of the human being, political and civil liberties, and social and economic rights.[61] Considering that many activists and government officials referred to the Universal Declaration, this definition would have been familiar with historical actors living during the post-1945 period. Other scholars have also employed the same definition when examining the period.[62]

The use of the Universal Declaration's broad definition encompasses the various manifestations of rights ideas employed by diverse actors in different times and places. This approach allows for the recognition of processes in which human rights concepts are appropriated and translated in local contexts—a phenomenon that anthropologist Sally Engle Merry calls "vernacularization." According to Merry, vernacularization occurs as intermediaries—often human rights activists—articulate local experiences in language that will resonate with wider audiences. Rights activists therefore "translate" individual stories of injury or abuse into a broader human rights framework. Rights activists also "localize" human rights concepts by describing international norms and legal documents to victims of abuse. For example, Amnesty International helped to "vernacularize" human rights in Aden by categorizing individual detainee experiences with torture as human rights abuses while also helping torture victims understand their experience not only as an unjust instance of

[60] For example, see Lauren A Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400 - 1900* (Cambridge, UK: Cambridge University Press, 2001); Lauren A Benton and Ross, *Legal Pluralism and Empires, 1500-1850*, 2013.

[61] Universal Declaration of Human Rights, http://www.un.org/en/documents/udhr/ (accessed August 14, 2015).

[62] Sarah B. Snyder, *Human Rights Activism and the End of the Cold War: A Transnational History of the Helsinki Network* (New York: Cambridge University Press, 2011), 4–5.

British brutality, but as an internationally repugnant violation of widely held values. Activists connected local experiences with global human rights trends, thus creating a distinct, local "rights consciousness."[63]

This study focuses on the actions of rights activists and British officials while eschewing the need to artificially categorize various manifestations of "rights." To historian Bonny Ibhawoh, the problem with concepts of human rights "is largely one of ontology—of labels that we choose to designate ideas rather than the ideas that underlie the labels."[64] The labels that rights activists use are far less important than the ideas their activism embraced. In the 1950s, Greek Cypriot lawyers invoked the European Convention of Human Rights to protect detainees' civil and political rights. In the 1960s, the ICRC, aided by Amnesty International, asserted "humanitarian rights" when it requested that the British government permit the provision of humanitarian relief to refugees in the Radfan region north of Aden. Amnesty International, which perceived itself as a "human rights" group, acted on behalf of prisoners in Aden to prevent colonial authorities from committing torture. In the 1970s and 1980s, a variety of civil society organizations, political parties, Members of Parliament, and journalists vocally opposed brutal interrogation techniques and protested the use of riot control weapons in Northern Ireland in ways which violated the right to life. Activists in Cyprus, Aden, and Northern Ireland mobilized on the basis of a contested international politics of rights in which concepts of "individual," "group," "humanitarian," and "human" rights overlapped.[65]

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[63] Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago, IL: University of Chicago Press, 2006) and Merry, "Transnational Human Rights and Local Activism: Mapping the Middle," *American Anthropologist* 108, no. 1 (March 2006): 38–51.

[64] Bonny Ibhawoh, "Stronger than the Maxim Gun: Law, Human Rights and British Colonial Hegemony in Nigeria," *Africa* 72, no. 1 (2002): 57.

[65] For an elaboration of the phrase "politics of rights," see Cabanes, *The Great War and the Origins of Humanitarianism*.

Rights Activism and "Restraint" in Warfare

Rights activists played an increasingly central role in the processes of contestation and negotiation that shaped human rights concepts after 1945. By the 1970s, activist groups had sprouted on both sides of the Cold War divide. Many scholars have documented how organizations such as Amnesty International focused on freeing political prisoners and campaigning against torture.[66] After the 1975 Helsinki Final Act, in which Western powers formally recognized post-1945 international borders in Eastern Europe while the Soviet bloc agreed to uphold domestic human rights provisions, activists established transnational networks such as the Moscow Helsinki Group and Helsinki Watch. These organizations monitored Eastern Bloc compliance with the Helsinki Accords' human rights terms. Domestic groups such as Charter 77 in Czechoslovakia also formed to criticize human rights abuses under communist rule.[67] In *Activists Without Borders*, Margaret Keck and Kathryn Sikkink argue that advocacy networks comprising intergovernmental organizations, foundations, mass media, local social movements, and others often form to cooperate on behalf of people who are vulnerable to violence and lack opportunities for redress through legal systems. These activists typically apply up to four approaches: Information politics involves publicizing the cause; symbolic politics seek to frame issues using rhetorical symbols to influence public opinions; leverage politics attempt to win the support of another strong actor to add impetus to activists' appeals; and accountability politics, in which activists

[66] On the history of Amnesty International, see Tom Buchanan, "'The Truth Will Set You Free': The Making of Amnesty International," *Journal of Contemporary History* 37, no. 4 (October 2002): 575–97; Stephen Hopgood, *Keepers of the Flame: Understanding Amnesty International* (Cornell University Press, 2013); Egon Larsen, *A Flame in Barbed Wire: The Story of Amnesty International* (London: Frederick Muller, 1978); Jonathan Power, *Like Water on Stone: The Story of Amnesty International* (Boston, MA: Northeastern University Press, 2001). See Aryeh Neier, *The International Human Rights Movement: A History* (Princeton University Press, 2012), for a general history of the emergence of the contemporary global human rights movement.

[67] Snyder, *Human Rights Activism and the End of the Cold War*, 3-10; Michael Morgan, "The Seventies and the Rebirth of Human Rights," in Niall Ferguson, ed., *The Shock of the Global: The 1970s in Perspective* (Cambridge, MA: Belknap Press of Harvard University Press, 2010), 237-250.

pressure politicians into public action to address the problem or criticize their failure to do so.[68] Keck and Sikkink conclude that advocacy networks have shaped political agendas and state behavior.

Although most studies of human rights activism examine peacetime advocacy, many scholars, jurists, and policymakers believed that human rights regimes can—and should—restrain wartime violence in order to protect those who are outside the fight.[69] "Restraint," however, is a concept that requires elucidation. Wayne Lee's framework for explaining extreme and restrained violence is based on four categories: capacity, control, calculation, and cultural values. *Capacity* is an actor's ability to destroy, as violence will necessarily be restrained when the capacity to apply force is absent. Lee describes *control* as "societal oversight that enforces the maintenance of normal social values." The idea of military discipline is one form of this social oversight meant to ensure that soldiers behave in ways acceptable to the broader society. *Calculation* is a conscious process through which decision-makers determine what they perceive to be the best way of achieving their objectives—i.e. "where to go and what to destroy." In the minds of those wielding force, calculation links that violence to a purpose. Finally, Lee notes that *cultural values* shape "the levels or types of violence authorized by a society." These values, however, are not static. Individuals make decisions shaped by existing beliefs, knowledge, and assumptions, yet can deviate from past behavior. This improvisation contributes to a continuous revision of existing cultural patterns, resulting in cultural change.[70] When viewed in tandem with Lee's framework, it is clear that

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[68] Margaret E Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, N.Y.: Cornell University Press, 1998).

[69] See, for instance, John Halpin, William Schulz, and Sarah Dreier, "Universal Human Rights in Progressive Thought and Politics," Part Four of the Progressive Tradition Series, Center for American Progress, October 2010. On the idea of protection for those considered *hors de combat*—"outside the fight"—see Elizabeth G Ferris, *The Politics of Protection: The Limits of Humanitarian Action* (Washington, D.C.: Brookings Institution Press, 2011).

[70] Wayne E. Lee, *Barbarians and Brothers: Anglo-American Warfare, 1500-1865* (Oxford University Press, 2011).

rights activism can act as a shaping mechanism that influences the ways in which societies *control* armies, the *cultural values* which condition—but do not determine—military behavior, and the *calculations* guiding decision-makers' choices. Rights activism can also influence the *capacity* to wield violence by influencing weapons development and use.

To British officials, rights activists' efforts mattered because of British self-perceptions. It was a widely held belief in Whitehall, particularly within the Colonial Office, that Britain was a paragon of virtue when it came to upholding and protecting rights, both domestically and internationally. During post-1945 counterinsurgency campaigns, British authorities were sensitive to criticism from rights activists because officials thought of themselves as representatives of a "civilized" culture that respected liberty and the law. According to this view, Britain's high degree of civilization made it well-suited to colonial rule based on the paternalistic notion that British "tutelage" would help improve native societies. But, belief in the virtues of British civilization meant that government officials were conscious of moral criticisms. The effects of this self-perception can be seen in Cyprus. In a 1957 meeting with a delegate from the International Committee of the Red Cross, Cyprus' Deputy Governor Sinclair told his visitor that "the government of Cyprus is very conscious of preserving Britain's reputation as highly civilized."[71] Criticism of British colonial policies as cruel or repressive would undermine British self-perceptions and challenge the government's legitimacy. In 1949, then-Colonial Secretary Arthur Creech-Jones complained that documents such as the Universal Declaration of Human Rights could easily become a "source of embarrassment" for colonial governments.[72]

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[71] ICRC B AG 202-049-001. De Traz to Gaillard. 27 March 1957.

[72] TNA DO 35/3776, Creech-Jones Circular 25102/2/49, March 28, 1949. As quoted in Klose, "'Source of Embarrassment': Human Rights, State of Emergency, and the Wars of Decolonization," in Hoffmann, ed., *Human Rights in the Twentieth Century*, 242. Also see Klose, *Human Rights in the Shadow of Colonial Violence*, 38-46.

Despite the ideals of British rule based on the protection of rights, the practice of colonial governance diverged from these noble principles—a contradiction which lay at the heart of the British imperial project. By the late eighteenth century, the "rule of law"—that is, the applicability of law to all imperial subjects regardless of status—had become a key moral justification for imperial rule.[73] But such equality before the law did not occur in practice. Historians understand colonial legal systems as pluralistic spaces in which law often applies to different groups in different ways. In addition, various actors—including imperial agents, cultural intermediaries, and colonized subjects—could assert agency and contest the colonial order through legal processes. In this sense, "ordinary" colonial legal regimes could offer a degree of flexibility and room for negotiation between colonizer and colonized. As a result, colonial legal regimes were hybrid justice systems in which the application of law was always contested and based on mixtures of metropolitan and local ideas.[74]

Yet as colonial officials claimed legitimacy from the rule of law, they simultaneously adopted wide-ranging executive powers on the basis that such powers were necessary to protect the colonial state. When faced with the imperative of preserving the colonial state, officials could exercise whatever discretionary authority was necessary to ensure the survival of the colonial regime. During the nineteenth century, British officials developed a series of imperial legal precedents which granted the state broad emergency powers.[75] By the

[73] For a recent sampling of this literature, see Uday Singh Mehta, *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* (University of Chicago Press, 1999); Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton, NJ: Princeton University Press, 2005); Andrew Sartori, "The British Empire and Its Liberal Mission," *Journal of Modern History* 78, no. 3 (2005): 623–42.

[74] Benton, *Law and Colonial Cultures*; Benton, *Legal Pluralism and Empires, 1500-1850*; Burbank and Cooper, *Empires in World History*; Bonny Ibhawoh, *Imperial Justice: Africans in Empire's Court* (Oxford, UK: Oxford University Press, 2013).

[75] Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (University of Michigan Press, 2003), 6, 136; also see Diane Kirby and Catharine Colebourne, eds., *Law, History, Colonialism: The Reach of Empire* (Manchester, UK: Manchester University Press, 2010).

twentieth century, colonial governments regularly employed coercive practices such as detention without trial, forced resettlement, curfews, and collective punishments. Such legally-sanctioned counterinsurgency practices resurfaced after the Second World War in territories such as Palestine and Malaya. By the time the Cyprus conflict began in 1955, British forces had been operating under harsh emergency legislation in Malaya since 1948 and Kenya since 1952.[76]

Contradictions between stated values and policies put in practice could also cause embarrassment and weaken colonial authority. One notable example is the enactment of discriminatory colonial legislation in Britain's African colonies while British politicians simultaneously supported the creation of the European Convention on Human Rights. In colonies such as Kenya, Uganda, and Basutoland, colonial governors could control Africans' freedom of movement and impose collective punishments, even in peacetime. Forced labor was common in the Gold Coast, Kenya, Nigeria, and elsewhere. Freedom of expression was also curtailed. Beginning in the 1930s, authorities in Cyprus passed particularly strict sedition and press censorship laws.[77] In the 1950s, Greek Cypriot lawyers passed information to Greece in support of the Greek government's formal applications under the European Convention on Human Rights. The Greek government's applications meant that Britain earned the dubious honor of being the subject of the first interstate allegation of human rights violations in the history of the Convention. In 1959, colonial officials' draconian repression of a minor emergency led to an inquiry that labelled the government's actions as similar to those of a "police state." Similarly, the deaths of 11 Kenyans in British custody at the Hola

[76] French, *The British Way in Counter-Insurgency, 1945-1967*; Simpson, *Human Rights and the End of Empire*. For the argument that the growth of state power through such pragmatic moves as emergency legislation has been a central aspect of twentieth century government, see Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago, IL: University of Chicago Press, 2005).

[77] Simpson, *Human Rights and the End of Empire*, 317–322.

camp ignited another scandal. This time Conservative Prime Minister Harold Macmillan's government drew criticism from opposition politicians as well as members of his own party. Conservative MP Enoch Powell, for instance, famously told the House of Commons that "we cannot say, 'We will have African standards in Africa, Asian standards in Asia and perhaps British standards here at home.'"[78] In December 1960, newly independent former colonies in the United Nations formally censured European imperial powers through the passage of Resolution 1514, which demanded an end to colonialism and asserted the right to self-determination for all colonies.[79]

Such "embarrassment" necessarily occurred in public view through the efforts of international lawyers, anticolonial nationalists, and rights activists; mistakes, transgressions, or hypocritical actions that remained hidden could not cause controversy or criticism and therefore would not tarnish British prestige. But the media-saturated environments of Cyprus' large newspaper-reading public, the predominance of radio in Aden, and the mass of newspapers, radio programs, and television stations covering the Northern Ireland conflict ensured that these wars were waged in public with global audiences.[80] British sensitivity to media-generated publicity ensured that rights activists could easily find a platform from which to air their grievances against the British government, and ensure that the ensuing disapproval stung particularly harshly.

During the 1955-59 Cyprus Emergency, Greek Cypriot lawyers used public advocacy and private lobbying to continuously criticize the colonial administration's emergency legal regime. Chapter one analyzes these lawyers' struggle to impose "normal" legal procedures.

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[78] French, *The British Way in Counter-Insurgency, 1945-1967*, 234–5. Hansard HC Deb 27 July 1959, Vol. 610 c.237.

[79] Burke, *Decolonization and the Evolution of International Human Rights*, 39–58.

[80] For an analysis of this phenomenon during the 1954-62 Algerian War, see Connelly, *A Diplomatic Revolution*, 27-34, 133-141.

Colonial administrators codified a strict set of emergency laws designed to facilitate counterinsurgency operations by restricting the population rather than the Security Forces. Greek Cypriot lawyers contested this legislation through rights activism. These lawyers lobbied colonial officers in Cyprus and anticolonial British politicians. Greek Cypriot lawyers worked to limit repressive regulations, defended accused insurgents in court, and documented British abuses for use in the Greek government's two applications to the European Commission of Human Rights. The Greek government applications alleged that Britain had violated the European Convention on Human Rights. By contesting the extent and applicability of emergency laws, Greek Cypriot lawyers forced British officials to justify their actions. Although the lawyers sought to undermine British political legitimacy, colonial officials held the advantage—executive powers trumped legal advocacy. Despite Britain's advantages, Greek Cypriot lawyers achieved some modest successes such as securing the right of detainees to legal counsel.

The second chapter examines the influence of the Greek government's applications to the European Commission of Human Rights on counterinsurgency practices in Cyprus and the colonial administration's response to international scrutiny. The British government fiercely resisted Greece's claims that the colonial administration had violated Cypriots' human rights and won most of the legal debates before the European Commission. Meanwhile, the Greek Cypriot insurgent group, EOKA, launched a propaganda campaign to exploit these atrocity allegations. Colonial officers adapted to this increased public scrutiny through a counterpropaganda campaign designed to shape public perceptions of military operations. One new initiative was the establishment of a Special Investigations Group (SIG), which investigated allegations of abuse committed by British forces. SIG investigations, however, were often nothing more than exercises in whitewashing. SIG existed to defend British actions rather than investigate the validity of Greek Cypriot claims.

The trend of British violence against civilians continues in chapter three, which analyzes the 1964 Radfan campaign. Conducted during the 1963-67 Aden Emergency in the rural Radfan area north of Aden city, the campaign purposefully targeted civilian livelihoods. Colonial administrators and military commanders wanted civilians to suffer because they believed that civilian suffering would force Radfan leaders to surrender. British operations therefore involved driving the population from their homes, burning food stores, destroying crops, and killing livestock. British actions created a humanitarian crisis as thousands of refugees fled the violence. The ICRC wished to provide humanitarian relief in the Radfan, but British officials prevented ICRC access to the region because they did not want the devastation to become widely known.

Detainee abuse is the central issue of chapter four. From 1966-67, Amnesty International advocated for a government investigation of torture allegations in Aden. The ICRC, which had been visiting prisons in Aden since 1965, had grown increasingly suspicious that British officials were torturing prisoners during interrogation. Some officials at the Aden High Commission also uncovered evidence of abuse and pressured the High Commissioner to order an inquiry. Torture, afer all, violated the European Convention on Human Rights, the 1962 Aden Constitution, and British domestic law. When senior government officials proved unwilling to investigate the allegations, Amnesty dispatched an investigative team of its own. British officials only agreed to order an inquiry after Amnesty threatened to publicize their scandalous findings. The subsequent inquiry, led by former MP Sir Roderic Bowen, determined that abuse had "likely" occurred and specifically implicated only three men. Upon publication of the report's very tactful semi-admission of abuse, Amnesty proclaimed that their efforts had succeeded. Amnesty did not pursue the matter further due to a leadership crisis within the organization. In essence, Amnesty International had scored a "victory" by bringing allegations into the open and forcing their investigation.

But the government did not punish any of the three men and although Bowen's administrative recommendations resulted in more invasive Red Cross inspections, the Bowen inquiry did not stop torture. Despite their limited success, rights activists had shaped counterinsurgency operations: Activists' pressure compelled British officials to develop effective measures for hiding their abuses from scrutiny. Torture during counterinsurgency wars, however, did not end in Aden.

Chapter five examines how the British Army responded to rights activism in Northern Ireland from the army's initial deployment in 1969 to the 1976 adoption of a new strategy which sought to abandon many of the counterinsurgency practices used during the war's first seven years.[81] Although officials viewed the Northern Ireland conflict in a very different context than colonial wars, the military responded to rights-based criticisms in a manner similar to its reactions in Cyprus and Aden. That is, the army denied many allegations, tried to create a legally permissive environment for military operations, and shielded soldiers from criticism. But the results of rights activism in Northern Ireland differed from the Cyprus and Aden conflicts. Due to the specific context of Northern Ireland—the growing prominence of human rights in public affairs, the pervasive presence of television and newspaper media, Northern Ireland's position as a constituent member of the United Kingdom, and the Irish Republican Army's ability to strike the British homeland—rights activism resulted in a more open and frank discussion of counterinsurgency practices than in past campaigns. Unlike in earlier counterinsurgencies, rights activism during the Troubles led to numerous government inquiries into various aspects of the war's conduct. Whereas the results of some inquiries sought to justify or downplay British actions, others dug deeper into the issues and evidence. The result was, for the first time, a substantive and persistent public debate over rights issues

[81] Newsinger, *British Counterinsurgency*, 185.

related to detention and interrogation. Because rights abuses could no longer be hidden as easily as before, British forces came under increasing pressure to abandon practices such as brutal interrogations and restrain violence toward civilians.

In Cyprus, Aden, and Northern Ireland, rights activists' motivations were not always altruistic. They nonetheless appeared on the counterinsurgency "battlefield" as actors who shaped the conduct of war. These actors left an ongoing legacy that has not been sufficiently incorporated into histories of human rights, empire, or warfare. Most studies of human rights and warfare in the twentieth century analyze the development of law or emphasize the effects of major conventional conflicts such as the First and Second World Wars.[82] This study explores the intersections of human rights, empire, and warfare in the context of the Cold War and end of empire.[83] Imperial legacies did not stop with the end of territorial control. Instead, ideas and practices of colonial counterinsurgency were adapted and applied in different circumstances. The Troubles in Northern Ireland and twenty-first century counterinsurgencies in Afghanistan and Iraq therefore cannot be divorced from colonial experiences in Cyprus, Aden, or elsewhere. In contemporary conflicts, human rights and warfare remain intimately intertwined.

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[82] Bruno Cabanes examines what he calls the post-World War I "*sortie de guerre*" period. See Cabanes, *The Great War and the Origins of Humanitarianism, 1918-1924.* William Hitchcock argues that the Geneva Conventions have played an important role in introducing human rights concepts such as the inviolability of the individual into the laws of war. This interpretation is a valuable addition to the study of human rights and counterinsurgency, but Hitchcock focuses his analysis on "high politics" rather than "ground-level" activism. See Hitchcock, "Human Rights and the Laws of War: The Geneva Conventions of 1949," Iriye, Goedde, and Hitchcock, *The Human Rights Revolution,* 93-112.

[83] French, *The British Way in Counter-Insurgency, 1945-1967*; David French, *Army, Empire, and Cold War: The British Army and Military Policy, 1945-1971* (Oxford; New York: Oxford University Press, 2012); Paget, *Last Post*. French does not address Northern Ireland in either of these expansive and thorough works on the military and end of empire. Paget—a former military officer and veteran of the Aden campaign—portrays the Aden insurgency as the last colonial war and the moment in which empire ended.

CHAPTER 2:
A LAWYERS' WAR – COUNTERINSURGENCY AND THE CYPRUS BAR COUNCIL

Introduction

On February 27, 1957, as the war in Cyprus raged, the Labour Party peer Lord Strabolgi rose during a heated debate in the House of Lords. Criticizing Britain's colonial government in Cyprus, Strabolgi demanded, "What sort of State is this? Is it a police State? Is it a State like that set up by Nazi Germany, or a State which is trying to copy the methods of Soviet Russia? I think that there is a very great need for the Government to investigate these allegations."[84] Put forward by a group of Greek Cypriot lawyers, the allegations in question criticized the use of emergency legislation to permit widespread press censorship, detention without trial, and abuse of prisoners in order to defeat the Greek Cypriot nationalist insurgency.[85]

[84] Hansard HL Deb February 27, 1957 vol 202 cc98-99.

[85] There are three schools of thought regarding the abuse of prisoners in Cyprus. First, some commentators accept that the security forces usually did not abuse their powers, but sometimes did so in exceptional circumstances. See Nancy Crawshaw, *The Cyprus Revolt: An Account of the Struggle for Union with Greece* (London: George Allen & Unwin, 1978); Michael Dewar, *Brush Fire Wars: Minor Campaigns of the British Army since 1945* (New York, NY: St. Martin's Press, 1984); Robert Holland, *Britain and the Revolt in Cyprus, 1954-1959* (Clarendon Press, 1998); Thomas R. Mockaitis, *British Counterinsurgency, 1919-60* (Macmillan, 1990); Ian Cobain, *Cruel Britannia: A Secret History of Torture* (London: Portobello Books, 2012); Tabitha Morgan, *Sweet and Bitter Island: A History of the British in Cyprus* (London: I.B. Tauris, 2010); John Newsinger, *British Counterinsurgency: From Palestine to Northern Ireland*, 2nd ed. (Palgrave Macmillan, 2015); Calder Walton, *Empire of Secrets: British Intelligence, the Cold War, and the Twilight of Empire* (New York, NY: Overlook Press, 2013); David French, *Fighting EOKA: The British Counter-Insurgency Campaign on Cyprus, 1955-1959* (Oxford, UK: Oxford University Press, 2015). French's interpretation is accurate, but incomplete. Although EOKA almost certainly exaggerated British cruelty for propaganda purposes, security forces did not abuse prisoners primarily out of frustration, nor was abuse limited to a small number of undisciplined "bad apples." Allegations of abuse overwhelmingly concerned Special Branch interrogations, suggesting that prisoner abuse was part of a calculated effort to obtain vital intelligence via coercive interrogation methods—an effort which shattered much of EOKA's operational capacity.

These emergency regulations, which the Cyprus government adopted with the onset of violence in April 1955, were based heavily on those used to combat insurgencies in Malaya and Kenya. This draconian legislation facilitated counterinsurgency operations—particularly in the realm of intelligence collection via brutal interrogation measures. But in Cyprus, Greek Cypriot lawyers' rights activism transformed the legal system into a battlefield in which both sides sought to manipulate the law to their advantage. Greek Cypriot lawyers resisted the effects of the emergency regulations by defending detainees in court. But they soon realized that courtroom advocacy did not accomplish enough in the face of a judicial system stacked in Britain's favor. The lawyers then organized through their professional association, the Cyprus Bar Council, to protect detainees' rights. They lobbied colonial officials to establish and enforce the right of detainees to legal representation and the confidentiality of attorney-client relationships; publicized British cruelty when such standards were not met, including through complaints to Members of Parliament in Britain; and documented cases of prisoner abuse for inclusion in international legal proceedings at the European Commission of Human Rights. These lawyers turned advocacy for detainee rights into a form of resistance to colonial authority which they framed as human rights activism.[86] This chapter examines the origins of the conflict and how the contest over emergency laws shaped counterinsurgency policies and practices up to the spring of 1957.

Enosis and the Cyprus Insurgency

The Cyprus insurgency began on April 1, 1955 over the Greek Cypriot desire for *enosis*, or union, with Greece. Led by the National Organization of Cypriot Fighters, known by its Greek abbreviation "EOKA," pro-*enosis* Greek Cypriots waged a nearly four-year war

[86] In Cyprus, as in many other common law jurisdictions based on the British tradition, the legal profession was divided between barristers, who conducted courtroom advocacy, and solicitors, who were not authorized to argue cases before a court. The lawyers concerned in this study are barristers—I use the term interchangeably with "lawyers" and "attorneys."

against their British colonizers. When the war began, British forces were unprepared for a large-scale insurgency. After eight months of fighting, British officials had replaced an ineffective colonial governor with an experienced military commander who declared a state of emergency and enacted a harsh set of laws.

British forces had a difficult time subduing the insurgency in part because the overwhelming majority of Greek Cypriots supported *enosis*.[87] As over three-fourths of the 500,000 people living on Cyprus were Greek Cypriot, British forces faced a difficult task in subduing the insurgency. By 1957, violence between Greek Cypriot and Turkish Cypriot communities had erupted as Turkish Cypriots, who comprised approximately 18% of the island's population, asserted their desire for partition of the island rather than union with Greece. As the conflict descended into civil war, Greece and Turkey grew increasingly assertive in seeking to protect the interests of the Greek Cypriot and Turkish Cypriot communities, respectively.[88]

The involvement of Greece and Turkey ensured that an international settlement would be required to end the conflict. The war drew to a close after Greece, Turkey, Britain, as well as the Greek and Turkish Cypriot communities agreed to the establishment of an independent Republic of Cyprus in which political power would be shared between Greek and Turkish Cypriots. In February 1959, these parties to the conflict signed the London and Zurich Agreements. The London Agreement ended the conflict between Britain, Greek Cypriots, and

[87] Holland, *Britain and the Revolt in Cyprus, 1954-1959*, 11–19; A. W. B. Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford University Press, 2001), 884–887; Martin Thomas, *Fight or Flight: Britain, France, and Their Roads from Empire* (Oxford, UK: Oxford University Press, 2014), 269–270; Anastasia Yiangou, *Cyprus in World War II: Politics and Conflict in the Eastern Mediterranean* (London: I.B. Tauris, 2012), 15–17.

[88] For an overview of the Cyprus conflict, see Clement Dodd, *The History and Politics of the Cyprus Conflict* (New York, NY: Palgrave Macmillan, 2010); Holland, *Britain and the Revolt in Cyprus, 1954-1959*; Morgan, *Sweet and Bitter Island: A History of the British in Cyprus*.

Turkish Cypriots. Britain, Greece, and Turkey signed the Zurich Agreement, which stipulated that neither union nor partition could occur without Greek and Turkish concurrence.[89]

Enosis supporters did not achieve their goal of unity with Greece, but they waged an effective insurgency that killed 371 British soldiers. Organized as semi-independent cells, EOKA units conducted assassinations, bombings, ambushes, and ran a complex propaganda operation to maintain support for the war among Greek Cypriot civilians. Although British forces developed a sophisticated understanding of EOKA's organizational structure, when the war began British troops had a difficult time countering the insurgency. In November 1955, with violence mounting, the Cyprus government declared a state of emergency.[90]

The insurgency gathered momentum throughout the summer of 1955. EOKA attacked Greek Cypriot police officers, who Grivas deemed anti-nationalist "traitors." Special Branch also emerged as a key EOKA target due to its intelligence collection mission. Without good intelligence, government forces would not be able to counter EOKA attacks. The Cyprus government, headed by Governor Sir Richard Armitage, had not expected a coordinated insurgent campaign. With the outbreak of violence, the British army arranged for Sir Gerald Templer, the officer who had served as High Commissioner and military commander during the successful counterinsurgency campaign in Malaya, to visit Cyprus and assess the situation. Templer felt that Armitage's government was not taking the situation seriously enough and criticized them for carrying on with "business as usual." He decided that Armitage was incapable of handling the situation. Templer also discovered that Special

[89] On the international dimension of the conflict, see Evanthis Hatzivassiliou, *Britain and the International Status of Cyprus, 1955-1959* (Minneapolis: University of Minnesota Press, 1997); Edward Johnson, "Britain and the Cyprus Problem at the United Nations," *The Journal of Imperial and Commonwealth History* 28, no. 3 (2000): 113–30.

[90] For a thorough military history, see French, *Fighting EOKA*. Grivas's memoirs are an interesting, if biased, perspective on the insurgents' side of the war. See George Grivas, *The Memoirs of General Grivas*, ed. Charles Foley (New York, NY: Praeger, 1964).

Branch, the organization responsible for intelligence collection, was woefully undermanned and unprepared. Prime Minister Sir Anthony Eden shared Templer's frustrations. Foreign Secretary Harold Macmillan likewise argued that "we cannot afford to give any impression that we are on the run in Cyprus" because of the island's importance in British Middle East policy. Without the island as a base, Britain's ability to project power in the Middle East—a vital region due to its oil reserves—would be severely compromised.[91]

After Templer's visit, Colonial Secretary Alan Lennox-Boyd decided to replace Sir Richard Armitage with someone deemed more capable of combating the insurgency. The sense in Whitehall was that the situation demanded a "military man" to coordinate political and military activities as Templer had in Malaya. Field Marshal Sir John Harding was the logical choice. At the time of his October 1955 appointment as Governor of Cyprus, Harding was the Chief of the Imperial General Staff—the highest position in the British military. He was one of the most senior officers in the armed forces and an experienced commander. In a previous assignment as Commander-in-Chief, Far East Land Forces, he had worked with Templer during the Malayan Emergency. According to one scholar, the idea that terrorists and insurgents should be dealt with harshly "was not just an assumption of Harding's, it was one of his deepest feelings."[92] Harding approached his work in Cyprus with a hard-nosed determination to eradicate the insurgency through whatever means necessary.

While Harding understood that military action alone would not solve the conflict, he believed that a political solution could only be reached if British forces first destroyed EOKA. His objective was to obtain a settlement in which Greek and Turkish Cypriots agreed on a new constitutional framework of local self-government under British colonial rule.[93]

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[91] Holland, *Britain and the Revolt in Cyprus,* 55–57.

[92] Ibid., 60–76.

[93] French, *Fighting EOKA*, 92.

This conviction was based on two assumptions: Harding thought that only a minority of the Greek Cypriot community actively supported EOKA and that it maintained its influence by intimidating the rest of the more moderate population. To eliminate EOKA's hold, Harding planned to capture or kill EOKA fighters while coercing the population into submission. To do so, Harding determined that "it will be essential to employ the sternest and most drastic forms of deterrent open to us." He concluded that "one of the results of the various measures such as collective fines, curfews and other restrictions that have recently been increased is the restoration of respect" for British authority.[94] If EOKA could intimidate the Greek Cypriot population into submission, so could the British.

When Harding decided to declare a state of emergency in November 1955, Colonial Secretary Lennox-Boyd agreed but also sounded a cautionary note. Lennox-Boyd encouraged Harding, writing that "important though it is to seize any chance of a political solution [to the conflict], you must not let this hope interfere with firm action." Lennox-Boyd concurred with Harding's wish to eliminate EOKA, but worried that tough measures could cause public controversy that he was keen to avoid. Even so, Lennox-Boyd had known Harding for many years and trusted his judgment. He authorized Harding to use collective punishments and order judicial whipping of juvenile offenders, but urged Harding to be careful about using these powers. Lennox-Boyd did not want the Cyprus conflict to cause public controversy. He told Harding that "as you know, some forms of collective punishment have an ugly ring here." Collective fines and punitive seizures of civilians' property would "present real political difficulties" for the Colonial Office. Harding reassured Lennox-Boyd that he would "proceed as discreetly as the situation permits," and declared a state of emergency in Cyprus on November 26. Harding knew that he had Lennox-Boyd's support in taking tough

[94] Ibid., 130–131. See also CO 926/549 Harding to Colonial Secretary, April 5, 1956.

measures, but he also knew that there were limits as to what politicians in Britain would allow.[95]

The Emergency Regulations

Under the state of emergency, Harding's powers were nearly absolute. He enacted 76 new laws that permitted security forces—a term that British officials used in reference to both police and military units—to wield significant coercive powers. Security personnel were authorized to arrest without warrant any person believed to have "acted or was about to act, in a manner prejudicial to public safety or public order, or who had committed or was about to commit an offence."[96] Any officer in the rank of major or higher could approve the detention of an arrested person for up to 28 days without charges. Harding had the authority to sign a detention order extending any individual's imprisonment indefinitely and to deport anyone from the colony. Based on a similar measure passed during the Malayan Emergency, the Cyprus legislation also designated certain "protected areas" off limits to all Cypriots except those with special government passes. Anyone in a "protected area" who fled from security forces could be shot.[97] Harding intended to use the emergency legislation regime as a tool for facilitating the collection of intelligence and for separating the Cypriot population from the insurgents by disrupting communication and supply between insurgents and civilian supporters.[98]

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[95] TNA CO 926/562 Colonial Secretary to Harding, November 25, 1955 and Harding to Colonial Secretary, November 26, 1955.

[96] TNA WO 106/6020 Report on the Cyprus Emergency, 1959, pp.91-94.

[97] TNA FCO 141/4320 Governor, Cyprus to Colonial Office, May 3, 1956 and FCO 141/3795 Cyprus Gazette No. 3891, Emergency Powers (Public Safety and Order) Regulations, November 26, 1955.

[98] French, *Fighting EOKA*, 95.

These regulations severely hampered civilians' freedom of movement and allowed the government to censor information available to the populace. Cypriots had to register with the government and obtain an identity card. Soldiers and police could demand to see this identity card at any time—failure to produce it when ordered could result in a fine or imprisonment. District Commissioners could ban civilians from congregating in public spaces, close shops, and requisition property. Censorship regulations permitted government censors to regulate mail sent to or from any person in the colony and to control the content of radio broadcasts and newspaper reports. Propaganda—such as signs, slogans, graffiti, banners, and flags bearing political messages—was prohibited.[99] The Limassol District Commissioner also outlawed the use of bicycles without a permit because EOKA fighters often used bicycles as "get-away vehicles." Other District Commissioners followed suit.[100] Bicycle bans targeted teenagers and young adults—the primary demographic involved in EOKA attacks.[101]

Harding authorized the use of curfews and collective punishment as means of coercing local populations into submission. Curfews restricted movement in towns and could last for several hours or several weeks. An army report completed at the end of the conflict concluded that "by varying the forms and timings of the curfews, it was possible to keep EOKA leaders guessing and to disrupt their plans." But the report also asserted that punitive curfews "paid little dividend and tended to inhibit the police in their follow up action."[102] Even so, security forces often employed curfews as a form of collective punishment. Other collective punishments included fines levied on entire towns and collected in the form of a

[99] TNA FCO 141/3795 Cyprus Gazette No. 3891, Emergency Powers (Public Safety and Order) Regulations, November 26, 1955.

[100] TNA FCO 141/3665 US(IS) to all Commissioners, December 28, 1955.

[101] TNA FCO 141/3665 Commissioner of Police to Chief of Staff, April 27, 1956.

[102] TNA WO 106/6020 Report on the Cyprus Emergency, 1959, p.50.

tax paid by each family or the closure of businesses and markets for a period of time determined by colonial administrators.[103]

In a move which shocked many Greek Cypriots, Harding approved the use of judicial whipping for youths up to age 18 as a form of punishment for minors involved in "terrorist activities" such as the dissemination of propaganda or participation in civil disturbances. This measure meant that judges could sentence minors to a certain number of strokes with a cane rather than imprisonment. "Police Force Order No. 86" governed the application of whipping, instructing officers that "a light rod or cane should be used and the blows should be delivered on the bare buttocks. The whipping should be carried out in the presence of a second police officer who should, whenever possible, be an officer."[104] No more than twelve strokes could be applied.[105] Harding believed that judicial whipping would offer a more humane punishment for juveniles than imprisonment and saw no problem with implementing it, as it was a common punishment in British public schools when he was a child. Greek Cypriots, however, viewed the practice as repugnant. A group of lawyers later complained that although whipping was employed in Britain, "in no circumstances can this practice be tolerated in countries of Graeco-Latin culture."[106] Although Harding sought to implement tough measures, he would soon realize that whipping was counterproductive.

Harding also used the emergency regulations as a tool for improving the ability of British forces to conduct the vital but difficult task of collecting intelligence on EOKA. Finding and neutralizing EOKA fighters proved a less-than-straightforward task for the

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[103] David French, *The British Way in Counter-Insurgency, 1945-1967* (Oxford: Oxford University Press, 2011), 107–109.

[104] TNA FCO 141/3795 Assistant Commissioner of Police, C.I.D. to Faiz, Secretariat Nicosia, November 3, 1956.

[105] TNA FCO 141/3795 Cyprus Gazette No. 3891, Emergency Powers (Public Safety and Order) Regulations, November 26, 1955.

[106] As quoted Simpson, *Human Rights and the End of Empire,* 931.

security forces. The authority to impose curfews and bicycle bans limited insurgents' freedom of movement. The designation of "protected areas" permitted British troops to use lethal violence with few restraints in mountainous areas where insurgents often sought sanctuary. Furthermore, frequent patrolling, house searches, and checkpoints for searching vehicle traffic would limit EOKA's ability to move around the island and hopefully lead to arrests, but security forces required actionable intelligence to identify, track down, capture and interrogate or ultimately kill EOKA fighters.[107]

Although it was vital to military success, the security forces were initially unprepared for intelligence collection and analysis. Conflicts arose between representatives from Special Branch, the primary intelligence organization in Cyprus, and army liaisons, who were both assigned at the district level to ensure proper synchronization of intelligence work and military operations. Disagreements over decision-making authority were exacerbated by disparities in rank—the army often assigned officers to these positions, whereas most divisional Special Branch representatives were sergeants. Moreover, Special Branch had been reinforced at the outbreak of the Emergency with officers from abroad who had little knowledge of local affairs. They lacked the local informant networks necessary for effective intelligence collection. EOKA quickly recognized the importance of experienced Special Branch officers and targeted them for assassination. Special Branch informants from within the Greek Cypriot population also became targets for assassination or intimidation.[108]

Due to the lack of informant networks, interrogation emerged as the most important source of intelligence. Information gathered from questioning suspects could lead to further arrests, seizure of supply caches, or the prevention of attacks. Suspects who confessed under interrogation to having committed crimes could face trial and punishment, but they would

[107] French, *Fighting EOKA*, 130–131. See also CO 926/549 Harding to Colonial Secretary, April 5, 1956.

[108] Jim Herlihy, correspondence with author, July 18-19, 2013.

also sometimes turn against their fellow insurgents, perhaps in exchange for a reduced sentence or a pardon. British forces created plainclothes "Q-Patrols" in which these former insurgents patrolled with British police and soldiers to identify and capture EOKA suspects. These units worked in close cooperation with Special Branch and army intelligence.[109]

Despite the abundance of emergency laws which regulated in minute detail who could legally ride a bicycle and outlined specific procedures for how youths were to be whipped and how many strokes could be applied, the Cyprus government never produced specific guidance concerning which techniques were permissible during interrogation. In April 1956, Harding considered issuing specific instructions. He suggested that "we should consider sending out a confidential instruction to those directly concerned on what is and is not permissible in the interrogation of suspects."[110] But the Commissioner of Police, Director of Intelligence, and the heads of Special Branch and the Cyprus Police Criminal Investigation Division (CID) unanimously opposed the idea of issuing written instructions to interrogators. These officials believed that coercive interrogation was the most effective method of intelligence collection and did not want to inhibit the flow of valuable information by cracking down on abusive interrogators. The failure to articulate such restrictions ensured that the limits of the law remained ambiguous. This ambiguity permitted interrogators to use whatever methods they deemed necessary as long as they did not leave physical evidence that they had harmed a detainee.[111]

Senior officials knew of these brutal methods, but maintained the public pretense that such treatment was forbidden and therefore did not occur. Colonial Secretary Alan Lennox-

[109] French, *Fighting EOKA*, 145-149.

[110] TNA FCO 141/4314 Harding to COSHEG, April 10, 1956.

[111] In at least two cases where interrogators left physical evidence of their brutal interrogation methods, the interrogators were prosecuted and convicted. See Chapter 2.

Boyd admitted that he knew some interrogations were conducted with "questioning of unusual rigour," but suggested keeping the information from emerging in the public spotlight.[112] With Lennox-Boyd concerned that evidence of torture would embarrass British officials, Harding insisted that Cyprus Police "methods of interrogation follow the normal UK pattern. All forms of physical violence are forbidden by the Criminal Law and Police Force orders."[113] Although Lennox-Boyd, Harding, and other senior Cyprus security officers knew that interrogators were using physical violence against detainees, they chose to quietly tolerate such brutality rather than face the embarrassment of a public scandal.

Due to the operational advantages of ambiguous interrogation instructions and restrictions on Cypriots' freedom of movement, the emergency laws gave the security forces room to maneuver. The wide-ranging powers of arrest and detention authorized by the emergency regulations helped to offset the challenges of intelligence collection by allowing security forces to apprehend suspects and hold them for questioning with few legal constraints. Soldiers and police could more easily track insurgent groups in "protected areas" where few civilians were permitted. Restrictions on civilian movement through curfews, bicycle bans, and the requirement that all Cypriots obtain an identity card enabled security forces to disrupt EOKA communications and interdict supply lines. The emergency regulations were therefore more than simply a tool of repression—they facilitated counterinsurgency operations by manipulating the law to the colonial government's advantage.

By 1956, the military campaign had begun to turn in Britain's favor. In June, the army nearly captured EOKA leader George Grivas. Operation Pepperpot resulted in the capture of several weapons caches, the annihilation of two EOKA operational cells, and had inflicted

[112] TNA CO 926/458 Colonial Secretary to Harding, September 8, 1956. French, *Fighting EOKA*, 205–207.

[113] FCO 141/4310 Governor Cyprus to Colonial Secretary, March 2, 1957.

heavy casualties on a third. In December, British forces captured 52 guerrillas, including one of Grivas' couriers and his second-in-command. Interrogations after each arrest operation generated new intelligence, which was then used to arrest more insurgents[114] The war was going well for Harding.

Although the emergency regulations provided British forces with wide-ranging coercive powers, the rule of law technically remained in place, even if the law had been distorted to suit the demands of the counterinsurgency campaign. Officials revoked basic legal rights such as due process, the right to move freely, and the right to freedom of speech. Other traditional tenets of the justice system were ignored or reversed, such as the change to criminal proceedings on capital offenses that shifted the burden of proof from the prosecution to the defense. All of these changes had occurred legally—that is, at the governor's discretion and with the Colonial Secretary's approval. But throughout all of this, emergency laws never officially allowed the use of violence against a prisoner during interrogation. Unofficially, senior officials including Colonial Secretary Lennox-Boyd and Governor Harding knew that such brutality often took place. Despite the permissiveness of the emergency legal regime, security forces still had to obey its dictates. If members of the security forces were caught violating the law, they could face punishment. Any such violations would also embarrass the colonial government. Pro-EOKA lawyers sought to exploit this situation by using the colonial legal system to challenge the emergency regulations regime.

EOKA's Lawyers

Historians understand colonial legal systems as pluralistic spaces in which law often applies to different groups in different ways. Various actors—including imperial agents, cultural intermediaries, and colonized subjects—could use this system to assert agency and

[114] French, *Fighting EOKA*, 145–149.

contest the colonial order through legal processes. Colonial legal regimes therefore operated with a degree of flexibility and room for negotiation between colonizer and colonized. In these systems, the application of law was always contested and based on mixtures of metropolitan and local ideas.[115] Colonial powers relied on "imperial intermediaries" to navigate these legal spaces. Angered by Britain's refusal to grant self-determination to Greek Cypriots and the subsequent enactment of Harding's harsh emergency regulations regime, many Greek Cypriot lawyers chose to resist colonial rule. But the lawyers' initial forays into the courtroom battlefield exposed the extent to which emergency laws had tilted the legal system in the colonial government's favor. As a result, a group of Greek Cypriot lawyers mobilized their professional association, the Cyprus Bar Council, to disrupt brutal interrogation practices, protect prisoners' rights, and publicize security force abuses.

Before the insurgency, these lawyers often played key roles in the administration of law and order on the island. In fact, the colonial government would have been hard pressed to function without them. Colonial authorities used intermediaries' local connections and social status to reinforce imperial administrative structures. Cypriot lawyers filled positions as government attorneys and acted as civic leaders. Many served as town mayors. A select few were appointed to positions on the colony's Legislative or Executive Councils, in which select colonial elites advised the governor on local affairs. In exchange for their cooperation with colonial rulers, local intermediaries generally benefited from imperial connections to increase their economic status or social prestige.[116]

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[115] Lauren A Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400 - 1900* (Cambridge, UK: Cambridge University Press, 2001); Lauren A Benton and Ross, *Legal Pluralism and Empires, 1500-1850*, 2013; Jane Burbank and Frederick Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton: Princeton University Press, 2011); Bonny Ibhawoh, *Imperial Justice: Africans in Empire's Court* (Oxford, UK: Oxford University Press, 2013).

[116] On the concept of "imperial intermediares," see Burbank and Cooper, *Empires in World History*.

John Clerides, his son Glafkos, and Stelios Pavlides exemplified this class of imperial elites and became three of the most influential lawyers during the Emergency. All three had studied law in London at Gray's Inn. From 1946-49 John Clerides served as Mayor of Nicosia. In 1952 the Governor appointed him to the Executive Council. Clerides was also one of a handful of Cypriots to be named a Queen's Counsel and awarded the title of Commander of the Order of the British Empire.[117] Glafkos served in the Royal Air Force during World War II before returning to Cyprus in 1951 after completing his studies at Gray's Inn.[118] Pavlides joined the Cyprus Government in 1916 as a civil servant and rapidly rose through the ranks, eventually receiving an appointment to the Legislative Council. From 1944-52, Pavlides served as Attorney-General of Cyprus. He was the first and only Cypriot to hold the post under British rule. Pavlides was also a Queen's Counsel and a Companion of the Order of St. Michael and St. George.[119] These lawyers and others like them had much to gain from Cyprus' imperial connection with Britain, but British actions had alienated them from their imperial masters.

To many Greek Cypriot lawyers, the draconian nature of emergency laws violated basic notions of justice that formed a core component of the "civilized" British self-image. "British justice is fair in England, but not abroad," recalled Renos Lyssiotis, a lawyer who returned to Cyprus in 1955 after being called to the Bar at Gray's Inn. To Lyssiotis, the emergency regulations perverted hallowed principles of "British justice"—innocence until proven guilty, the liberty of speaking and associating freely, and respect for the rights of the

[117] Dimitrios H. Taliadoros, *An Album of Lawyers Who Defended EOKA Fighters, 1955-1959.* (Nicosia, Cyprus: Department of Education and Culture, 2002), 45–46.

[118] Ibid., 47–50.

[119] Law Office of the Republic of Cyprus website, Former Attorneys General. http://www.law.gov.cy/law/lawoffice.nsf/dmlformerattorneygenerals_en/dmlformerattorneygenerals_en?OpenDocument. Accessed January 4, 2014.

individual citizen. In its place was erected a system of repression that undermined the most fundamental elements of human dignity and permitted the government to wield nearly totalitarian powers. After the insurgency began, Lyssiotis started defending EOKA fighters as an assistant to John and Glafkos Clerides. But Lyssiotis also supported EOKA by running a youth propaganda group of about 200 students who painted pro-EOKA slogans on buildings and walls and distributed leaflets.[120] Another lawyer to return from Gray's Inn, Lellos Demetriades, also joined EOKA and defended insurgents in court. Many lawyers who defended EOKA fighters were formally inducted into the organization, but kept this affiliation secret to avoid arrest. These and other Greek Cypriot barristers turned against British rule because of the contradictions that they saw between British ideals and British practice. They had learned "British justice" in the UK before returning home only to find political frustration. At a time when other British colonies such as India and Palestine had gained independence, many Greek Cypriots expected that their turn to assert their right to national self-determination would come next. But Britain's insistence on maintaining colonial rule in Cyprus and the repressive legislation which followed EOKA violence appeared to these lawyers as hypocritical.[121] Ironically, in the minds of many Greek Cypriot lawyers, British officials' repressive reassertion of colonial rule damaged the very credibility that those officials hoped to maintain.

Although the judicial system functioned throughout the Cyprus conflict, security imperatives often trumped legal procedure. Emergency legislation created a system of Special Courts to hear insurgency-related cases. British expatriate judges administered the courts. Single judges would rule in juryless trials, but death sentences were heard by three-judge panels at the Supreme Court in sessions chaired by the island's Chief Justice. The trappings

[120] Author interview with Renos Lyssiotis, January 8, 2014.

[121] Interview with Lellos Demetriades, February 25, 2014.

of court procedure remained the same during the Emergency as in peacetime: Defendants could be represented by a barrister, evidence was submitted, prosecutors and defense counsels argued the merits of the case, and the judge came to a decision. But Harding had the power to order the immediate arrest and indefinite detention of anyone found not guilty in the courtroom. As the *Manchester Guardian* reported in July 1957, such arbitrary power fomented "public resentment" toward the government that was "stirred up by an apparent injustice." Often, those found not guilty only to be immediately rearrested and imprisoned under a detention order were EOKA operatives who were not convicted either due to a legal technicality or lack of sufficient evidence to warrant a conviction.[122] Greek Cypriot barristers were at a profound disadvantage when defending EOKA fighters in court.

The EOKA lawyers' highest-profile initial forays into the Special Court system ended in failure. The cases of Michelakis Karaolis and Andreas Demetriou seized the attention of many Greek Cypriots because they were the first capital punishment cases related to the Emergency. Demetriou's case was straightforward. He was caught after shooting and wounding a British civilian businessman. In normal circumstances Demetriou would have faced charges of attempted murder that did not carry the death penalty, but under the emergency regulations he was subject to the death penalty.[123] He was convicted and hanged. The Karaolis case, however, was a different matter. The prosecution alleged that Karaolis killed a police sergeant in October 1955. Defense attorneys Stelios Pavlides and Glafkos Clerides argued that it was a case of mistaken identity and submitted evidence that Karaolis had an alibi—he claimed that he was at his uncle's house when the murder occurred.[124]

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[122] Nancy Crawshaw, "Justice in Cyprus: In the Special Courts," *Manchester Guardian*, July 2, 1957.

[123] Simpson, *Human Rights and the End of Empire*, 920.

[124] Cyprus State Archives (CSA) SA1/1096/1956, Petition for Special Leave to Appeal, Case of Karaolis and the Queen, December 9, 1955.

Karaolis was found guilty, but his lawyers appealed to the Cyprus Supreme Court and then to the Privy Council. The Privy Council dismissed Pavlides's and Clerides's appeal. Harding, who had the power to issue a reprieve, decided "that the law shall take its course." Karaolis was executed in April 1956.[125] Regardless of the outcome of the case, Harding was committed to keeping Karaolis in custody. He wrote to Lennox-Boyd that if the conviction were overturned, he would have Karaolis rearrested and detained indefinitely, as was Harding's prerogative under emergency laws. Even if Pavlides and Clerides had won the case, their client would not have gone free. The lawyers were battling against a system that inherently favored the British side.[126]

Occasionally, Greek Cypriot lawyers obtained favorable verdicts through innovative legal arguments. The case of Michael Rossides illustrates the impact that Greek Cypriot lawyers could have. British forces arrested Rossides for killing one of the two soldiers who died as retribution for the Karaolis and Demetriou executions. Rossides confessed to the killing and was sentenced to death. His lawyers, Michael Triantafyllides, Stelios Pavlides, and Glafkos Clerides, turned to a common law precedent. They argued that Rossides had only killed the British soldier because other EOKA members threatened to kill Rossides if he failed to follow their orders. In a clemency submission to the governor, Clerides and Triantafyllides cited two sources of common law precedents which acknowledged that "if a man were placed in the agonising situation of having to choose between his own life and somebody else's and preferred his own no capital sentence would be carried out." The argument succeeded—Harding commuted Rossides's sentence from death to life in prison. Despite Cyprus's repressive emergency legislation, Harding backed down when faced with a

[125] TNA FCO 141/4305 Colonial Secretary to Harding, April 4, 1956; Harding to Colonial Secretary, April 10, 1956; Colonial Secretary to Harding, April 13, 1956.

[126] TNA FCO 141/4305 Harding to Colonial Secretary, April 20, 1956.

legal argument based on English common law.[127] Greek Cypriot lawyers used the rule of law to their advantage. But even in this situation, a defendant's fate ultimately rested in Harding's hands.

Greek Cypriot barristers realized that the legal system was stacked against them, but their engagement in the courtroom helped them identify two British vulnerabilities that they could exploit. Colonial officials were averse to public criticism and judges proved willing to enforce the law regarding the use of coercion during interrogation—that is, coercion was illegal and any confession obtained through intimidation or violence was inadmissible in court. Executions of EOKA fighters inflamed Greek Cypriot public opinion and sympathetic foreign audiences in countries such as Greece and Egypt. During the month following the executions, the Foreign Office received nine petitions from organizations in Greece and one from Argentina denouncing the death sentences as well as several statements of support for the Greek Cypriot struggle from civic organizations in Egypt.[128] The outrage that the Karaolis and Demetriou executions incited across the island and overseas demonstrated to that every execution would cause intense public outcry.[129] Harding's decision to execute Karaolis and Demetriou also invited criticism from home. In March 1956—one month before Karaolis's execution—the House of Commons voted to suspend the death penalty within the UK. The resolution stated that "this House believes that the death penalty for murder no longer accords with the needs or the true interests of a civilised society, and calls upon Her Majesty's Government to introduce forthwith legislation for its abolition or for its suspension."[130] The

[127] CSA SA1/1297/1957, Clerides and Triantafyllides to the Governor, October 7, 1957; and Acting Administrative Secretary to Triantafyllides, October 16, 1957.

[128] FO 371/123904,RG 1081/1436; sample dated 25 May 56.

[129] Simpson, *Human Rights and the End of Empire*, 921.

[130] Hansard HC Deb March 12, 1956 vol 550 c36. Eventually, the domestic debate over capital punishment resulted in the 1957 Homicide Act, which limited the death penalty to five categories of murder. See Lizzie Seal, *Capital Punishment in Twentieth-Century Britain: Audience, Justice, Memory* (New York, NY: Routledge,

Commons' decision put the Cyprus government on the defensive. Concerned that journalists or politicians in Britain might criticize Harding's use of the death penalty, public relations officers in Cyprus designed talking points for the press which emphasized that "there is no inconsistency between the execution of Karaolis and the recent resolution in the House of Commons on the abolition of the death penalty." The rationale was that "even when enacted into law, [the resolution] will have no validity outside the United Kingdom." Harding had the authority to "take into account local circumstances in deciding how far he should go" in restricting capital punishment.[131] The combination of Greek Cypriot outrage at the Karaolis and Demetriou executions and the Cyprus government's response to the House of Commons vote on capital punishment in the UK revealed a key British vulnerability—public criticism.

Although emergency laws permitted security forces to exercise wide-ranging powers, these laws did not permit the use of violence during interrogation, a fact which led EOKA lawyers to attack the admissibility of prisoner confessions as evidence during trials. According to one expatriate British judge in Cyprus, Justice Bernard Shaw, if a defense attorney alleged that a prisoner confessed as a result of any form of coercion, the law required Crown prosecutors to prove that the confession was "free and voluntary." The burden of proof therefore lay with the Crown, whereas the defense needed only to establish "reasonable doubt" that the confession may have been obtained through coercion.[132] In one such case,

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2014); Neville Twitchell, *The Politics of the Rope: The Campaign to Abolish Capital Punishment in Britain 1955-1969* (Bury St. Edmunds: Arena Books, 2012).

[131] TNA FCO 141/4305 Karaolis case talking points, not dated. During the course of the Emergency, 38 EOKA suspects were condemned to death. Nine were executed. All others either saw their punishments reduced on appeal or were granted clemency by the Governor. Of the nine men hanged, all were convicted on murder or attempted murder charges except for one. Evagoras Pallikarides was convicted of violating the law that prohibited the carrying or possession of firearms or explosives—as opposed to laws proscribing the actual use of these weapons. The Governor enacted this law in November 1956. Pallikarides was 17 at the time of his December 1956 arrest. He was caught leading a donkey with a machine gun strapped to its back. Pallikarides was executed in March 1957, shortly after his eighteenth birthday. See French, *Fighting EOKA, 97-99* and FCO 141/4458 Impressions of Mr. Lockley Head of the CID, August 27, 1957, p.21. Lockley called the case "quite straight forward."

[132] Shaw made this statement during the trial of Charalambos Christodoulides, but had applied the same logic during the Sampson case. See CO 926/879 Case No. 466/57, February 17, 1957, p.5.

EOKA fighter Nicos Sampson was arrested in September 1956 for the murder of a police sergeant. After arresting him, police officers told Sampson to remove his shoes and socks—ostensibly to prevent an escape attempt—and forced him to lie in an open truck bed as a cold, steady rain poured down on him. Sampson only confessed to the crime after enduring this treatment. According to the head of the Cyprus Police Criminal Investigation Division, "the Special Branch man had taken [Sampson's] original confession down in a way that would not stand up in court." Sampson's lawyers successfully argued that Special Branch had beaten Sampson's confession out of him.[133] The judge, Justice Bernard Shaw, concluded that Sampson may have admitted to his crime out of fear that he might receive further poor treatment. These circumstances were enough to establish reasonable doubt.[134] Greek Cypriot lawyers frequently succeeded in having confessions ruled inadmissible on these grounds.[135]

After the declaration of a state of emergency, British security forces operated in an environment in which the Cyprus government could arbitrarily confer additional powers upon them with few legal restrictions. Greek Cypriot lawyers saw the emergency legislation as a sham, and they were not alone in that sentiment. In a protest letter, a group of Greek Cypriot mayors criticized the laws for being "enacted with utter disregard to the basic principles of Justice and human rights." They went on to deride the colonial government for granting "a deceptive cloak of legality to the virtually criminal excesses of the Security Forces."[136] But

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[133] FCO 141/4458 Impressions of Mr. Lockley Head of the CID, August 27, 1957, p.20.

[134] Crawshaw, *The Cyprus Revolt*, 247; Holland, *Britain and the Revolt in Cyprus, 1954-1959*, 191. In June 1956, Shaw was wounded in an EOKA attack. Security force commanders suspected that after the attack, he went out of his way to demonstrate his impartiality so that he could not be accused of seeking revenge on EOKA defendants. In contrast, Greek Cypriot barristers perceived Shaw as strict but fair. See Glafkos Clerides, *Cyprus: My Deposition*, vol. I (Nicosia, Cyprus: Alithia Publishing, 1989), 111.

[135] For example, see the case of Charalambos Christodoulides, CO 926/879 Case No. 466/57, February 18, 1957, pp.3-4, 6, and the case of George Sfongaras, CO 926/880 Cyprus—Appeal, telegram numbered H-531, May 21 1957.

[136] As quoted in Simpson, *Human Rights and the End of Empire*, 910.; from FO 371/136286/RG1019/3.

EOKA lawyers also sensed an opportunity to defend prisoners from punishment and undermine the impunity with which the Cyprus government could operate under emergency laws. In doing so, Greek Cypriot barristers turned the courts into part of the counterinsurgency battlefield. But they also realized that the courtroom was not the only place in which they should fight on behalf of prisoners. These lawyers found that they could pressure British officials by targeting the government's aversion to public scrutiny. Toward this end, they transformed their professional association, the Cyprus Bar Council, into an activist organization dedicated to protecting prisoners' rights to legal representation and publicly criticizing the excesses of the emergency regulations—including coercive interrogations.

The Bar Council Goes to War

Greek Cypriot lawyers used their professional association, the Cyprus Bar Council, to organize resistance to the emergency regulations by protecting detainees' rights to legal counsel, criticizing the colonial government for tolerating torture during interrogations, and lobbying politicians in Britain to oppose the Cyprus government's repressive policies. To ensure that detainees had access to legal representation, Bar Council lawyers negotiated a memorandum of agreement with the government and ensured that security forces followed the terms of the memorandum.

The Cyprus Bar Council existed as a forum for professional discussions and as a body for regulating professional standards and conduct. According to the 1955 Advocates Law, which was enacted before the Emergency, all practicing barristers were required to join the Bar Council. It oversaw five local Bar Associations, each representing one of Cyprus' five districts. Despite its formal independence from the government as a professional society, the Bar Council maintained a close association with the colonial administration. The Solicitor-General had a seat on the Council and the Attorney-General served as the Council's titular

head. The Council was led by a committee elected by the Council members. The committee included 15 barristers, including two members each from Nicosia, Paphos, Limassol, Famagusta, Kyrenia, and Larnaca, as well as three at-large members.[137] But the majority of Bar Council members—and particularly its leadership committee—were Greek Cypriots with pro-EOKA sympathies. The Bar Council's close association with the Cyprus government meant that the Bar Council's Greek Cypriot leaders were well-placed to lobby British officials.[138]

Although the Cyprus Bar Council also included Turkish Cypriot members, they did not take part in the organization's activism because they objected to Greek Cypriot political aspirations. After the outbreak of violence in April 1955, Turkish Cypriot leader Fazıl Küçük told the governor that "any direct or indirect means of bringing about Enosis will meet, as hitherto, with the bitter and determined opposition of the Cypriot Turks."[139] In general, Turkish Cypriots supported the Cyprus government against EOKA—a trend that continued in the courtroom. Turkish Cypriot barristers often worked on behalf of the colonial government as prosecutors and civil servants. Rauf Denktaş, for instance, studied in London at Lincoln's Inn before joining the colonial administration as a Crown Counsel. During the insurgency, he prosecuted EOKA fighters and, in 1958, founded a Turkish Cypriot resistance group which fought against EOKA.[140] In late 1956, as Greek Cypriot barristers began to transform the Bar Council into a platform for activism, Turkish Cypriot members withdrew from Bar Council

[137] FCO 141/4590 Elected Members of the Bar Council, not dated.

[138] TNA FCO 141/3951 Cassels to Harding, January 23, 1958

[139] FCO 141/3400 Kutchuk to Armitage, 19 Sep 55.

[140] TNA FCO 141/3951 Cassels to Harding, January 23, 1958; French, *Fighting EOKA*, 257; and "Rauf Denktash." *The Daily Telegraph.* January 15, 2012. Accessed October 5, 2014. http://www.telegraph.co.uk/news/obituaries/politics-obituaries/9016548/Rauf-Denktash.html.

proceedings altogether.[141] The Bar Council's Greek Cypriot leadership claimed that the organization was a professional association without political affiliation, but the absence of Turkish Cypriot involvement indicated the extent to which the Bar Council had become an activist organization supporting the *enosis* struggle.[142]

The Bar Council sprung to action to protect detainees' rights to legal representation, but also to gain advantages for EOKA. As British forces began to strike back at EOKA throughout 1956, the number of detainees rose steadily from 169 in March to 447 in August and 623 by November. At the end of the year, there were 735 detainees in British custody.[143] As the number of arrests increased, lawyers demanded to know who had been detained, where they were held, and how they had been treated. As soon as barristers could obtain this information, they could take the necessary legal steps to best protect their clients from an emergency legal system that was stacked in Britain's favor. But there were other, military advantages to be accrued from ensuring that prisoners could hold confidential discussions with their legal representatives. EOKA commanders wanted to know who had been captured or killed in order to reorganize and reconstitute their forces. Lawyers could gather this information in their confidential meetings with captured insurgents and pass it on to EOKA leaders. For these lawyers, protecting detainees' rights went hand-in-hand with aiding EOKA.

To many attorneys the best way to protect detainees' rights and support EOKA was by ensuring that the government respected prisoners' right to legal representation. But British forces grew suspicious of the lawyers' motivations and often prevented or delayed attorneys from speaking with detainees. Denying a prisoner the right to see an attorney was illegal

[141] TNA FCO 141/4593 Notes from Meeting at Government House with Representatives of the Bar Council, December 17, 1958.

[142] TNA FCO 141/4360 Notes of a Meeting Held at Government House at 4 P.M. on Thursday, the 3rd of January, 1957.

[143] French, *Fighting EOKA*, 140–141.

under ordinary Cyprus law—emergency regulations had not changed this fact. As a result, Stelios Pavlides and George Chryssafinis, the Bar Council leadership committee's Nicosia representatives, complained to the Attorney-General's office in February 1956. Deputy Attorney-General Nedjati Munir responded by reaffirming the right of detainees to consult an attorney. To prevent security forces from obstructing this right in the future, Munir informed the Chief of Staff that "I think this principle [of detainees' right to legal representation] and the statutory provisions in our law, should be drawn to the attention of Area and Unit Commanders."[144] On February 18, Brigadier J.S. Aldridge, the Chief of Staff, circulated a memorandum to his subordinate commanders conveying Munir's instruction that arrested persons had the right to see an attorney if the detainee wished. Aldridge also ordered that when an interview between an attorney and detainee occurred, guards were to locate themselves within eyesight of the meeting, but not within range of hearing. This procedure was intended to satisfy the right of confidentiality in attorney-client discussions. The memorandum further proclaimed that powers of arrest and detention without warrant "do NOT override the ordinary law of the colony in one important respect, namely that any arrested person must be given reasonable facilities for obtaining legal advice." Soldiers and police who inhibited this right were therefore acting "contrary to the spirit of the law."[145]

Munir's response to the Bar Council complaint underscores British officials' complex and somewhat contradictory conceptualization of the rule of law during the insurgency. On the one hand, Munir asserted the primacy of law by reminding security force units that detainees had a right to legal representation. He wrote that "it is a fundamental principle of British justice, almost dating back to the Magna Carta, that a person in custody must be given

[144] TNA FCO 141/4591 Munir to Chief of Staff, February 15, 1956.

[145] TNA FCO 141/4591 Chief of Staff Memorandum, "Arrest & Detention without Warrant," February 18, 1956.

reasonable facilities for obtaining legal advice and for arranging his defence." Munir insisted that the denial of an arrested person's right to meet with a lawyer was illegal and could result in charges against the government. But on the other hand, Munir acknowledged that the EOKA insurgency permitted deviations from "normal" principles of justice. He admitted that "it is in the public interest to stretch, and in some cases to modify, some of the basic principles which we all like to see operating in normal peaceful conditions."[146] Like many officials, Munir wanted to uphold the law but was willing to compromise on legal principles in order to end the insurgency. The survival of the state mattered more than justice for the state's subjects.[147] The subsequent August 17, 1956 memorandum on detainee legal representation reflected these competing priorities.

The August 17 memorandum amounted to a government guarantee that detainees could exercise their rights to legal representation, but it also included a compromise which permitted Special Branch officers to interrogate detainees before the detainee met with a lawyer. Chryssafinis, Pavlides, the Assistant Commissioner of Police, a representative from the Chief of Staff's office, and Munir confirmed the details of their February discussion. In addition, the Assistant Commissioner of Police agreed provide a liaison officer at a central office available to answer all calls and inquiries from lawyers regarding a detainee's whereabouts and legal representation. From the perspective of the Greek Cypriot lawyers, this memorandum clarified and codified some important detainee rights, but did not go far enough. To collect vital, time-sensitive intelligence, security force commanders believed it necessary to interrogate detainees during the first 48 hours following capture. They insisted

[146] TNA FCO 141/4591 Munir to Chief of Staff, February 15, 1956.

[147] On British colonial legal systems, see Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (University of Michigan Press, 2003); Ibhawoh, *Imperial Justice: Africans in Empire's Court*; Diane Kirby and Catharine Colebourne, eds., *Law, History, Colonialism: The Reach of Empire* (Manchester, UK: Manchester University Press, 2010); Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (Cambridge: Cambridge University Press, 2010).

that lawyers should only be allowed to meet with detainees after interrogation was complete. The memorandum also included an ambiguous caveat: "there may be cases where it will not be practicable" to allow advocates to interview detainee clients. Security forces could still prevent an attorney-client interview if the officer-in-charge of a police division believed that an interview "would be likely to hinder urgent enquiries or to prevent further arrests."[148] Although the August agreement curbed some government powers for arrest and detention, officials retained the power to limit lawyers' access to clients based on suspicion rather than evidence.

The compromise inherent in the August 17 memorandum represented an attempt by British officials to balance their concerns with upholding the rule of law and maintaining security, but undermined both. By granting interrogators 48 hours in which to question detainees, detainees were expected to provide information before receiving legal counsel and potentially incriminate themselves. This measure undermined the perception of "fairness" that was a hallmark of how British and Cypriot lawyers perceived the judicial system. The 48-hour rule suggested that the preservation of standard legal proceedings were of secondary importance to security considerations—the rule of law only mattered insofar as it supported counterinsurgency operations. On the other hand, by permitting detainees to have legal representation at all allowed their lawyers to use the legal system against the security forces. Lawyers' accusations that interrogators had abused detainees during questioning hampered the security effort by making convictions more difficult to obtain. Despite the memorandum's contradictions, Greek Cypriot attorneys used the terms of the document to their advantage.

Bar Council barristers successfully attacked the government for holding detainees longer than permitted under the August 17 agreement and often insinuated that interrogators

[148] TNA FCO 141/4591 Administrative Secretary Memorandum, August 17, 1956.

abused prisoners to obtain confessions. When they met with detainees, lawyers sometimes passed messages from EOKA and could determine what information the detainee provided to the British during interrogation. The fact that the lawyers often claimed that their detainee clients had been abused in custody succeeded in reducing the number of cases which went to trial. The Attorney-General's office would not press charges if a detainee was held in Special Branch custody for too long because of the likelihood that defense attorneys would claim that interrogators had coerced the detainee into confessing. The government could have countered these allegations by ordering interrogators to appear in court as witnesses. But rather than order interrogators to testify, the head of CID noted, British officials "dared not make a case" due to the potential risk to interrogators. Security officials were concerned that interrogators would be in danger of assassination if EOKA discovered personal information or travel schedules, such as the dates and times when interrogators would make court appearances.[149]

Some security officials resisted the rules outlined in the August 17 memorandum by simply ignoring them. When this occurred, Bar Council lawyers lobbied Attorney-General Sir James Henry. Throughout the conflict, Henry regularly received complaints from Greek Cypriot lawyers when British forces failed to follow the memorandum's guidelines. In October 1956, British paratroopers captured 31 insurgents including the leaders of two EOKA cells and members of four additional groups.[150] Following the operation, security forces denied lawyers Demetrios Demetriades, Stelios Pavlides, and Michael Triantafyllides from meeting with the captured insurgents. The Cyprus Police also refused to identify who had been captured and where they were held. Under the terms of August 17 memorandum, the lawyers were entitled to know all of this information.[151] Demetriades asked for Henry's

[149] TNA FCO 141/4458 Impressions of Mr. Lockley Head of the CID, August 27, 1957, p.27; pp.17-20.

[150] French, *Fighting EOKA*, 144.

[151] TNA FCO 141/4590 Telegram, Demetriades to Henry, October 17, 1956 and telegram, October 18, 1956.

immediate intervention. As Attorney-General, Henry's priority was to uphold the law, which included the procedures outlined in the August 17 memorandum. Within 24 hours, Henry provided the Bar Council with a list of 90 detainees and their place of detention[152] Henry consistently instructed police and prison staff "not to hold up [attorney] visits longer than is absolutely necessary in the cases of persons detained for interrogation" and reminded the security forces that "persons should be enabled to see advocates as soon as possible."[153] Greek Cypriot lawyers' appeals to the Attorney-General helped enforce the terms of the August 17 agreement.

Bar Council activism resulted in the August 17 memorandum, which the lawyers used to chip away at the edifice of the colonial state's emergency powers by defending the right of detainees to legal representation. Bar Council lawyers could also rely on Attorney-General Henry's willingness to uphold the agreement some security officials ignored it. The lawyers had made some progress toward protecting prisoners' rights, but they faced a new challenge when Harding decided to issue a new set of emergency laws in November 1956.

Courting Controversy: The Expanded Emergency Regulations

During the second half of 1956, Harding had to balance two parallel military crises. Within Cyprus, he faced the EOKA insurgency. The second crisis, however, involved the British government's plan to attack Egyptian forces occupying the Suez Canal. In July 1956, Egyptian President Gamal Abdel Nasser nationalized the Suez Canal, which had been under French and British control. British Prime Minister Anthony Eden viewed Nasser's act as a threat to the use of the canal as a vital conduit for Middle Eastern oil. Eden coordinated with France and Israel to seize the canal. Cyprus became a key staging ground for the assault. Although Harding was not involved in the attack, he received orders to divert two brigades

[152] TNA FCO 141/4590 Pavlides and Triantafyllides to Henry, October 18, 1956.

[153] TNA FCO 141/4591 Henry to Staff Officer-in-Charge, Nicosia, December 10, 1958.

from counterinsurgency operations in Cyprus to prepare for the Suez invasion. Throughout the autumn, Harding was shorthanded. But in November, after the Suez intervention ended, Harding heard good news—his two brigades returned to Cyprus and he received 8,500 additional reinforcements, bringing Harding's total troop strength to 31,000.[154] Without the Suez intervention siphoning his resources, Harding could redouble his efforts against EOKA. After Harding subsequently widened the scope of emergency legislation, EOKA lawyers expanded their activism to include Opposition politicians in Britain.

On November 22 and 23, 1956, Harding launched a legal offensive. He expanded the emergency regulations by passing a series of laws designed to stifle dissent, protect interrogators and other intelligence officers, and induce prisoners to provide information. An earlier measure already included a broad prohibition against the publication of "any report or statement which is likely to cause alarm or despondence." The new censorship regulation allowed Harding to ban publications deemed "prejudicial to the successful prosecution of measures taken or to be taken to forward the termination of the state of emergency." Exactly which statements were "prejudicial" to the security effort was, of course, determined by the colonial administration. Furthermore, the new law prohibited the publication of anything that fell under the vague description of a "disturbing report." Finally, possession of prohibited publications "without a lawful excuse" could result in six months' imprisonment. [155] Harding had the power to prohibit virtually any publication that he did not like.

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[154] French, *Fighting EOKA*, 140–145. For a selection on the Suez Crisis generally, see Wm. Roger Louis, *Ends of British Imperialism: The Scramble for Empire, Suez, and Decolonization* (London: I.B.Tauris, 2006), 589-638; Wm. Roger Louis and Roger Owen, *Suez 1956: The Crisis and Its Consequences* (Oxford: Clarendon Press, 1989); Simon C. Smith, ed., *Reassessing Suez 1956: New Perspectives on the Crisis and its Aftermath* (Aldershot: Ashgate, 2008); and Thomas, *Fight or Flight*, 165-187.

[155] TNA FCO 141/3795 Supplement No. 3 to The Cyprus Gazette No. 4002, November 23, 1956 and No. 3891, November 26, 1956, p.728.

Another new law, the public officers' protection regulation, was intended to shield Special Branch interrogators from charges brought by EOKA lawyers. The regulation dictated that private citizens could not file civil or criminal proceedings against any government official unless the Attorney-General consented to the charges. Detainees may have been able to identify their interrogators, but under this law their lawyers could not take interrogators to court unless they could first persuade the Attorney-General to allow the case to proceed. This law empowered the colonial government to act as a filter for charges against members of the security forces, preventing cases of abuse during interrogation from going to court. As one EOKA leaflet complained, the public officers' protection meant that "if you have been unjustly treated or ill-treated, if you are the victim of a theft or of the English justice [sic], you have no right to take the persons responsible to court."[156] The public officers' protection regulation limited Cypriot subjects' right to seek redress through the courts and protected interrogators from prosecution.

The expanded firearms law was perhaps the most notorious emergency regulation enacted during the conflict. The original law prohibited the use of firearms, bombs, or any other form of explosive "with intent to cause death or injury." Anyone violating this law could face the death penalty. The law also stipulated that anyone in possession of a firearm, bomb, grenade, or other explosive could face imprisonment for life. The expanded regulations of November 1956, however, took these punishments further. The new law prescribed a mandatory death sentence for anyone caught using or possessing firearms or explosives, as well as a mandatory death sentence for anyone "consorting" with persons possessing or using firearms or explosives. Anyone carrying an "incendiary article" other than a bomb, grenade, or ammunition was liable to a life sentence. In addition, the law

[156] As quoted in French, *The British Way in Counter-Insurgency, 1945-1967*. See also TNA WO 106/6020 Report on the Cyprus Emergency, 1959, Annex 'T', Emergency Legislation, p.95.

reversed the burden of proof from the prosecution to the defendant. Now any individual charged with possession or use of a firearm would have to prove his or her innocence beyond a reasonable doubt.[157] These harsh sentences were intended to convince captured EOKA fighters to trade information for their lives. Unburdened by the need to prove that a suspect had actually used firearms or explosives, interrogators could offer a reprieve from the mandatory death sentence—granted by the governor on the security forces' recommendation—if a suspect provided useful intelligence. The mandatory death sentence became a tool in the intelligence collection effort.[158]

This manipulation of the law to facilitate counterinsurgency operations incensed Greek Cypriot lawyers, who used the Cyprus Bar Council as a means of registering their complaints with government officials. Stelios Pavlides and John Clerides called for a meeting of the Bar Council's general membership on December 8, 1956. As the President and Vice-President of the Bar Council, Sir James Henry and Ned Munir were also invited. During the meeting, Pavlides introduced a resolution stating that the members of the Bar "strongly deprecate and condemn" the mandatory death sentence for firearms offenses, the new censorship regulations, and the public officers' protection legislation. The lawyers argued that the mandatory death penalty removed the "discretionary power of trial judges of the Special Court to impose a sentence of imprisonment in the case of certain offences (which ordinarily would not carry a capital sentence)," instead "leaving no alternative to the judges than to pass a sentence of death upon every person convicted for any such offence." The members of the Bar also objected to the structure of the Special Courts, where a single judge determined the verdict. The lawyers insisted that "no court should have power to pass a death

[157] TNA FCO 141/3795 The Cyprus Gazette No. 4001, Emergency Powers (Public Safety and Order) Regulations, November 22, 1956; WO 106/6020 Report on the Cyprus Emergency, 1959, Annex 'T', Emergency Legislation, p.95.

[158] French, *Fighting EOKA*, 145–149.

sentence unless composed of three judges as in the case of Assize Courts," which before the Emergency had presided over the most serious cases in the colony and consisted of a panel of judges. The lawyers' ire also extended to censorship, in which the Bar Council members asserted that "Emergency or no Emergency, there can be no excuse or justification for the promulgation of provisions which strike at the very root of matters connected with the administration of justice and the freedom of the press." Finally, the lawyers wrote that the public officers' protection regulation would "prevent free access to the Courts of the Colony by persons having a grievance against public officers for offences committed against them and ill-treatment applied to them." The new regulations were therefore "contrary to well established principles and policy of law."[159] Bar Council members voted overwhelmingly to pass the resolution. Only Henry and Munir, in their capacities as colonial officials, voted against it because it criticized government policy.[160] Through the December 8 resolution, Greek Cypriot lawyers asserted that the expanded emergency regulations violated Cypriots' civil rights. But they did not limit their activism to lobbying local officials.

Beyond Cyprus, Bar Council attorneys found a receptive audience among anticolonial left-wing British politicians. A key connection was made when a British lawyer named Peter Benenson arrived in Cyprus. Although he would later gain renown as a co-founder of Amnesty International, in 1956 Benenson was a member of the Society of Labour Lawyers—a group of attorneys who belonged to the Labour Party—and chaired its Foreign Relations Sub-Committee.[161] He first visited Cyprus in 1956 as a war correspondent for *The Spectator*. Benenson was supposed to cover the Suez Crisis, so he was flown to Cyprus while British

[159] TNA FCO 141/4593 Cyprus Bar Council Resolution, December 8, 1956 and accompanying cover letter, Pavlides to the Governor, December 11, 1956.

[160] TNA FCO 141/4593 Pavlides to the Governor, December 11, 1956; duplicate in FCO 141/4590.

[161] TNA FCO 141/4360 Governor to Colonial Secretary, December 21, 1956.

troops staged for the assault on Egypt. Being a barrister, he wandered into the Nicosia law courts and began speaking with Greek Cypriot lawyers. In December, Benenson joined the legal team retained by Charles Foley, who owned the *Times of Cyprus*, a newspaper that was highly critical of Harding's repressive policies. Benenson worked alongside John and Glafkos Clerides to defend the newspaper against libel charges filed by the Cyprus government. Foley described Benenson as "red-haired, rabidly energetic, and had a warm heart for lost causes."[162] At some point between October and December 1956, Benenson met John and Glafkos Clerides, who told him of their problems with emergency legislation and allegations of prisoner "ill-treatment"—the colonial government's preferred euphemism for torture.[163] Benenson decided to help by raising awareness of these problems in Britain.

In December 1956, Britain's Conservative Party government was under siege from Opposition MPs over the Suez Crisis, but the Opposition quickly expanded its critique to include Cyprus policy. On December 4, spearheaded by Labour MP Lena Jeger and Liberal Party leader Jo Grimond, a group of 27 Labour and Liberal MPs tabled a motion in the House of Commons condemning the "ruthless severity" of Harding's expanded emergency laws, particularly the extension of the death penalty and the Governor's power to censor the press.[164] Grimond argued that the curtailment of free speech in Cyprus amounted to a "sad day for this great liberal country." In the House of Lords, Lord Listowel criticized the new press restrictions. He found the public officers' protection regulation particularly repulsive, calling it "contrary to our ideas of justice that a citizen should be unable to go to law without the consent of the Attorney-General, himself a member of the Government." Lord Jowitt

[162] Charles Foley, *Island in Revolt* (London: Longman's, 1962), 125.

[163] Eric Baker Papers, EB1/H2 "Notes on conversation with Peter Benenson after meeting with Sir Hugh Foot, 1.12.57."; AI-982 Benenson essay, August 83, pp.4-6; and Benenson interview, November 12, 1983, pp.55-56.

[164] "New Regulations in Cyprus: 'Ruthless Severity'" *The Manchester Guardian*, December 5, 1956.

lamented that "I do not think I have ever seen a more draconian set of rules than these regulations."[165] Lord Jowitt's point was clear—harsh laws fed resentment and created new enemies, which only made Britain's colonial problems worse.

The debate continued throughout the month as Harding's expanded emergency laws faced further criticism. On December 21, several Labour backbench MPs criticized Harding's new regulations as overly repressive. Labour MP Kenneth Robinson condemned the "repressive government and draconian legislation" as an "almost total denial of civil liberties." He rebuked Harding over press restrictions, telling the Commons that the Cyprus regulations amounted to "a fantastic interference with the rights of free speech and freedom of expression." Robinson also decried the public officers' protections, saying that based on the law "the Government become judge and jury in their own case." Lena Jeger linked repression in Cyprus to the dynamics of other colonial rebellions: "We have had enough experience in Cyprus and in other parts of the Colonial Empire to know that repression of this kind is simply a sowing of dragon's teeth and that, in fact, violence in Cyprus has increased in direct relationship to the severity of the Regulations."[166] Harding's decision to expand the emergency regulations incited Opposition politicians' ire at the very moment when Benenson began corresponding with Greek Cypriot lawyers. This combination would soon put Harding under intense political pressure.

Cyprus Bar Council lawyers sent Benenson evidence that security forces regularly used torture during interrogation—evidence which Benenson passed to Labour MP James Callaghan. On December 17, 1956, John Clerides penned a letter to Benenson containing a

[165] See Hansard HL Deb December 6, 1956, vol. 200, c.813-825. For press reporting on the debate, see "Press Decree to End 'Slander,'" November 29, 1956; "Cyprus Editor in Court" and "Press Decree in Cyprus: Mr. Grimond Horrified," December 1, 1956; and "New Emergency Regulations in Cyprus Attacked," December 7, 1956, all in *The Manchester Guardian*.

[166] Hansard, HC Deb December 21, 1956 vol 562 cc1610-1611, 1622.

spate of complaints that he had recently filed with the Cyprus government. On November 1, Clerides filed six allegations of ill-treatment. The Administrative Secretary pledged that investigations would occur, but Clerides had not yet received news of the investigation results. By the end of November, Clerides claimed that he had filed an additional 30 complaints which colonial officials failed to answer. "I have been submitting complaints," he wrote to Benenson, "for the purposes of remedying a situation which discredits the prestige of British Administration."[167] In a direct reference to Stelios Pavlides and John Clerides, James Callaghan told the House of Commons of his concern over "examples—I think I am not putting it too highly—of torture":

> [I]nvestigations were made by persons of the highest repute in Cyprus, namely, a former Attorney-General, who I believe is well esteemed by the Administration, and another former member of the Governor's Executive Council. They have sent the Administration 30 documented cases of *prima facie* brutality by Security Forces.

The colonial government in Cyprus, however, had thus far failed to investigate the complaints. "There is a responsibility upon the Administration," Callaghan asserted, "to ensure that every complaint of this nature is investigated." Until then, "we are under a cloud of suspicion."[168] Due to Cyprus Bar Council activism, British MPs called for a formal inquiry into torture allegations.

At Callaghan's behest, Benenson returned to Cyprus on December 28 with a series of informal proposals to reform detention and interrogation procedures. Benenson suggested that the Criminal Investigation Department (CID) interrogate suspects—a measure that revealed his personal understanding of the purpose of police questioning. To Benenson, interrogation was designed to gather evidence that would determine whether a case should go to trial, not to collect intelligence in support of military operations. Because CID was the

[167] TNA FCO 141/4361 Clerides to Benenson, December 17, 1956.

[168] Hansard, HC Deb December 21, 1956, vol. 562, cc.1622-1631.

police organization best equipped to prepare case evidence for trial, it made sense to have CID conduct the interrogation. Benenson also disagreed with the stipulation that interrogators could prevent detainees from meeting with their lawyers during the first 48 hours after capture. Instead, an accused person should be allowed to communicate with an attorney "as soon as he is handed over for interrogation" but certainly "no later than 48 hours after his arrest." A lawyer, Benenson continued, "should be allowed to see his client at any time after notification of the arrest of his client," although he conceded that this measure did not mean that an attorney must be present during interrogation or that interrogation should be delayed until the lawyer arrived.[169] Benenson saw interrogation as part of the trial process—a mindset which explains his preference that CID conduct interrogations and his desire to allow suspects to meet with an attorney immediately after arrest.

At the time, however, interrogations were conducted by Special Branch rather than CID. Special Branch officers perceived interrogation differently from Benenson. For them, interrogation provided intelligence that would enable security forces to disrupt EOKA operations by interdicting supplies and capturing or killing insurgents. Special Branch's priority was to collect vital, actionable intelligence rather than meticulously documenting evidence for eventual use in a court of law to convict captured EOKA members. Because of their emphasis on intelligence collection, Special Branch officers avoided testifying in court, whereas CID officers routinely provided testimony during criminal trials.[170] Special Branch officers viewed interrogation as a security operation against the enemy, not part of a process for the administration of justice.

Attorney-General Henry's perspective on interrogation procedures aligned with Benenson's. Henry supported Benenson's suggestion to assign CID officers to interrogation

[169] Ibid.

[170] Ibid.

duty "both as a safeguard and because he will be at hand if any information useful in the investigation of the particular offence is obtained." CID's involvement would help gain convictions as well:

> [D]ifficulties are frequently occurring over cases in which alleged confessions have been made to C.I.D. officers at the end of a period of 14 days detention during which the accused had been in the custody of the Special Branch. The onus is on the prosecution to prove that the confessions are voluntary, and it will not be possible to do this unless the Special Branch officers in whose custody the accused was held are called to give evidence. The Judges insist on this.

Henry continued, writing that when a confession is introduced during a trial, "it is invariable that allegations of beating and ill-treatment are made in respect of the period during which the accused has been held by Special Branch." Special Branch officers' aversion to appearing in court "nullified any chance of securing a conviction on a capital charge" in one recent case "and there are several other similar cases now pending."[171] This internal interrogation debate resulted from the Cyprus Bar Council's activism, which led several Opposition MPs to scrutinize Harding's harsh security policies such as the expanded emergency legislation.

Harding did not want Benenson's interference—or anyone else's, for that matter—to disrupt the successes achieved due to the new laws. When he learned of Benenson's return to Cyprus in December 1956, an angry Harding ordered Deputy Governor George Sinclair to "keep Benenson on the rails."[172] As Sinclair tried to control who Benenson could talk to and where he went, Harding cabled Colonial Secretary Lennox-Boyd to explain the value of the new regulations:

> For your private information . . . you may wish to know that the new Regulations extending the death penalty are believed to be responsible in great measure for recent successes in the liquidation of terrorists at Limassol. One youth, who was plainly aware that he was liable to the death penalty declared his intention of implicating others as well and proceeded to make a 26 page statement admitting his complicity in earlier murders and giving material which has led to the arrest of many terrorists in the area and the break-up of a number of killer groups. The same occurred also, to a

[171] TNA FCO 141/4360 Note by the Attorney-General on matters raised by the Bar Council of Cyprus.

[172] TNA FCO 141/4360 Harding to DG, December 22, 1956.

> lesser degree, in Famagusta and was also attributable to the knowledge of the death penalty. For these reasons I consider that the new measure has justified itself although of course it will be kept constantly under review.

According to Harding, the application of mandatory death sentences for firearms possession had led to an intelligence boon. Interrogators could use the threat of the death penalty as leverage to obtain a confession in exchange for a reduced sentence.

Expanding the death penalty also proved strategically useful because it enabled the government to convict more insurgents. Security forces often lacked evidence to try EOKA fighters for serious crimes such as murder, yet had obtained sufficient intelligence to know that an insurgent was probably guilty. Such circumstantial evidence would not produce a murder conviction in court, but regulations such as the firearms law allowed the government to severely punish insurgents for lesser offences. Harding described an example in which members of an EOKA cell that "had probably been responsible for several murders" faced charges for the possession of firearms rather than murder because the prosecution lacked sufficient evidence to win a murder case. Before the extension of capital punishment to firearms possession cases, the members of this cell could not have been sentenced to death. After broadening the application of the death penalty, Harding noted, such cases required judges "to impose the punishment such conduct deserves."[173] These laws permitted the government to implement serious punishments without the need to assemble enough evidence to prove that had committed serious crimes.

Harding's decision to expand the emergency regulations encountered resistance not only within Cyprus, but also at home. By December 1956, the Cyprus Bar Council's overtures to British politicians had brought detention and interrogation issues into public view. Faced with pressure from Parliament, Harding's primary concern was to avoid the

[173] TNA FCO 141/4320 Governor, Cyprus to Colonial Secretary, December 21, 1956.

establishment of formal limitations on interrogation practices. His resistance to Benenson's presence on the island reflected this priority. He would remain committed to this course of action through 1957.

Harding Under Pressure: "Ill-treatment" and Interrogation

The winter of 1956-57 was a difficult time for Britain's Conservative government. Sir Anthony Eden resigned as Prime Minister in the aftermath of the Suez Crisis and was replaced in January 1957 by Harold Macmillan.[174] In Cyprus, a series of factors had put Sir John Harding's administration under pressure. Parliamentary criticism, stimulated by the Cyprus Bar Council's efforts, continued into 1957. In the wake of the Suez Crisis, new Prime Minister Macmillan committed the government to a political settlement in Cyprus. Finally, the government of Greece had sponsored a complaint—or "application," in legal language—at the European Commission of Human Rights. From December 1956 to the spring of 1957, Harding remained steadfast in his desire to preserve emergency laws that facilitated intelligence collection.

Throughout the first months of 1957, Harding continued to face censure from Opposition politicians in Britain over the expanded emergency regulations. On February 19, Labour MP Lena Jeger criticized the Cyprus government's press restrictions by questioning the case against Charles Foley's *Times of Cyprus.* "I have been reading all the cuttings from *The Times of Cyprus* very carefully, including those articles which have brought down such wrath on Mr. Foley's head," Jeger told the Commons. "If one reads his articles and then reads the Government's reproof of him," she continued, "one is surprised and dismayed. One is left

[174] On Eden's role in the Suez Crisis, see Ronald Hyam, *Britain's Declining Empire: The Road to Decolonisation, 1918-1968* (Cambridge: Cambridge University Press, 2006), 221-240; Jonathan Pearson, *Sir Anthony Eden and the Suez Crisis: Reluctant Gamble* (New York: Palgrave Macmillan, 2003); David Reynolds, "Eden the Diplomatist, 1931-1956: Suezide of a Statesman?" *History* 74, no. 1 (1989): 64-84; and David M. Watry, *Diplomacy at the Brink: Eisenhower, Churchill, and Eden in the Cold War* (Baton Rouge: Louisiana State University Press, 2014).

with the conclusion that the Government do not want newspapers at all."[175] A February 20 article in the *Manchester Guardian* reported James Callaghan's condemnation of Cyprus policy as "lost in a blind alley."[176] On March 8, Jeger asked Colonial Secretary Alan Lennox-Boyd if the government would set up an independent inquiry into "irregularities in the administration of justice in Cyprus."[177] Finally, the Cyprus Bar Council leadership also wrote to Lennox-Boyd asking for the appointment of a Parliamentary Committee to investigate allegations of prisoner ill-treatment. He demurred.[178] The Bar Council's connection with British politicians ensured that the Opposition was well informed of the state of the emergency regulations in Cyprus.

Harding also faced geopolitical concerns as the Macmillan government adopted a new political course in Cyprus. The Suez Crisis had severely damaged Britain's relationship with its primary ally, the United States. When Macmillan met with U.S. President Dwight Eisenhower in March 1957, Eisenhower suggested that Macmillan release Archbishop Makarios from exile in the Seychelles. Macmillan agreed, hoping that Makarios's release would pave the way for a political settlement to the conflict. The Macmillan government also presented a new plan for self-government in Cyprus and invited Greece and Turkey to a three-power conference with Britain to negotiate a solution. Peace in Cyprus was especially important given the April 1957 release of the Defence White Paper, which signaled the end of conscription and the consequent reduction of the army to half its size over the next five years. Cyprus's airfields were still considered vital to British security, but the new Minister of Defence, Duncan Sandys, was not convinced that retaining sovereignty over the entire island

[175] Hansard HC Deb February 19, 1957 vol 565 c322.

[176] "Cyprus Policy in 'Blind Alley', *Manchester Guardian*, February 20, 1957.

[177] TNA FCO 141/4360 CO to Harding, tel 383, March 8, 1957.

[178] TNA FCO 141/4360 CO to Harding, tel 376, March 8, 1957.

was either necessary or practical.[179] Meanwhile, the United Nations General Assembly debated the island's fate, with a weakly-worded resolution calling on the parties involved to resume negotiations toward a solution.[180] Diplomatic momentum had turned toward a negotiated settlement.

Although Harding could anticipate the change in British policy, neither he nor the Macmillan government foresaw Greece's decision to submit an application to the European Commission of Human Rights on behalf of Greek Cypriots alleging that Britain had violated the European Convention on Human Rights through its conduct of the war in Cyprus. The European Commission of Human Rights, based in Strasbourg, France, oversaw the implementation of the Convention. The Convention contained 18 Articles protecting civil liberties such as the right to life, privacy, marriage, and a fair trial; and the freedom of expression, thought, assembly, and religion. Of particular relevance to the Cyprus Emergency, Article 3 prohibited torture and "inhuman or degrading treatment" while Article 15 permitted states to derogate from the Convention if three conditions were met: The existence of a public emergency threatening the life of the nation, the measures taken in response to an emergency must be "strictly required by the exigencies of the situation," and those measures must be consistent with the state's other obligations under international law.[181] The Convention also allowed, but did not require, its signatories to accept individual or group petitions. Britain rejected the right of individual petition, but accepted the right of a fellow state party to the Convention to petition the European Commission. The implication

[179] French, *Fighting EOKA*, 237–238.

[180] Ibid., 154–157. On the Cyprus issue at the UN, see Hatzivassiliou, *Britain and the International Status of Cyprus, 1955-1959* and Johnson, "Britain and the Cyprus Problem at the United Nations."

[181] Council of Europe. European Convention on Human Rights. http://www.echr.coe.int/Documents/Convention_ENG.pdf. Accessed January 11, 2015. pp.6, 13.

for Cyprus was that only states could formally complain over British actions, not the Cypriots themselves.[182] But Greece proved a willing international patron.

The Greek application of May 1956 was a reaction to allegations of abuse during interrogation and the executions of Karaolis and Demetriou, which contributed to a sense among many Greeks and Greek Cypriots that British forces operated with impunity. By filing the application, the Greek government entered uncharted territory—this case marked the first inter-state complaint under the auspices of the European Convention of Human Rights. At a June 1956 hearing in Strasbourg, British legal officers, the Commission members, and the Greek delegation settled on the scope of the application. The Greek representatives agreed to limit the proceedings to a general inquiry into whether the state of emergency and its associated legislation constituted a breach of the European Convention. The Commission, however, permitted the Greek government to submit a second application addressing individual cases of abuse at a later date if it so desired. With the terms set, the European Commission appointed a Sub-Commission to oversee the proceedings of the case.[183] Although the Convention was an international agreement, it generated highly localized consequences for the colonial administration in Cyprus.

To support the Greek application, the Cyprus Bar Council established a local "human rights committee" in Nicosia in October 1956. Their objective was to document evidence of torture and other forms of abuse for use in local legal proceedings and inclusion in a potential second Greek application under the European Convention. John Clerides and Stelios Pavlides led the effort, receiving support from approximately a dozen other barristers, many of whom were also involved in defending captured EOKA fighters. The Bar Council's island-wide

[182] Simpson, *Human Rights and the End of Empire*, 2–4.

[183] Simpson believes that Greek officials agreed to a limited investigation of emergency legislation because they sought a quick decision before discussing Cyprus again at the next UN General Assembly meeting; see Ibid., 937–939.

activist network facilitated the creation of human rights committees in other cities and towns.[184]

Human rights committee lawyers found that most complaints concerned mental and physical abuse during interrogation. In the case of Ioannis Christoforou, the lawyers called on the Attorney-General to investigate what their private inquiry had disclosed as "an overwhelming prima facie case of grievous bodily harm" committed against Christoforou. Maria Lambrou, who was pregnant when taken into custody, claimed to have been beaten at the Kyrenia police station and alleged that her interrogator told her to confess or else he would beat her so hard that she would miscarry.[185] Another prisoner, Takis Kakoullis, held at Omorphita Police Station, reported that guards threw salt on the floor and forced him to lick it. They subsequently placed a tin can on his head and beat it for fifteen minutes. George Koursoumbas alleged that police officers ordered him to raise his arms, then punched him in the armpits. They then ordered him to lie down, placed his feet on a chair, and beat the soles of his feet with a leather bandolier. In Nicosia, Konstantinos Ionannou endured a mock execution. Ionannou alleged that an interrogator pointed a revolver at his head and said "I will count to seven. If you do not confess you will die." The interrogator counted to seven and pulled the trigger. The pistol clicked—the chamber was empty.[186]

Suspicious deaths in custody also attracted scrutiny. The *Times of Cyprus* routinely published reports on inquests and criminal procedures. In one, an inquest in to the death of Nicos Georghiou, the newspaper reported that the Coroner determined Georghiou's cause of

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[184] Author interview with Renos Lyssiotis, January 8, 2014 and Taliadoros, *An Album of Lawyers Who Defended EOKA Fighters, 1955-1959.*

[185] FCO 141/4310 Governor, Cyprus to Colonial Secretary, February 19, 1957. Lambrou's situation was documented upon her October 13, 1956 arrest. She was pregnant but unmarried, aborted while in custody, and was taken to a hospital. A Cypriot doctor stated that she had a septic abortion and that her genital organs were dirty and infected. The doctor was unable to say what had caused the abortion.

[186] FCO 141/4592 Memorandum of Evidence Prepared by the Bar of Cyprus, discussed at Government House on January 9, 1957.

death to have been "intercranial haemorrhage and purulent bronchitis 'occasioned by some unknown external agency of which there is no direct evidence.'" Georghiou died at Akrotiri hospital in January 1957 after four days in British custody. Dr. Clearkin, a government pathologist who testified at the court hearing, reported that Georghiou's death "was unnatural." The lack of "direct evidence" meant that the mysterious circumstances of Georghiou's death were not pursued further. No one was convicted for causing his death.[187]

The Cyprus government did not officially sanction physical cruelty—in fact officials cited the conviction of a police officer in Limassol on "ill-treatment" charges as well as the March 1956 court-martial of two army intelligence officers on assault charges as "proof of the resolution with which Government and the military authorities deal with such cases."[188] As of March 1957, the Cyprus government had punished four additional members of the security forces for ill-treating Cypriot civilians. Three police constables were charged with assault, fined from £10-£25, and forced to resign. One police auxiliary was found guilty of inflicting grievous bodily harm on a civilian and was sentenced to three years imprisonment.[189] In June 1957, a UK Police Sergeant Gash assaulted a Greek Cypriot civilian over a private quarrel unrelated to detention or interrogation. The Nicosia Special Court convicted Gash on July 5, 1957. He was reprimanded and fined £5.[190] The colonial administration proved willing to punish security forces if the evidence against them was overwhelming, but the punishments were far from severe.

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[187] U DJU 11-15 Extract from *Times of Cyprus*, June 29, 1957.

[188] The officers in question were Lieutenant Robin Linzee and Captain Gerald O'Driscoll. See WO 71/1231 and Simpson, *Human Rights and the End of Empire*, 896-897.

[189] FCO 141/4310 Governor Cyprus to Colonial Secretary, March 2, 1957; see also French, *Fighting EOKA*, 203–204.

[190] FO 371/130145 Cyprus to Colonial Secretary, October 2, 1957.

As the Strasbourg inquiry progressed, British officials in Cyprus and Whitehall realized that they required a coordinated policy response to the Greek application. Britain could not simply ignore or dismiss the application because, as one official noted, it "falls too clearly within the ambit of the Convention, which we have signed, to be brushed aside."[191] Led by Foreign Office legal adviser Sir Francis Vallat, officials devised a strategy to slowly give ground on issues that the Cyprus human rights committees and the Greek government found objectionable while continuing to contest the application before the Sub-Commission. Vallat described this approach as a "policy of gentle co-operation and the gradual whittling away of the sting of the Greek application by one means or another."[192] Harding applied this strategy to good effect in Cyprus while simultaneously preserving laws that he deemed vital to the counterinsurgency effort.

As a result of Parliamentary criticism, the Greek human rights applications, and out of a desire to win Greek Cypriot support for the Radcliffe constitutional proposals, Harding revoked collective punishment and juvenile whipping regulations in December 1956.[193] These laws had proved more burdensome than useful.[194] They had little impact in practice on the security forces' efforts to kill or capture EOKA fighters, but proved particularly controversial and infuriating to many Greek Cypriots. Harding needed to preserve laws that allowed the security forces to gather intelligence, like those on interrogation practices, deemed vital to the counterinsurgency effort. Appearing to give ground on the collective punishment and juvenile whipping regulations would assuage angry Greek Cypriots and

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[191] Simpson, *Human Rights and the End of Empire*, 932–935. Quoted in Simpson, p.934, originally CO 936/294 Minute by Marnham, May 22, 1956. Simpson indicated that in personal correspondence between himself and Vallat, Vallat described the "consternation" that the Greek application caused in Whitehall.

[192] Ibid., 962. Quoting CO 936/297 Vallat to McPetrie, December 21, 1956.

[193] French, Fighting EOKA, 216.

[194] TNA FCO 141/4320 Governor, Cyprus to Colonial Office, January 30, 1957.

Opposition critics at home without sacrificing legal powers that were actually useful for countering EOKA.[195]

Among the regulations that Harding designated as essential to the success of counterinsurgency operations, however, were the public officers' protection regulation and the firearms law. He left these laws in effect. When explaining this decision to the Colonial Secretary, Harding wrote that he preferred for the regulation to "remain in force at least until it has been possible to garner the results from the interrogation of persons arrested in the course of recent operations. There is no doubt that far more information is coming in than ever before, and this has assisted towards recent successes." Harding argued that the public officers' protection regulation "had an extremely limited object, to protect Government servants whose anonymity was necessary for their personal safety while performing their duties during the present emergency." This "limited object," however, had broad ramifications—it shielded interrogators from scrutiny, ensuring that they could continue without concern for the actions of EOKA lawyers.[196]

Militarily, by the spring of 1957, the Cyprus campaign was going well for the British thanks to operations conducted under a legal framework designed to facilitate intelligence collection and security operations. Captured documents and prisoner interrogations had reduced EOKA's mountain gangs and town-based assassination squads to a shell of their previous strength. Intelligence estimates indicated that only 40% of EOKA's most experienced and dedicated fighters remained at large. The rest had been killed or captured. Logistically, EOKA had also suffered losses as British forces seized several major arms caches and disrupted the organization's Limassol-based smuggling network. EOKA's leader,

[195] Simpson, *Human Rights and the End of Empire*, 931.

[196] See also TNA FCO 141/4320 Governor, Cyprus to Colonial Secretary, January 31, 1957.

George Grivas, was on the run and had almost been captured.[197] He ordered a unilateral ceasefire so that EOKA could regroup. On April 4, 1957, with the desire for a political settlement driving policy in Whitehall, Harding further relaxed the emergency regulations. He decreed that the death penalty would only apply in cases where the defendant was charged with discharging or carrying firearms and bombs with the intent to cause bodily harm. Furthermore, Harding removed all restrictions on the use of taxis and bicycles and cancelled the 1956 orders controlling the sale and circulation of publications. He portrayed these actions as generous steps toward peace and hoped to placate the Sub-Commission in Strasbourg.[198] Harding had preserved the laws that were most useful to the intelligence effort, but activism from the Cyprus Bar Council and the resultant Parliamentary criticism pressured him into revoking some repressive regulations.

Conclusion

When first enacted, the emergency regulations regime tilted the balance in the colonial government's favor. This legislation granted security forces wide-ranging powers of arrest, detention, and interrogation. British officials sought to wield the law as a weapon that could restrain their enemies' freedom of action while enabling the security forces to operate with fewer restrictions. Through courtroom advocacy, Greek Cypriot barristers undermined the emergency regulations by turning the judicial system into a battlefield in its own right, but they also shaped the war beyond the courtroom.

By transforming the Cyprus Bar Council from a professional society to an activist organization, Greek Cypriot lawyers protected detainees' rights to legal representation, appealed to sympathetic British politicians, and documented torture allegations in support of the Greek government's application before the European Commission of Human Rights.

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[197] French, *Fighting EOKA*, 154–157.

[198] Simpson, *Human Rights and the End of Empire*, 971–973.

Although the firearms law and public officers' protection regulation remained in place, the Bar Council lawyers forced Harding to eliminate some of the most repressive laws such as those concerning collective punishments, juvenile whipping, and press censorship.

The colonial government sometimes responded to Bar Council activism out of concern for rights or justice, but officials' actions were more often motivated by a desire to avoid embarrassment. Attorney-General Sir James Henry and Justice Bernard Shaw refused to allow security forces to operate outside the law and tried to enforce standards of conduct such as the right of detainees to legal representation and the inadmissibility of prisoners' confessions obtained through coercion. But they were in the minority. Most officials, including senior officials such as Harding—reacted to Bar Council activism not out of a desire to safeguard human rights, but out of an interest in shielding Britain's reputation from harm. Ultimately, for both Greek Cypriots and the British, human rights activism and the law were instruments of war—instruments that would continue to be applied as the war dragged into the second half of 1957.

CHAPTER 3:
"THE SHADOW OF STRASBOURG":
INTERNATIONAL ADVOCACY AND BRITAIN'S RESPONSE

Introduction

By mid-1957 the Cyprus government faced public criticism from domestic politicians and local lawyers over harsh emergency laws, but colonial officials encountered additional scrutiny internationally. Diplomatic wrangles at the United Nations, squabbling among North Atlantic Treaty Organization (NATO) allies, and ministerial-level negotiations between Britain, Turkey, and Greece defined much of the political and diplomatic history of the Cyprus Emergency. But the government of Greece's sponsorship of two complaints at the European Commission of Human Rights on Greek Cypriots' behalf shaped the conduct of the war in new ways. In what were the first two inter-state applications lodged before the Commission, Greece alleged that Britain violated the terms of the European Convention of Human Rights. Although Britain won the case regarding the first application, the European Commission compelled British officials to permit an international human rights investigation. Greece's second application accused Britain of torturing prisoners in 49 individual cases. The evidence used in this application was based largely on documentation collected by Greek Cypriot lawyers associated with local human rights committees. This chapter examines Greece's applications under the European Convention of Human Rights, EOKA's concurrent "atrocity campaign," and the influence which these efforts had on British counterinsurgency operations.

For proponents of human rights, rights pressures generated unintended—and undesired—consequences: rather than ending abusive practices, British officials grew more adept at hiding them. Greece's ECHR applications raised the possibility of international

investigations discovering British interrogation procedures' reliance on brutality and coercion; these proceedings, combined with the concurrent "atrocity campaign," convinced the Cyprus government of the need to devise a coherent, effective response to human rights activism. Colonial officials established a Special Investigation Group (SIG) charged with investigating ill-treatment allegations. But SIG did not investigate allegations concerning Special Branch interrogations, nor was SIG truly an independent oversight body. SIG was a counterpropaganda unit which existed to whitewash allegations and provide British officials with plausible deniability or an alternative narrative to undermine EOKA propaganda efforts. In addition to SIG, colonial officials sought to restrict public knowledge of British forces' culpability in two 1958 incidents in which grave rights violations occurred—the Geunyeli massacre and the army's unsanctioned reprisals after the murder of Catherine Cutliffe in Famagusta. Senior military and civilian officials aided the whitewash, including Sir Kenneth Darling, Director of Operations in Cyprus, Colonial Secretary Alan Lennox-Boyd, Secretary of War Christopher Soames, Chief of the Imperial General Staff and hero of the Malayan Emergency Sir Gerald Templer, and Commander-in-Chief of Middle East Land Forces Lieutenant General Sir Roger Bower.[199]

The International Arena

International diplomacy played an important role in the conflict, both as a site of confrontation between the protagonists and, eventually, the forum in which Britain, Turkey, and Greece arrived at a satisfactory agreement that ended the insurgency. Beginning in 1954, the United Nations became the venue for an annual diplomatic battle between Britain and

[199] See Simpson, *Human Rights and the End of Empire* for an exhaustive analysis of the Greek applications. Simpson emphasizes the jurisprudential proceedings and consequences of the European Commission's decision on the first application. The Special Investigation Group (SIG) records were discovered as part of the Hanslope Park archive in 2009. David French provides the first analysis of the Hanslope Park disclosures related to the Cyprus Emergency. He concludes that SIG operated as a relatively impartial investigatory body. My conclusions differ. See David French, *Fighting EOKA: The British Counter-Insurgency Campaign on Cyprus, 1955-1959* (Oxford, UK: Oxford University Press, 2015).

Greece over whether the "Cyprus Question" qualified as an international issue. Britain argued that since Cyprus was a colony, its affairs were a domestic issue; the island's international status should not be a topic for discussion. In contrast, from 1954-1956, Greece periodically raised the Cyprus issue for discussion at UN General Assembly sessions. Britain then shifted its strategy by undermining support for the Greek position among other UN member states. Yet other member states, particularly former colonies of the emerging "Third World" such as India and Indonesia, advocated a broader UN mandate that included self-determination for colonies. Britain attempted to gain American support on the Cyprus issue with the argument that Cyprus was strategically valuable and therefore essential to Cold War defense. British diplomats argued that self-determination for Greek Cypriots would alienate Turkish Cypriots and inflame relations between Greece and Turkey, both of which were vital NATO allies.[200] Within Cyprus, EOKA was highly conscious of the impact that its actions could have in the international arena. As historian Robert Holland noted, "where Cyprus was concerned, discussion at the United Nations and local violence usually went together."[201]

Greek Cypriots unsuccessfully invoked international agreements when protesting allegations that British interrogators tortured Greek Cypriot prisoners. In 1956, the Cyprus Bar Council complained to Governor Harding that "physical and mental ill-treatment" during interrogation constituted a breach of the 1949 Geneva Convention. The 1949 Convention required all signatory governments to "pledge themselves to leave unaltered and unrestricted the existing processes for the vindication of civil rights." Emergency regulations, the lawyers

[200] Edward Johnson, "Britain and the Cyprus Problem at the United Nations," *The Journal of Imperial and Commonwealth History* 28, no. 3 (2000): 113–116 and Evanthis Hatzivassiliou, *Britain and the International Status of Cyprus, 1955-1959*. Minneapolis: University of Minnesota Press, 1997. On the influence of "Third World" anticolonialism at the UN, see Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia: University of Pennsylvania Press, 2011).

[201] Robert Holland, *Britain and the Revolt in Cyprus, 1954-1959* (Clarendon Press, 1998), 290.

argued, violated this stipulation.[202] Although Britain signed the Convention, Her Majesty's Government deliberately avoided ratifying the treaty until 1957 due to the concern that the Convention would restrict British forces' options for dealing with insurgents as law-breaking rebels rather than as internationally recognized combatants. Once the British government ratified the Convention, government lawyers identified and exploited legal loopholes to ensure that the Convention did not restrict British freedom of action.[203] Common Article 3, which stipulated that the Geneva Conventions applied to "non-international armed conflict" as well as inter-state conflict, therefore did not apply in Cyprus until 1957. Even after ratification, Common Article 3 was largely ignored or states insisted that "non-international" did not mean "anticolonial rebellion."[204]

The International Committee of the Red Cross (ICRC), which worked to improve conditions for prisoners, also proved ineffective at recognizing and stopping British abuses. Throughout the conflict, the International Committee of the Red Cross conducted visits to British detention camps. In one March 1957 visit to the Nicosia Central prison, Red Cross representative David de Traz was allowed to interview many detainees without oversight from camp officials. A British report on de Traz's visit noted that de Traz heard "numerous complaints concerning harsh treatment suffered during questioning by the police. In many cases the delegate saw actual traces of such treatment." All of the detainees claimed that they had sustained their injuries during interrogation, not at the detention camp. De Traz raised the issue with Deputy Governor George Sinclair, reminding him of Britain's obligation "for the

[202] FCO 141/4592 Memorandum of Evidence Prepared by the Bar of Cyprus, discussed at Government House, 9 Jan 57.

[203] David French, *The British Way in Counter-Insurgency, 1945-1967* (Oxford: Oxford University Press, 2011), 230.

[204] Huw Bennett, *Fighting the Mau Mau: The British Army and Counter-Insurgency in the Kenya Emergency* (Cambridge University Press, 2012), 77–80. Bennett provides an excellent discussion of Common Article 3; a formal definition for "non-international armed conflict" was not established until a 1997 ruling by the International Criminal Tribunal for the Former Yugoslavia.

detainees to be treated with humanity in all circumstances." De Traz asked to be allowed to visit the police interrogation centers on his next visit to Cyprus.[205] He believed that brutality had probably occurred, but was limited: "My personal opinion is that at no time did the top British officials order or tolerate deliberate ill-treatment of prisoners. However, I think it quite possible that in moments of exasperation, lower-ranking police officers will get carried away to excess."[206] When he visited Omorphita interrogation center in August 1957, de Traz reported that he did not see any suspicious marks or signs of abuse on detainees' bodies. He spoke with only one detainee and used a British interpreter. Unsurprisingly considering the dialogue was in the presence of a British official, the detainee stated that he had no complaints about his treatment. De Traz concluded that "nothing untoward is happening there."[207] As the war continued, de Traz regularly visited detention camps. But Greek Cypriots perceived the interrogation centers as the source of abuse rather than detention camps. By November 1958, Greek Cypriot opinions had hardened, believing that the Red Cross was biased in favor of the British.[208]

Despite the existence of international agreements and humanitarian organizations, EOKA sympathizers had few formal legal avenues for addressing British brutality. Decisions made at the United Nations conveyed international legitimacy, but were not necessarily binding on member states. Britain also rejected the notion that the 1949 Geneva Conventions applied in Cyprus, even after ratification. But one option remained—the European Commission for Human Rights, created under the Council of Europe in Strasbourg, France.

[205] FCO 141/4673 Nicosia Central Prison report on de Traz's second visit, 22 Mar 57.

[206] ICRC B AG-202-049-001 de Traz to Gaillard, 21 Aug 57.

[207] ICRC B AG-202-049-003.01 de Traz to ICRC, 23 Aug 57.

[208] ICRC B AG 225-049-002 de Preux to de Traz, 26 Nov 58. The ICRC was not biased toward Britain, but de Traz was largely put off by the "atrocity campaign" and did not wish to be fooled by either side.

The European Convention on Human Rights contained 18 Articles protecting civil liberties such as the right to life, privacy, marriage, and a fair trial; and the freedom of expression, thought, assembly, and religion. Of particular relevance to the Cyprus Emergency, Article 3 prohibited torture and "inhuman or degrading treatment" while Article 15 permitted states to derogate from the Convention if three conditions were met: The existence of a public emergency threatening the life of the nation, the measures taken in response to an emergency must be "strictly required by the exigencies of the situation," and those measures must be consistent with the state's other obligations under international law.[209] The Convention also allowed, but did not require, its signatories to accept individual or group petitions. Britain rejected the right of individual petition, but accepted the right of a fellow state party to the Convention to petition the European Commission. The implication for Cyprus was that only states could formally complain over British actions, not the Cypriots themselves.[210] Greek Cypriots soon found a willing international patron—Greece.

"Human Rights Committees" and the Greek Applications

When the Greek application arrived at the Foreign Office on May 8, 1956, British officials in Cyprus and Whitehall realized that they could not simply ignore or dismiss the application because, as one official noted, it "falls too clearly within the ambit of the Convention, which we have signed, to be brushed aside."[211] At a June 1, 1956 hearing in Strasbourg, British legal officers, the Commission members, and the Greek delegation settled on the scope of the application. The Greek representatives agreed to limit the proceedings to a general inquiry into whether the state of emergency and its associated legislation constituted

[209] Council of Europe. European Convention on Human Rights. http://www.echr.coe.int/Documents/Convention_ENG.pdf. Accessed 11 Jan 2015. pp.6, 13.

[210] Simpson, *Human Rights and the End of Empire*, 2–4.

[211] Ibid., 932–935. Quoted in Simpson, p.934, originally CO 936/294 Minute by Marnham, 22 May 56. Simpson indicated that in personal correspondence between himself and Vallat, Vallat described the "consternation" that the Greek application caused in Whitehall.

a breach of the European Convention, but the Commission also acknowledged the Greek government's right to submit a second application addressing individual cases of abuse at a later date. With the terms set, the European Commission appointed a Sub-Commission to oversee proceedings.[212]

British officials slowly gave ground on issues that the Cyprus human rights committees and the Greek government found objectionable. This move was part of a strategy outlined by Foreign Office legal adviser Sir Francis Vallat, who described his approach as a "policy of gentle co-operation and the gradual whittling away of the sting of the Greek application by one means or another."[213] Following this strategy, in December 1956 Harding revoked collective punishment and juvenile whipping regulations. On April 4, 1957, Harding decreed that the death penalty would only apply in cases where the defendant was charged with discharging or carrying firearms and bombs with the intent to cause bodily harm. Furthermore, he removed all restrictions on the use of taxis and bicycles and cancelled the 1956 orders controlling the sale and circulation of publications. Considering that Grivas had recently declared a unilateral truce, Harding was able to relax the emergency legislation without appearing to do so as a reaction to the Sub-Commission hearings. British officials could claim that Harding was responding solely to conditions on the island while simultaneously placating the Sub-Commission. Even when the Sub-Commission directly intervened, such as in the case of Nicos Sampson, British officials acquiesced. In this case, the Greek representative in Strasbourg called for a reprieve on the grounds that Sampson had been sentenced to death under a law that the Sub-Commission was currently reviewing to

[212] Simpson believes that Greek officials agreed to a limited investigation of emergency legislation because they sought a quick decision before discussing Cyprus again at the next UN General Assembly meeting; see Ibid., 937–939.

[213] Ibid., 962. Quoting CO 936/297 Vallat to McPetrie, 21 Dec 56.

determine its compatibility with the European Convention on Human Rights. When the Sub-Commission formally requested a reprieve, Harding granted it.[214]

Whereas the first application amounted to a general inquiry into the justifiability of a state of emergency in Cyprus, Greece's second application concerned specific allegations of torture. Submitted on July 17, 1957, Application No.299/57 included 49 individual cases of torture.[215] Most accusations involved Special Branch police interrogators using brute violence to extract information. Techniques included beatings with fists and canes, whips, or belts; a form of "water torture" meant to simulate drowning; a "helmet torture" in which a detainee's tormentors held a steel helmet onto his head and hit the helmet until the man fell unconscious; and the twisting of male genitals.[216] In two cases, prisoners died. One died when attempting to escape. According to colonial officials, the man died when he hit his head on a rock after being tackled by a British soldier. The other man died from inter-cranial hemorrhage. There was no evidence indicating that the man had been mistreated in custody, but there was also no evidence indicating how he had developed a head injury. The fact that a seemingly healthy man died in custody without evidence to indicate how he had obtained a fatal injury was in itself suspicious.[217]

Much of the Greek government's evidence for the second application came from a group of Greek Cypriot barristers connected with the Cyprus Bar Council leadership. In October 1956, these barristers established a local "human rights committee" in Nicosia. Their

[214] Ibid., 971–973.

[215] Ibid., 1020–1026. For details on the 49 cases, see CO 926/881-7, 504-30.

[216] It is not clear whether this was the same technique as contemporary "waterboarding." Regarding "genital twisting," Simpson notes that "given the fragility of the male anatomy this technique is effective and need leave no obvious traces even though considerable pain has been caused. It was, I recall, not an unknown practice in my public school." p.1025. Public school, incidentally, was the inspiration behind Harding's idea to introduce whipping of juveniles for emergency-related offences.

[217] Simpson, *Human Rights and the End of Empire,* 1020-1026.

objective was to document evidence of torture and other forms of abuse for use in local legal proceedings and inclusion in a potential second Greek application under the European Convention. John Clerides and Stelios Pavlides led the effort, receiving support from approximately a dozen other barristers, many of whom were also involved in defending captured EOKA fighters. After Clerides and Pavlides created the Nicosia committee, other cities and towns established local human rights committees.[218]

Human rights committee lawyers found that most complaints concerned mental and physical abuse during interrogation. In the case of Ioannis Christoforou, the lawyers called on the Attorney General to investigate what their private inquiry had disclosed as "an overwhelming prima facie case of grievous bodily harm" committed against Christoforou. The attorneys' memorandum also cited two cases from October 1956 of Maria Lambrou and Charolambos Kremnos, who were beaten during interrogation at the Kyrenia police station. Lambrou, who was pregnant at the time, also alleged that her interrogator demanded that she confess or else he would beat her so hard that she would miscarry.[219] In addition to being beaten on numerous occasions, Kremnos also claimed that guards forced him to "dig his own grave." He dug for a while before the guards pulled him out of the hole and forced him to hold two large stones and run circles around a tree for two hours. Another prisoner, Takis Kakoullis, held at Omorphita Police Station, reported that guards threw salt on the floor and forced him to lick it. The guards then placed a tin can on his head and beat it for fifteen minutes. George Koursoumbas alleged that police officers ordered him to raise his arms and punched him in the armpits. They then ordered him to lie down, placed his feet on a chair,

[218] Author interview with Renos Lyssiotis, 8 Jan 14 and Dimitrios H. Taliadoros, *An Album of Lawyers Who Defended EOKA Fighters, 1955-1959.* (Nicosia, Cyprus: Department of Education and Culture, 2002).

[219] FCO 141/4310 Governor, Cyprus to Colonial Secretary, 19 Feb 57. Lambrou's situation was documented upon her October 13, 1956 arrest. She was pregnant but unmarried, aborted while in custody, and was taken to a hospital. A Cypriot doctor stated that she had a septic abortion and that her genital organs were dirty and infected. The doctor was unable to say what had caused the abortion.

and beat the soles of his feet with a leather bandolier. In Nicosia, Konstantinos Ionannou endured a mock execution. Ionannou alleged that an interrogator pointed a revolver at his head and said "I will count to seven. If you do not confess you will die." The interrogator counted to seven and pulled the trigger. The pistol clicked—the chamber was empty.[220]

Suspicious deaths in custody also attracted scrutiny. The *Times of Cyprus* routinely published reports on inquests and criminal procedures. In one, an inquest in to the death of Nicos Georghiou, the newspaper reported that the Coroner determined Georghiou's cause of death to have been "intercranial haemorrhage and purulent bronchitis 'occasioned by some unknown external agency of which there is no direct evidence.'" Georghiou died at Akrotiri hostpital in January 1957 after four days in British custody. Dr. Clearkin, a government pathologist who testified at the court hearing, reported that Georghiou's death "was unnatural." The lack of "direct evidence" meant that the mysterious circumstances of Georghiou's death were not pursued further, and no one was convicted for causing his death.[221] Upon reviewing Application No.299/57, the European Commission for Human Rights appointed an additional Sub-Commission to investigate.

The Cyprus government, however, did not officially sanction physical cruelty—in fact officials cited the conviction of a police officer in Limassol on "ill-treatment" charges as well as the O'Driscoll and Linzee court-martial as "proof of the resolution with which Government and the military authorities deal with such cases."[222] Officially, Cyprus Police "methods of interrogation follow the normal UK pattern. All forms of physical violence are forbidden by the Criminal Law and Police Force orders." As of March 1957, the Cyprus

[220] FCO 141/4592 Memorandum of Evidence Prepared by the Bar of Cyprus, discussed at Government House on 9 Jan 57.

[221] U DJU 11-15 Extract from *Times of Cyprus*, 29 Jun 57.

[222] FCO 141/4591 Administrative Secretary Memorandum, 17 Aug 56.

government had punished four additional members of the Security Forces for ill-treating Cypriot civilians. Three police constables were charged with assault, fined from £10-£25, and forced to resign. One police auxiliary was found guilty of grievous bodily harm and sentenced to three years imprisonment.[223] In June 1957, a UK Police Sergeant Gash assaulted a Greek Cypriot civilian over a private quarrel unrelated to detention or interrogation. The Nicosia Special Court convicted Gash on July 5, 1957. He was reprimanded and fined £5.[224]

Although the Cyprus government punished some members of the Security Forces, it had difficulty responding to human rights inquiries in part because the administration lacked policy guidance for systematic medical examinations of detainees. Greek Cypriot human rights committee lawyers routinely photographed or x-rayed individuals who alleged that British forces had used physical brutality or torture. Attorney-General Sir James Henry, after reviewing one such complaint, called the photographs "a very dangerous form of propaganda." Henry suggested that the Security Forces should medically examine detainees as a means of refuting allegations. The idea was to examine detainees to test whether their actual bodily injuries—or evidence thereof—matched detainees' allegations.[225] In April 1957 a system was finally created in which all detainees were required to be examined by medical personnel every two days. The results of each medical examination also had to be documented properly to forestall future complaints.[226]

The "Atrocity Campaign"

Greece's second application built on what Cyprus government officials termed the "atrocity campaign." Officials often viewed ill-treatment allegations as nothing more than

[223] FCO 141/4310 Governor Cyprus to Colonial Secretary, 2 Mar 57; see also French, *Fighting EOKA*, 203–204.

[224] FO 371/130145 Cyprus to Colonial Secretary, 2 Oct 57.

[225] FCO 141/4360 Note by the Attorney-General on matters raised by the Bar Council of Cyprus, not dated but written between 3-8 Jan 57.

[226] Simpson, *Human Rights and the End of Empire,* 1027.

propaganda. EOKA waged a sophisticated propaganda campaign designed to ensure Greek Cypriot support for enosis and discredit the Cyprus government. Toward this end, EOKA established a dedicated propaganda wing, *Politiki Epitropi Kypriakou Agona* (PEKA). PEKA distributed leaflets, painted slogans on buildings, organized demonstrations, and coordinated other propaganda activities. Given the prominence of torture accusations in the press, PEKA eagerly compared British counterinsurgency practices to "the Nazi methods of Hitler."[227] EOKA leader George Grivas ordered his subordinates to collect reports of vandalism committed by the Security Forces, physical brutality toward civilians, torture of prisoners, and any other abuses that could possibly be considered "ill-treatment." Ill-treatment allegations became so prominent in the press that journalists from Cyprus, Greece, Britain, and the United States reported sordid tales of abuse. Publications could be found in prominent British, American, and Cypriot papers such as *The Tribune*, *The Manchester Guardian*, *Newsweek*, the *New Statesman*, the *Spectator*, and the *Times of Cyprus*. In Athens, the Panhellenic Committee for Cyprus Self-Determination printed millions of booklets, pamphlets, and leaflets for worldwide distribution.[228]

In the eyes of Whitehall and the Cyprus government, journalists would have had far less derogatory material to work with had it not been for the efforts of Greek Cypriot attorneys. In November and December 1956, barrister John Clerides filed 36 ill-treatment complaints on behalf of detainees. "I have been submitting complaints," he wrote, "for the purposes of remedying a situation which discredits the prestige of British Administration." Colonial Secretary Alan Lennox-Boyd, however, adopted a more jaundiced view. He suggested that Clerides and his colleagues simply wanted to obstruct the government's

[227] Quoted in French, *Fighting EOKA*, 196. Original in CO 926/672/CIC(57)22(Final), 14 July 1957.

[228] CO 926/880 Loose Minute, 31 May 57 and CO 926/881 Kirkness to Morris, 19 Jun 57. For discussions of the "atrocity campaign," see Nancy Crawshaw, *The Cyprus Revolt: An Account of the Struggle for Union with Greece* (London: George Allen & Unwin, 1978), 244–255. French, *Fighting EOKA*, 198.

functionality. Clerides bristled at this suggestion: "It is a grave mistake of Lennox-Boyd even to think that a person of my standing would be putting up allegations of ill-treatment for the purpose of consuming the Administration's time and energies."[229] Clerides, however, was not as naïve as his response suggested. Greek Cypriot lawyers who participated in the Cyprus Bar Council's human rights committees and defended EOKA clients held political agendas of their own. Many—if not all—were sworn EOKA members. Barrister Renos Lyssiotis, for instance, joined PEKA and was responsible for coordinating the painting of propaganda slogans on buildings in Nicosia while simultaneously defending EOKA prisoners in court.[230]

Although they defended the rights of EOKA fighters, the human rights committee barristers were not impartial actors. The rights of Greek Cypriot communists and Turkish Cypriots counted for little. Before accepting a case, the lawyers coordinated with EOKA to ensure that they prioritized key fighters or avoided defending anyone with past ties to AKEL, the Cypriot communist party. As a right-wing nationalist movement, EOKA held communism and communists in contempt. The lawyers' human rights advocacy also did not extend to Turkish Cypriots. Instead, Turkish Cypriots were represented in court by Turkish Cypriot barristers.[231]

Scholars and commentators have typically embraced the view that because human rights committee members were not impartial, their efforts made them little more than propagandists. Journalist Nancy Crawshaw assumes that politics and principle are mutually exclusive motivations. She writes that the lawyers were "motivated by political aims rather than a desire to establish the truth and to ensure humane treatment for their clients."[232] David

[229] FCO 141/4361 Clerides to Benenson, 17 Dec 56.

[230] Taliadoros, *An Album of Lawyers Who Defended EOKA Fighters, 1955-1959.*; author interview with Renos Lyssiotis, 8 Jan 14.

[231] French, *Fighting EOKA*, 199.

[232] Crawshaw, *The Cyprus Revolt*, 251.

French agrees, writing that EOKA propaganda was exaggerated and the human rights committees "were not impartial bodies of lawyers intent only on the pursuit of the truth."[233] It is certainly true that the lawyers were partisan actors and the human rights committees were only concerned about the human rights of Greek Cypriot nationalists. But these insights do not mean that the lawyers were simply cynical peddlers of misinformation.

The human rights committees' partisanship should not automatically cast them into the realm of propagandists who promoted lies and misinformation. The critical flaw in both Crawshaw's and French's assessments of the human rights committee lawyers lies in their assumption that justice is somehow impartial. In Cyprus, the legal system was stacked in favor of the government as both Greek Cypriot lawyers and colonial officials sought to manipulate the law to their advantage. Advocacy on behalf of EOKA suspects satisfied Bar Council lawyers' principles and politics. By stopping detainee mistreatment and undermining draconian emergency laws—the methods by which British forces secured confessions and obtained intelligence—Greek Cypriot attorneys could both support the war effort and assuage their consciences. For them, the choice was simple: Because they supported EOKA and British interrogators were torturing EOKA prisoners, stopping torture therefore served both the interests of justice and the *enosis* movement. British officials, too, were far from impartial in their quest for justice. The Cyprus government believed that they were also working on behalf of justice by enacting laws designed to facilitate counterinsurgency operations and intelligence collection. From the perspective of colonial officials, it could be said that subduing the insurgency legally, regardless of how oppressive those laws may have been, served the interests of justice by establishing order. In Cyprus, impartiality was impossible.

233 French, *Fighting EOKA*, 198–199.

To counter the human rights committees, Governor Harding ordered the compilation and publication of an official government white paper entitled "Allegations of Brutality in Cyprus." He intended for the white paper to serve as a weapon against atrocity allegations. Designed for widespread dissemination, copies of the white paper were dispatched to the UK delegations in Athens, Ankara, Washington, and New York.[234] Harding wrote in the foreword that "I do not think any unbiassed [sic] person who has lived through the past two years in Cyprus could be in any doubt that the Security Forces here have been subjected to a darefully [sic] organised campaign of denigration." Harding presented "evidence that this campaign has been a deliberate and organised conspiracy."[235] The white paper attacked the Cyprus Bar Council's human rights committees as politically motivated EOKA supporters who abused their profession to serve the cause of enosis rather than the interests of justice. Bar Council attorneys issued a two-fold response. First, they charged that Harding's white paper constituted an assault on the lawyers' professional integrity and that they were merely defending their clients as any barrister would. This claim was partially disingenuous—pro-EOKA lawyers used the courts for both purposes. Secondly, they asserted that the white paper did not adequately answer the ill-treatment allegations they had previously documented and called for an independent public inquiry.[236]

In defense of the Security Forces' conduct, Harding insisted that "it would be unrealistic, when men are fighting terrorism, to exclude the possibility of occasional rough-handling of terrorists in the heat of the moment when their capture is being effected." Even so, Harding argued, "I have made it clear that I will not tolerate misconduct by members of the Security Forces." He cited evidence that the courts had "found fault with the Police for

[234] CO 926/880 Governor, Cyprus to Colonial Secretary, Tel. No. 1162, 10 Jun 57.

[235] CO 926/880 Foreword by the Governor, "Allegations of Brutality" White Paper, June 1957.

[236] Crawshaw, *The Cyprus Revolt*, 250–251.

the way in which evidence of terrorist offences was obtained" in "very few" cases. Harding wrote that when substantiated, his administration punished Security Force brutality, such as in the Linzee and O'Driscoll cases. Finally, Harding described an incident in which soldiers from the Gordon Highlanders were playing football in Lefkoniko when a bomb exploded and a soldier was wounded. The troops immediately searched the vicinity for suspects. After the search, "wild allegations of ill-treatment and malicious damage were made" against the soldiers. But a "very thorough" inquiry determined that the soldiers did not abuse villagers or cause serious damage to property. "The people of Lefkoniko," Harding insisted, "have reason to be thankful that it was British troops with whom they had to deal on that day."[237]

But "rough-handling" at the point of capture was not the source of most ill-treatment allegations. Upon his July 19, 1957 return to Athens from detention in the Seychelles, Archbishop Makarios attacked the white paper during a press conference. Repeating allegations often made against interrogators, Makarios described sexual abuse—claiming that torturers would twist the genitals of male detainees, force women to strip naked before plucking their pubic hair, and threatened women with rape—and more "mundane" harassment such as the placement of a metal rubbish bin on a detainee's head, which Security Forces would beat with a stick; the metal amplified the noise and vibrated as it was hit, which created a disorienting effect.[238]

Colonial Secretary Alan Lennox-Boyd publicly labeled the allegations "wild charges" that were clearly part of a pro-EOKA denigration campaign, but he privately considered ordering an inquiry.[239] In the Colonial Office, D.J. Kirkness, Morris, Melville, and John

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[237] CO 926/880 Foreword by the Governor, "Allegations of Brutality" White Paper, June 10, 1957.

[238] CO 926/879; there were six convictions for abuse by March 1957; also see FO 371/123885/808; "Archbishop Makarios Repeats His Torture Allegations," *The Manchester Guardian*, 20 Jul 57; and Simpson, *Human Rights and the End of Empire,* 1021.

[239] "Inquiry into Cypriot Prison Charges Refused: Complaints "Timed with Archbishop," *The Manchester Guardian*, 28 Jun 57.

Martin debated the idea and weighed various arguments for and against an inquiry, including the potential that a special inquiry could forestall an international one related to Greece's applications under the European Convention on Human Rights. Kirkness believed that "it must be admitted that there is a great deal of quite responsible opinion in this country which is seriously concerned about the allegations, largely from a feeling that there is no smoke without fire." He referred to articles that appeared in *The Manchester Guardian*, the *New Statesman*, the *Spectator*, and "even the 'Economist.'" Kirkness concluded that "we have to weigh the possible desirability of meeting the increasing concern in responsible circles about the allegations now current against the likely feeling of the Governor that, the administration and even his personal honour, would be called into question by any investigation."[240]

Lennox-Boyd chose not to order an inquiry because of the likelihood that at least some of the allegations were true. Kirkness identified the crucial factor:

> It seems increasingly probable that an investigation would unearth certain instances of brutality, probably by the Special Branch or by interrogators, which cannot be contained in the category of violence in the course of arrest of desperate men. I am not suggesting that we should refuse to consider investigation because we are afraid of what it might bring out; but we shall have to consider what we would do if it did bring out even one or two more discreditable incidents, after the Governor has stated repeatedly that all allegations are investigated and those found to be guilty of any misconduct punished.[241]

On June 26, 1957 he informed Harding that "a special enquiry is unnecessary and would do positive harm." Instead, Lennox-Boyd entered the counterpropaganda battle by resolving to "publish a White Paper with detailed answers to all specific allegations recently made."[242]

Lennox-Boyd's decision not to order an inquiry reflected the attitude that exposing Security Force misconduct would undermine rather than reinforce the Cyprus government's

[240] CO 926/881 Kirkness to Morris, 19 Jun 57.

[241] Ibid.

[242] CO 926/881 Lennox-Boyd to Harding, 26 Jun 57.

legitimacy. According to Lennox-Boyd's thinking, an inquiry that uncovered valid instances of ill-treatment would damage the counterinsurgency effort. It was better to deny allegations than face the possibility of their validity. Within six months, however, Whitehall's resistance to an inquiry eroded. But this time the inquiry was not conducted by British officials—it was international.

"Embarrassing Nonsense": The Sub-Commission Investigation

Having rejected the potential for a government inquiry into the substance of the second Greek application, British officials also bristled at the Sub-Commission's proposal to temporarily suspend emergency legislation in conjunction with the first Greek application. The final straw came when the Greek press published leaked reports of the Sub-Commission's supposedly confidential proceedings. Britain refused the Sub-Commission's proposal, claiming instead that "the continuance of the emergency threatening the life of the nation in Cyprus requires the application or maintenance in force of a substantial part of the emergency measures."[243] In response, the Sub-Commission resolved to visit Cyprus to conduct an on-ground investigation into whether British emergency regulations were justified. On December 9, 1957, the decision made the front page of the *Times of Cyprus*: "'Human Rights' probe begins on Jan. 13th."[244]

Many officials in Whitehall and Cyprus vehemently opposed the idea of an on-the-ground inquiry. At the Colonial Office, A.S. Aldridge recommended rejecting the inquiry and recognized the implications of an investigation in Cyprus: "Thought has not yet ranged beyond Cyprus to the question whether the whole Convention is not an embarrassing nonsense if we can be put to trial over any of our colonial territories."[245] In Cyprus, Harding

[243] Simpson, *Human Rights and the End of Empire*, 977–978. Quoting FO 371/130144/1073/5A.

[244] "'Human Rights' probe begins on Jan. 13th", Times of Cyprus, 9 Dec 57.

[245] Quoted in Simpson, *Human Rights and the End of Empire*, 986.

was also frustrated. Previously, in February 1957, he had expressed dissatisfaction with the way in which the Foreign Office handled the Greek application. He was dismayed that "the Commission is allowing the Greeks constantly to extend and multiple their malicious accusations and to obtrude on supposedly judicial proceedings all manner of extraneous political matter." Harding insisted that Britain's lawyers act more aggressively. They should launch a legal counterattack—an action that would be "bad law but good tactics."[246] Administrative Secretary John Reddaway agreed with Harding and strongly condemned the Sub-Commission's planned investigation as unwarranted interference in what he saw as an internal matter. "I trust," Harding wrote on October 26, when the potential of a Sub-Commission visit was discussed in Whitehall, "that Her Majesty's Government will be adamant in refusing to countenance such an invasion of our authority here."[247]

Harding, however, had already decided to resign from his position. He sensed that an intense military effort against the insurgency could no longer be sustained. Makarios's release from exile and international pressure for a political solution—coming from the United Nations and the human rights Sub-Commission—indicated a shift in the political winds. At the 1957 Labour Party conference, MP Barbara Castle announced that if Labour won the next election, the new government would radically alter Britain's Cyprus policy in favor of self-determination. Harding had grown disillusioned at the lack of a political consensus at home, the explosion of communal violence between Greek and Turkish Cypriots, and the likelihood of troop reductions in the Cyprus garrison. Faced with these difficulties, Harding did not believe that the government in London would fully support the tough military measures necessary to defeat EOKA.[248]

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[246] Ibid., 981. Quoting CO 936/487 telegram, 12 Feb 57.

[247] Ibid., 985. See CAB 129/90 C.(57)258.

[248] Holland, *Britain and the Revolt in Cyprus, 1954-1959*, 206–209.

Despite objections from within Whitehall, Foreign Office legal advisers determined that there were no legal grounds for rejecting the Sub-Commission's request. At the Colonial Office, Lennox-Boyd and Minister of State Lord Perth concluded that Britain would stand in violation of the European Convention if it refused to permit the investigation. On November 6, the Cabinet agreed to permit an on-ground investigation.[249] After the decision, Deputy Governor George Sinclair expressed the sentiments of many within the Cyprus government when he wrote despondently that "London has failed us."[250] The investigators arrived in January 1958. Many Greek Cypriot interviewees raised the issue of ill-treatment even though it was beyond the Sub-Commission's terms of reference. British officials were livid that the Sub-Commission indulged witnesses by allowing them to describe and discuss ill-treatment, but they could not raise this issue with the investigators because, in Neale's words, "much of the material was culled from very delicate sources." The Cyprus government had spied on the investigators' confidential interview sessions.[251]

On September 26, 1958, based on the Sub-Commission's report, the European Commission determined that Britain had not exceeded its powers by implementing emergency regulations. The Commission's report established three rulings. Legally, these decisions were non-binding. First, the report asserted that the Commission had authority to decide whether it could pronounce judgment on emergency measures that Harding had previously revoked—such as collective punishment, whipping, and some deportation orders. Secondly, the Commission ruled that it had the authority—the "competence," in legal language—to determine whether "a public emergency threatening the life of the nation"

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[249] Simpson, *Human Rights and the End of Empire*, 983–986.

[250] Harding Papers AFH 5 Sinclair to Harding, 12 Nov 57.

[251] Simpson, *Human Rights and the End of Empire*, 989–991. Quoting CO 936/489; also see CO 936/488—Neale's report indicates that there were secret sources of information. Simpson believes that MI5 bugged Sub-Commission facilities.

existed to the extent that justified derogation from the European Convention of Human Rights and the declaration of a state of emergency. The Commission determined that it was competent to make such a pronouncement. It also ruled that an emergency "threatening the life of the nation" did exist in Cyprus and therefore justified British officials' use of emergency powers. Finally, the Commission concluded that the existence of an emergency justified the regulations—curfews, detention without trial, arrest without warrant, and deportation—still in effect on the island.[252]

The repercussions of the application could have been tremendous. If Britain were held to be in violation of the Convention, according to legal scholar A.W. Brian Simpson, "there would have to be a complete reappraisal of the mechanisms of repression which had been developed over the years, and which had never previously had to be justified in international proceedings." Simpson notes that this doctrine reinforced the government's power over its citizens: "It can hardly be said that the outcome was a triumph for the international protection of human rights."[253]

Simpson is correct in point of law, but his focus on jurisprudence neglects broader implications of the Sub-Commission's investigation on the conduct of war. The outcome of the application favored Britain, but this was not a clear-cut victory. The Greek application and subsequent investigation marked the first time that a group comprised almost entirely of foreigners—there was one British member of the Sub-Commission—formally investigated and judged whether a British colonial government had violated its subjects' human rights. A precedent had been established that allowed for international oversight, intervention, and

[252] Ibid., 996-1000; 1009-1018. Simpson writes that commissioners disagreed over the justification of a state of emergency, although the majority supported Britain. He notes that the dissenting opinion offered more convincing arguments than the majority opinion. According to Simpson, if the report was publicly released at the time (it was held secret until 1997), it would have brought the Commission into disrepute and could have opened a public dialogue on the role of human rights in colonial insurgencies. See p.1049.

[253] Ibid., 959, 1018-1019.

investigation into alleged human rights violations under the terms of the European Convention. This precedent limited Convention signatories' sovereignty in a way that did not previously exist in international law.[254] Greek actions at Strasbourg therefore forced British officials to justify repression in Cyprus to an international audience before an internationally recognized human rights organization.

Combined with Greek Cypriot lawyers' efforts to document abuses, file complaints, and defend clients in court, the Greek applications contributed to the emergence of an operational environment in which the legality of British actions faced constant scrutiny. As one report on interrogation procedures noted, "the shadow of the Committee of Human Rights, which sits in Strasbourg, looms large over Omorphita and over Police Headquarters."[255] The "rule of law" in Cyprus, far from reinforcing the legitimacy of British rule, came to represent British repression. Regardless of the legal outcome, Greece's first application convinced British officials to respond to legal challenges by changing counterinsurgency policies and practices.

Responding to the "Shadow of Strasbourg"

Greece's first application galvanized British resistance to a possible investigation into the second application and contributed to the Cyprus government's "siege-mentality" regarding human rights abuses. At the Colonial Office, Aldridge worried that an investigation into torture charges would "hamstring the security forces." In Cyprus, Deputy Governor George Sinclair deemed "the thought of a local enquiry" into the second application "intolerable."[256] The prospect of another international investigation unsettled members of the

[254] For legal analysis of these developments, see Simpson, *Human Rights and the End of Empire,* 1000-1005, 1009-1018.

[255] CO 926/888 Report on the Cyprus Police Force by Chief Inspector Butler, Metropolitan Police, 21 Nov 58.

[256] Quoted in Simpson, *Human Rights and the End of Empire*, 986 and 995. See CAB 128/31 pt 2 cc 78 (57) 9 and FO 371/13695.

Security Forces in Cyprus to such an extent that they did not wish to cooperate with representatives from Whitehall. In January 1958, the Foreign Office dispatched Hilary Gosling, a retired prosecutor, to prepare the government's defense against ill-treatment charges. But members of the Security Forces were so suspicious of anyone outside the Cyprus government that many at first refused to allow Gosling to take statements. According to Sinclair, inquiries from the Colonial Office for details on the 49 torture cases "have inevitably caused deep misgivings in army, police and other Government circles." Special Branch officers were especially disconcerted with "the fear that they may individually be brought before an international tribunal, either here, or in Strasbourg, on ludicrous but personally damaging charges."[257] Gosling only managed to convince these reticent officials to participate after promising that they could refuse to answer particular questions if they wished.[258]

Cyprus officials were also concerned about the potential negative consequences of an investigation because of the likelihood that physical abuse had indeed occurred. Foreign and Colonial Office lawyers realized that "the political disadvantages of a breach of the Convention would be serious. It would receive widespread publicity and might seriously damage our reputation as one of the principal guardians of Human Rights. Many of our friends would be puzzled and dismayed, and our opponents elated." Britain could expect to suffer most from such negative ramifications at the United Nations, where they depended on support for their Cyprus position from NATO and Commonwealth countries as well as abstentions from the United States and India. A negative verdict from the European Commission of Human Rights or a British refusal to cooperate with the Commission "might

[257] FO 371/136400 Sinclair to Higham, 19 Mar 58.

[258] Ibid, 1030.

even contribute to the adoption of a resolution hostile to us; it would also encourage the Greeks to call for a United Nations Commission of enquiry in Cyprus."[259]

The nature and ramifications of Application No. 299/57 also differed significantly from the previous Greek application. The Sub-Commission established to inquire into the first Greek application took evidence primarily from senior military and civilian officials in an attempt to determine whether Britain's use of emergency powers in Cyprus was necessary and appropriate. The second application, however, would involve testimony from middle- and lower-ranking officials. At the War Office, the Chiefs of Staff strongly opposed the idea of another Sub-Commission inquiry. The possibility of soldiers testifying "as the alleged perpetrators of the 'atrocities'" was particularly troubling. Sir Gerald Templer, Chief of the Imperial General Staff and "hero" of the Malayan Emergency, was concerned that the Sub-Commission might interview junior officers and enlisted soldiers rather than limiting their inquiries to a handful of senior officers. Such questioning before an inquisitive Sub-Commission of foreign lawyers would, Templer believed, seriously damage soldiers' morale.[260]

As law officers prepared Britain's defense against the second Greek application, three additional human rights-related developments occurred in Cyprus: The renewal of EOKA's atrocity campaign, the arrival of a new Governor, and the subsequent creation of a counterpropaganda force—the Special Investigation Group. In the first of these developments, Greek Cypriot human rights committees resumed their advocacy efforts in April 1958 as a result of ill-treatment allegations after a detention camp riot. On May 5, John Clerides held a press conference to chastise British troops for mistreating Greek Cypriot

[259] LO 2/503 Joint Memorandum by Foreign Office and Colonial Office Officials—Cyprus: Human Rights.

[260] Simpson, *Human Rights and the End of Empire*, 1044. See CO 936/491 COS(58) 23rd mtg, minute 7(b), 13 Mar 58.

civilians in the aftermath of an EOKA attack on two Military Police officers.[261] Deputy Governor Sinclair declared that "a planned propaganda campaign to discredit the Security Forces is now under way."[262]

In its eagerness to discredit the Security Forces, EOKA publicized British misdeeds even when those "misdeeds" were false. Throughout 1958, British forces documented several instances in which pro-EOKA villagers purposefully destroyed property after cordon and search operations and claimed injuries by bandaging non-existent wounds. Greek-language newspapers often published inaccurate or exaggerated stories. In May 1958, *Ethnos* published the allegation that several young Greek Cypriot girls were "offensively searched" by a British soldier disguised "as a Turkish woman." But British soldiers were not involved in this incident and the searcher was, in fact, a Turkish woman. Other stories proved more difficult to verify. In response to military police searches in Famagusta, the newspaper *Eleftheria* wrote of the "extremities embarked upon by the British Forces against innocent civilians" on what will be remembered as "a black day in the annals of a Christian nation."[263]

Such allegations, however, were difficult to prove. Even with the benefit of hindsight, it is difficult to establish the veracity of many accusations. It is equally difficult to disprove them. EOKA propaganda further complicated the picture. Fabricated claims, however, did not appear to have been included in the 49 cases submitted to the European Commission for Human Rights. In his exhaustive study, Simpson found that the allegations included in the second application "are not in the main implausible; what is alleged is the sort of thing which might well have occurred, given the situation in Cyprus and the importance of intelligence." But prisoners also had reasons to claim that they had been tortured. Prisoners who were

[261] FCO 141/4495 Governor, Cyprus to CO, 7 May 58.

[262] FCO 141/4495 Sinclair to Reddaway, 6 May 58.

[263] FCO 141/4495 Governor, Cyprus to CO, 7 May 58.

released after interrogation—rather than being detained—were regarded suspiciously by EOKA. Released prisoners could claim that they had been tortured to avoid suspicion that they had informed on their comrades as a condition of their release. Simpson believes that the Greek Cypriot lawyers who handled the documentation for these cases must have realized the importance of selecting cases in which the evidence was strong enough to potentially sway a body of expert international lawyers such as the members of the European Commission for Human Rights. Unsubstantiated allegations therefore would not have been included.[264]

In the midst of controversy over human rights investigations and torture allegations, Cyprus received a new Governor—Sir Hugh Foot. Foot hailed from a well-known left-wing political family. His father Isaac was a prominent Liberal MP and former President of the Liberal Party Sir Hugh's older brother, Sir Dingle Foot, was a lawyer and Liberal MP who switched parties to Labour in 1957. He later became Solicitor-General for England and Wales in the 1960s. John Foot was also an MP, but remained with the Liberal Party despite its post-Second World War decline. Journalist and youngest brother Michael Foot was a Labour MP from 1945-1955, before assuming the post of editor of the *Tribune* during the 1950s. Michael was a sharp critic of the ruling Conservative Party and its repressive Cyprus policy. He lambasted the Cyprus government because it "fears the truth—or fears argument about it. That is how we teach the Cypriots democracy."[265]

Foot's political orientation toward Cyprus differed tremendously from that of Harding. Foot was more reluctant to carry out death sentences, but that did not mean that capital offences were not committed under his tenure. Quite the contrary—those convicted of capital crimes such as murder or possession of firearms still faced mandatory death sentences.

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[264] Simpson, *Human Rights and the End of Empire,* 1025.

[265] Quoted in Charles Foley, *Island in Revolt* (London: Longman's, 1962), 127. In 1960, Michael reentered Parliament and later led Labour in opposition to Margaret Thatcher.

Foot ordered his Solicitor-General to provide a fortnightly list of all pending capital cases. During 1958, the list usually included between 11 and 27 pending cases. Throughout the second half of 1958 there were 20-25 capital cases pending at any given time. Foot regularly granted reprieves—no Greek Cypriots were executed for emergency-related offenses during Foot's governorship.[266] The new Governor was also much less likely to ignore dubious interrogation practices. In his September 29, 1958 message to the troops, Foot insisted that "there must be no bullying or brutality."[267]

Tension between the new Governor and his Security Force commanders soon emerged over security policy. Director of Operations Major General Douglas Kendrew, A.J. Reddaway, and George Sinclair hoped to continue tough military measures against EOKA, whereas Foot intended to reach out to Greek Cypriots to find a negotiated settlement. Many within the army and police had given up hope that peace could be negotiated and believed that they had lost Greek Cypriot loyalties for good. Foot's "peace" orientation meant that political decisions—such as the release of detainees—often trumped military considerations, which contributed to the growing rift between the Security Forces and the new Governor. To make matters worse, many senior Security Force officers blamed Foot for the European Commission on Human Rights investigation, even though he did not arrive until December 1957 and had nothing to do with the British government's decision to permit the inquiry.[268]

Foot's concern with ill-treatment rumors also did not ingratiate him with the Security Forces. Bothered by the persistence of abuse allegations, Foot asked Reddaway for advice on what to do. Reddaway said to make a short notice visit during the next military operation to see for himself how the troops conducted interrogation. Foot did, and did not see any

[266] FCO 141/4609 Munir to Foot, 31 Dec 58.

[267] FCO 141/4493 Governor, Cyprus to Colonial Office, 1 Nov 58.

[268] Holland, *Britain and the Revolt in Cyprus, 1954-1959*, 209.

untoward behavior, but the "point was the deterrent effect of the Governor going out on the spot to see for himself." Reddaway believed that this was beneficial, "although much criticized in Army and Police circles at the time."[269] Foot's on-the-spot visits during ongoing operations, however, did not address the main problem. Allegations most often resulted from interrogation at Omorphita Police Station, not the point of capture. Nevertheless, facing the potential of a second Strasbourg inquiry and a renewal of the "atrocity campaign," Foot wanted to prevent future accusations of brutality. Sinclair and Reddaway conceptualized a way to do so.

The Special Investigation Group

Sinclair, Reddaway, Director of Operations Major General Douglas Kendrew, and Henry collaborated to form the Special Investigation Group (SIG). SIG was established "to enquire into allegations against the Security Forces with a view to establishing the facts and disproving malicious misrepresentations." Sinclair highlighted SIG's importance to the administration's counterinsurgency effort:

> Experience with the Human Rights Committee locally and in Strasbourg and in dealing with the smear campaign in the press abroad has shown us that we cannot afford to let the allegations pass uninvestigated and unchallenged. We therefore must make this investigating team an important unit in our campaign to defeat EOKA.[270]

The group comprised military and police CID members able to "operate quickly and effectively" in response to allegations of Security Force abuses.[271] The three permanent members of SIG were Chief Superintendent R.A.P.H. Dutton of the Cyprus Police CID, Detective G.E. Whitcomb, also of CID, and army Major M.F. Drake. They received temporary assistance from members of Cyprus Police CID, the army's Special Investigation

[269] Reddaway IWM accession 9173, Reel 8.

[270] FCO 141/4495 Copy Minute by Deputy Governor: Allegations against the Security Forces, 27 May 58.

[271] FCO 141/4495 Cyprus to Colonial Office, 10 May 58.

Branch, and RAF CIS.[272] Later, an additional eight police, army, and civil service officers were assigned as regional SIG liaisons to the Famagusta, Larnaca, Limassol, Paphos, and Kyrenia districts.[273]

Sinclair and Reddaway viewed SIG as an important element of the British counterpropaganda campaign rather than an independent and objective investigatory arm. Sinclair informed Reddaway of his desire to "keep to the principle and practice, which we have followed for the last 2 ½ years, namely that if a properly supported complaint is made against the Security Forces it will be carefully investigated and those concerned will either be cleared or have the matter brought home to them." Yet in the same letter he betrayed his real motivation:

> I am determined that, when the Security Forces are facing a most difficult and dangerous task, they shall be given the utmost support against the campaign of misrepresentation and false allegations which now seems to be developing.[274]

SIG's importance as a counterpropaganda tool was further emphasized during a May 8, 1958 meeting at Government House between Sinclair, Henry, Reddaway, and Chief of Staff Brigadier Gleadell. They noted that "in countering the smear campaign Government should select the ground for its counter attack and make an all-out effort where the detractors of the Security Forces had obviously put themselves in a false position."[275] Gleadell made this clear in a June 12 memorandum to all area commanders. SIG's duties were:

> to investigate immediately, and record, the facts in major cases of allegations against the conduct of the Security Forces, with a view to:-
> (a) issuing a prompt, positive and accurate denial of any false allegations.
> (b) Preparing the ground in cases where legal action could be taken against the offenders [meaning those individuals or organizations making false allegations], with minimum delay.

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[272] FCO 141/4495 SIG Quarterly Progress Report, June to 30th September 1958.

[273] FCO 141/4495 SIG Quarterly Progress Report, 1st October to 31st December 1958.

[274] FCO 141/4495 Sinclair to Reddaway, 6 May 58.

[275] FCO 141/4495 Cyprus to Colonial Office, 10 May 58.

(c) Maintaining a record for use, if required, before the Human Rights Committee.
(d) Forestalling subsequent faked or exaggerated allegations.[276]

The correspondence produced by Sinclair and Gleadell indicated that SIG was designed to deny allegations and expose false claims, not to conduct objective, impartial investigations that could potentially expose Security Force misconduct. SIG's leader, Chief Superintendent Dutton, also clearly understood his role: "The immediate tactical aim of SIG is to wrest the initiative from EOKA in the propaganda field relating to allegations. The over-riding and ultimate aim encompasses the prevention of any allegations arising from Security Forces' action." SIG existed to find false allegations, not to punish those who committed real abuses.

SIG investigations helped the Cyprus government defend Security Force actions. In September 1958 the Mayor of Kyrenia complained that British troops ransacked a nearby village. Foot acknowledged that "damage was done and personal injuries were caused," but stated that "I am satisfied from the report of the special investigation team that, although they were extensive, the damage and injuries were minor."[277] More allegations of physical abuse followed the arrest of Georghios Panayi. The subsequent SIG report exonerated the Omorphita interrogators and assuaged Foot's concerns. "Thank you," he wrote, "I have been worried by some of the accounts given of interrogation methods at Omorphita—and I am therefore glad to see this report."[278] Though personally averse to the cruel treatment of civilians, Foot made excuses for the soldiers' conduct and used the SIG report to explain away the "extensive" damage and injuries. He continued: "When their comrades are killed, troops are naturally angry and roughness can and does take place in the heat of the pursuit of the murderers."[279] Foot therefore, perhaps unwittingly, excused the Security Forces for

[276] FCO 141/4495 Complaints and Allegations against Security Forces, 12 Jun 58.

[277] FCO 141/4495 Foot to Mayor of Kyrenia, 20 Sep 58.

[278] FCO 141/4495 Foot to Neale, 2 Sep 58.

[279] FCO 141/4495 Foot to Mayor of Kyrenia, 20 Sep 58.

brutality committed in the "heat of the pursuit." Over the course of its existence, from June 1958-February 1959, SIG investigated a total of 191 incidents.[280] Rapid investigation of the most serious allegations enabled SIG to compile the British narrative of events and present it to public relations officials for public release. According to SIG's first quarterly report, "the resulting statement, often published within 24 hours of the incident occurring, has forestalled major and protracted allegations." SIG Chief Dutton concluded that SIG's efforts "have begun to have a telling effect on EOKA propaganda in this particular sphere." [281]

On other occasions, SIG served its counterpropaganda purpose by identifying and documenting false or exaggerated allegations. On August 7, 1958, Security Forces searched the village of Pano Panayia. After the search, villagers alleged that soldiers had stolen money or were "brutally ill-treated." Within a week, SIG documented the allegations, investigated, and determined that "in practically all cases, the allegations of damage to property and furniture could not in any way be substantiated by the complainants." Furthermore, "in two cases where damage to radio sets was alleged, both sets were actually found to be in working order." As for the brutality accusations, SIG's investigation revealed contradictions in the villagers' stories. Twelve villagers alleged that they had been forced to stand for three hours facing a wall with bayonets pointed at their chests, but "failed to explain how the bayonets were pointed at their chests when they were facing a wall." None of the villagers were able to "show any marks of ill-treatment whatsoever." There was one allegation, however, which rang true: "All the villagers complained that troops used insulting language toward their priests and themselves." SIG recommended that "great advantage would be gained by the SF if troops could at least partly restrain their language towards the local inhabitants." The two

[280] FCO 141/4495 SIG Quarterly Progress Report January to March 1959, Appendix A, 11 Mar 59.

[281] FCO 141/4495 SIG Quarterly Progress Report, June to 30th September 1958.

village priests told SIG investigators that "had the soldiers not used insulting language towards them there would have been no trouble."[282] In another case, a sixteen-year old girl alleged that two Women Police Constables beat her for 25 minutes. She claimed that after the beatings, the police officers "applied an ointment to her body which thereupon removed all traces of ill-treatment!" The fact that, upon questioning, none of the girl's fellow villagers reported seeing two Women Police Constables further undermined her claims. Even so, SIG officers reported, "the local Greek press printed her tale in full."[283]

SIG counterpropaganda tactics evolved to include photographic documentation, which made exaggerated claims more difficult to sustain. In the aftermath of one cordon and search operation, SIG officers surmised that "villagers have been taught to exaggerate damage" and "apply for heavy compensation from Government." Subsequent Greek Cypriot claims of damages exceeded those documented by SIG, and SIG reported that one villager was "caught in the very act of disarranging the furniture of a house" which "proved beyond any doubt the purposeful 'rigging' of certain premises after the Security Forces had withdrawn." To forestall such problems in the future, SIG determined "to take photographs of all premises likely to be used as a basis for allegations of serious damage." SIG recommended that military units "should adopt this measure as a routine procedure" as well.[284] Dutton extolled the tactic of photographing damaged property as "a psychological factor in that complaints of damage were not exaggerated when the owner/occupier was present to see his premises being photographed." SIG's use of photography spread to other

[282] FCO 141/4642 Covering Report: Allegations against SF by villagers of Pano Panayia, 7 Aug 58; investigation on 13 Aug 58.

[283] FCO 141/4495 SIG Quarterly Progress Report, June to 30th September 1958.

[284] Ibid.

units, which, Dutton reported, "were issued with cameras and encouraged to carry out this practice as a matter of normal routine after a thorough search of any premises."[285]

False or exaggerated allegations, however, sometimes contained at least a kernel of truth. As EOKA began using pressure mines against British patrols and convoys, some troops started taking Greek Cypriot civilian "hostages" who the troops would force to ride on British vehicles with the soldiers. The idea was to deter EOKA from planting mines or attacking patrols when Greek Cypriot civilians were in danger. Greek Cypriots complained about the practice and SIG quickly investigated. According to Dutton, "investigation into a few cases revealed a measure of indiscretion in three instances," but in general the troops "were well aware of the rules."[286]

SIG sought to deflect accurate "hostageship" allegations by focusing instead on the most egregious examples of false claims, such as the case of teenager Demos Xenophontos. On November 27, 1958, Xenophontos told his relatives and neighbors that British troops arrested him during the night and kept him as a hostage in a British patrol car. The Greek-language newspaper *Harvaghi* quickly published his account. But when SIG contacted Xenophontos to investigate his claims, Xenophontos admitted to having concocted the entire story "to cover his amours and thus allay the cajolings of his co-villagers." At SIG's request, colonial public relations officials met with *Harvaghi*'s editor and demanded that he print a retraction, which was published on December 19.[287]

To accomplish its counterpropaganda mission, SIG sought to cast the most ridiculous false or exaggerated allegations not as the extreme of Greek Cypriot behavior, but as the norm. British officials treated ill-treatment allegations as enemy propaganda, part of a

[285] FCO 141/4495 SIG Final Quarterly Progress Report, 1st January to March 1959.

[286] FCO 141/4495 SIG Quarterly Progress Report, 1st October to 31st December 1958, p.6.

[287] Ibid.

"smear campaign"—a notion that EOKA often reinforced. One late-1958 EOKA leaflet called abuse allegations "a dynamic weapon against the British Forces in Cyprus in the international field."[288] By emphasizing the outlandishness of some Greek Cypriot allegations, British officials hoped to undermine all Greek Cypriot allegations. SIG was meant to highlight the worst excesses of exaggerated, ill-founded Greek Cypriot torture and abuse claims while documenting an "official" British narrative of each incident so that the Cyprus Government could shield its soldiers and police from local or international scrutiny. SIG therefore formed a shield against the encroaching "shadow of Strasbourg."

Besides exposing false or exaggerated allegations, SIG sought to protect the Security Forces' public reputation. In August 1958, during Operation Swanlake, SIG investigations provided the material for four press statements. Labour MP Barbara Castle publicly criticized the Swanlake operation, which led Dutton to conclude in one of his reports that "the actions and alleged statements of Mrs. Barbara Castle, M.P., who visited the villages, only served to exacerbate the battle of words." Dutton's statement regarding a "battle of words" indicates his perception of himself as part of that battle. Dutton saw his role at SIG in terms of influencing the propaganda war, not as an impartial investigator. During operations around Paphos in September, SIG contributed to four additional press statements. "It is true to say that a denial lacks the news-catching appeal of a sensational rumour or first report. It is a dull negative statement. Hence SIG have persistently avoided use of 'flat denials' and clichés such as 'a tissue of lies.'"[289]

SIG's actions improved the Cyprus government's ability to respond to atrocity allegations. Before SIG's creation, British officials were on the defensive. News reports would often appear two or three days after an incident occurred. But SIG's immediate on-the-

[288] FCO 141/4495 SIG Quarterly Progress Report, June to 30th September 1958.

[289] FCO 141/4495 SIG Quarterly Progress Report, June to 30th September 1958.

spot investigations meant that the first reports about an event were British reports. SIG-derived press releases "became news items and, at the same time, forestalled gross exaggerations and false allegations."[290] By October 1958, British forces in Kyrenia and had fully integrated SIG into cordon and search operations through "a set drill." Troops would cordon an area, impose a curfew for the duration of the operation, and search the area. Once the search was complete, SIG would move in before the curfew was removed and investigate any major complaints. They would have a statement ready for release to the press soon after the operation concluded. "The resulting statements to the press," Dutton wrote, "have, almost invariably, scotched the wild and exaggerated allegations that, hitherto, always used to appear in the local press after such operations."[291]

Most SIG investigations resulted from army searches of civilian communities rather than the abuse of prisoners during interrogation. On the occasions when SIG addressed ill-treatment during interrogation, the group reported what had become a standard line:

> In cases of ill-treatment alleged to have occurred whilst in detention—particularly in Omorphita cells, Nicosia—complainants talk of the 'water treatment'; genitals being twisted or given electric shocks; receptacles being placed on the head and beaten endlessly; being made to stand up all night; and being deprived of food and water.

The burden of proof, however, lay with the accuser. Chief Superintendent Dutton observed that in interrogation cases complainants were "unable to show any injury received as a result of these 'tortures.'" But some of these abuses—"water treatment," deprivation of food, and standing all night, for instance—would not have left visible injuries. SIG did not pursue these cases further.[292]

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[290] Ibid.

[291] FCO 141/4495 SIG Quarterly Progress Report, 1st October to 31st December 1958.

[292] FCO 141/4495 SIG Quarterly Progress Report, June to 30th September 1958.

In 1956 and 1957, Greek Cypriot lawyers had raised credible allegations that British forces tortured detainees during interrogation, but by 1958 EOKA and its sympathizers broadened the scope of allegations too far. SIG discovered several occasions in which Greek Cypriots "faked" or exaggerated allegations against the Security Forces. SIG's existence ensured that many of these accusations were identified and discredited. EOKA's atrocity campaign was based on tangible evidence and reasonable suspicions of abusive British practices, but the fact that the campaign also involved instances of fabricated or exaggerated accusations indicates that EOKA appropriated human rights rhetoric to serve its propaganda objectives. EOKA's actions, however, did not exonerate British forces from having to answer for their worst excesses. British authorities established SIG to prevent *allegations* of ill-treatment, not to prevent ill-treatment itself. This desire to whitewash criticism of the Security Forces can be seen through the government response to two incidents at Geunyeli and Famagusta.

The Geunyeli Massacre

The Geunyeli massacre of June 1958occurred against a backdrop of escalating tensions and intercommunal violence between Greek and Turkish Cypriots. Violence broke out in response to international developments. In May, Foot convinced Prime Minister Macmillan to advance a solution for the Cyprus conflict on the basis of "partnership" between Greek and Turkish Cypriot communities. Such a measure would provide the Turkish Cypriots with wide powers of autonomy—but not the preferred Turkish Cypriot solution of partition—while Greek Cypriots would retain Cyprus as a single political entity, but one in which they would have to share power with Turkish Cypriots. The plan also made allowances for Turkey and Greece to each appoint a "representative" to the Cyprus government. A statement to this effect was due in the British Parliament on June 17. But extremists from both communities responded with a wave of killings and rioting. On the night of June 6,

Turkish Cypriots looted and burned Greek Cypriot houses. The Security Forces reacted slowly, failing to place a curfew on Turkish Cypriot neighborhoods until two days later. Suspicious Greek Cypriots believed that the British had colluded with Turkish Cypriots by allowing them to harm Greek Cypriot neighborhoods. The communal divide grew so sharp that British officials compared the situation to Arab-Jewish violence that preceded British evacuation from Palestine in 1947.[293]

Several days later, outside Geunyeli village, eight Greek Cypriots died at the hands of Turkish Cypriot attackers. The British inquiry into the incident produced a straightforward and honest draft report authored by Chief Justice Sir Paget Bourke, but his rather mild critique of the British Army triggered a concerted effort to whitewash criticism of the Security Forces. Senior military and civilian officials in Cyprus and Whitehall took exception to Bourke's opinion and intervened to remove the offending language from Bourke's final report.

On June 12, a police patrol encountered 35 Greek Cypriots congregated around two buses in a dry river bed near Skylloura village. The men were armed with sticks, shovels, stones, and pitchforks. The policeman on scene, Sergeant Gill, believed that the men were planning to attack Skylloura's Turkish Cypriot community. Gill arrested the men and loaded them into the nearby buses. Escorted by two army armored cars, the buses drove toward the nearest police station to process the prisoners. But after a radio message instructed the troops not to bring the prisoners to the police station, the armored car escorts received orders, in the words of the official inquiry report, "to send the prisoners out of town into the country and make them walk home." The armored car squadron leader, Major Redgrave, decided to drop the prisoners off north of Geunyeli village. They could walk the 10 miles to Skylloura and the

[293] Holland, *Britain and the Revolt in Cyprus, 1954-1959*, 246–253; Johnson, "Britain and the Cyprus Problem at the United Nations," 120–121.

additional three and a half miles to Kondemnos, where many of the prisoners lived. The convoy drove through Geunyeli and stopped 400 yards north of the village. The patrol released the prisoners and told them to walk home. Several soldiers stood behind the prisoners with bayonets fixed—a not-so-subtle threat that the prisoners should begin their "walk." The soldiers remained on the road and watched as the "walkers" crested a ridgeline and were out of sight. During the "walk," a group of 50-100 Turkish Cypriots armed with sticks, axes, knives, and a few firearms attacked the Greek Cypriots. They "cut and bludgeoned" several Greek Cypriots. The British armored car patrol responded to the attack within five minutes. By the time the troops intervened, a large crowd of Turkish Cypriots had gathered outside Geunyeli and four Greek Cypriots lay dead. Four more later died of their wounds. Five others were severely wounded. Greek Cypriot survivors testified that had it not been for the returning British armored car patrol, "we would all have been slaughtered."[294]

The event caused uproar within the Greek Cypriot community, leading to a special inquiry into what Greek Cypriot newspapers now called the "Geunyeli Massacre."[295] Many Greek Cypriots believed that British troops had purposely deposited the unarmed victims in an area where they were sure to face a Turkish Cypriot attack. Foot immediately ordered Chief Justice Bourke to lead an inquiry into whether British forces were culpable for the Greek Cypriot deaths and announced that Bourke's findings would be made available to the public.[296] On June 20 Bourke began taking evidence from witnesses. Attorneys representing four concerned parties attended the hearing—Sir James Henry represented the government, George Chryssafinis, John Clerides, and Stelios Pavlides led a team of five other lawyers

[294] FCO 141/4615 Findings of the Commission of Inquiry into the Incidents at Geunyeli, Cyprus on 12th June 1958, pp.6-15, 18-20. Hereafter cited as "Geunyeli Commission Report".

[295] FCO 141/4615 Appointment of Commissioner of Inquiry, 16 Jun 58.

[296] Holland, *Britain and the Revolt in Cyprus, 1954-1959*, 255.

representing the Greek Cypriot survivors of the incident and relatives of the deceased; Colonel J. C. Hamilton represented the military, and Turkish Cypriot attorney Rauf Denktash appeared on behalf of four Turkish Cypriot police and auxiliary police officers. Over the next eight days, attorneys called 37 witnesses.[297] After completing the hearings, Bourke established that British troops did not intend to cause a massacre, but he criticized the practice of bussing recalcitrant civilians to isolated areas and forcing them to "take a walk" home.[298]

Bourke noted that it was an "accepted practice" among the army for arrested persons "to be brought off some distance and caused to walk back to their homes." According to Bourke, the "walking home" tactic was an unofficial practice which Security Forces used "to give troublesome persons 'a little exercise' so that they should behave themselves and have 'time to meditate upon their doings.' It was a way of teaching people a 'lesson.'" Major Roy Redgrave, commander of the armored car squadron, said that "it was quite a normal thing."[299]

Senior police officers, however, found the practice repugnant. Two senior police officers—the Assistant Chief Constable for Nicosia District and the Assistant Superintendent responsible for Geunyeli—said that they had never heard of the practice before the June 12 incident. The Assistant Superintendent tartly observed that he was not aware of the technique because "I think irregularities of that nature would not be brought to our attention, that is the reason." Although soldiers used the practice regularly, all of the army witnesses who testified at the Geunyeli hearing concurred with Major Medlen's frank concession that "I think to be perfectly honest, it is an unlawful practice."[300]

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[297] FCO 141/4615 Geunyeli Commission Report.

[298] Simpson, *Human Rights and the End of Empire*, 896.

[299] FCO 141/4615 Geunyeli Commission Report, pp.13-14.

[300] FCO 141/4615 Geunyeli Commission Report, p.14.

Based on his inquiry, Bourke concluded that he could not in good conscience exonerate the Security Forces for their actions. He noted that "I have been invited by Colonel Hamilton, representing the Military, to find not only that everyone acted in good faith, which I have had no difficulty in doing, but also that the order given and action taken upon it were reasonable. I am unable to do so."[301] Bourke concluded that although the army did not intend to cause harm, the commander's decision to release the Greek Cypriots between two Turkish Cypriot villages and force them to walk out of sight of the Security Forces was both poor and unlawful. Given the recent spate of communal violence, the commanding officer should have realized the potential dangers facing his former prisoners.

But some influential military officers and civilian officials rejected Bourke's findings and tried to shape the content of Bourke's report. General Sir Roger Bower, Commander-in-Chief of Middle East Land Forces, declared Bourke's assessment of the Security Forces' conduct to be "a non sequitor quite unsupported by the facts." Bower believed that Bourke's criticism would "cause some comment if the Report is published as it stands. I hope that it will not be."[302] Bower's main objection was Bourke's condemnation of the soldiers' decision to release the prisoners in the vicinity of a Turkish Cypriot village during a time of communal violence. Specifically, Bower wanted Bourke to delete two sentences and the record of questions that Bourke asked Major Redgrave. Bourke wrote that "The only conclusion I can reach is that the course adopted was unimaginative and ill-considered." He followed that sentence with "It was also, in my opinion, unlawful."[303] Major General Kendrew agreed with Bower. Kendrew wrote that "although this particular action [the "walking home" practice] has been technically ruled unlawful, under the circumstances it was justified." Kendrew

[301] Ibid., p.16.

[302] FCO 141/4615 Foot to Martin, quoting Bower's comments, 16 Jul 58.

[303] FCO 141/4487 Foot to Bower, 19 Oct 58.

insisted that the practice "had been most effective" in averting civil war between Greek and Turkish Cypriots. The section of the report containing Bourke's criticisms—paragraph 38—was, to Kendrew, "unacceptable in its present form." Chief of the Imperial General Staff Sir Gerald Templer concurred with Bower's and Kendrew's assessments.[304]

In Whitehall, senior civilian officials also objected to Bourke's findings and, like their military counterparts, tried to shape the content of Bourke's report to avoid any admission of Security Force culpability in the massacre. Colonial Secretary Alan Lennox-Boyd insisted that publication of the report could "further exacerbate inter-communal feeling and I fear that particularly the statement in paragraph 38 that the course adopted was 'unlawful' would produce worst possible reaction amongst Security Forces themselves." Lennox-Boyd and Secretary of State for War Christopher Soames lodged their "strongest objection to publication." More worryingly, they declared that "publication of report in [its] present form might well lead to civil action against individuals and even pressure for prosecution." Soames preferred for Bourke's report never to be published, but Lennox-Boyd thought that it might be possible to convince Bourke "that he should draft a shorter statement of conclusions which could be published with less embarrassment."[305] In Cyprus, George Sinclair concurred with his superiors in London, recognizing that Bourke's criticism of the "walking home" practice could carry significant consequences with the European Commission of Human Rights: "The local 'Human Rights' organisation no doubt intend to use this incident as part of their campaign of vituperation of the Security Forces at Strasbourg and possibly the U.N."[306]

In the midst of debate over the report's publication and content, Governor Foot adamantly maintained that "I would see objection to not publishing the report in full." He

[304] FCO 141/4487 Kendrew to Bower, 8 Jul 58.

[305] FCO 141/4615 Governor, Cyprus to Colonial Office, 19 Jul 58.

[306] FCO 141/4487 Minute by Deputy Governor, Geunyeli Report, 17 Jul 58.

believed that Bourke's report fulfilled the purpose of the inquiry, which was to investigate the "terrible accusation" levied in the Greek-language press that Security Forces "acted in collusion with Turks to destroy the Greek villagers." Foot concluded that "the Chief Justice's report provides a very able and clear and fair account of what took place." "I myself," he continued, "consider that the practice of putting down arrested people a long way from their villages and making them walk home at a time of inflamed intercommunal feeling was wrong. I cannot disagree with the Chief Justice when he said that the course adopted was 'unimaginative and ill-considered.'"[307] Foot ordered the Security Forces to stop using the practice.[308] Although he disagreed with the army commanders and his Colonial Secretary over the report's publication, Foot assured them that "since all concerned acted entirely in good faith there is no question of taking any disciplinary action against any members of the Security Forces."[309]

Officials in the Colonial Office continued to push Foot and Bourke on the issue of publication. Conveying the Colonial Secretary's sentiments, J.A. Peck and J.D. Higham suggested that Bourke prepare a short statement for publication that did not include a reference to "the opinion that the action of the security forces was unlawful."[310] In early September, Bourke met with Peck and Higham in Whitehall. Peck explained his concern that "publication of the full report might, however, create certain difficulties and embarrassment, in particular the opinion given in paragraph 38 that the action of the Security Forces was unlawful. This opinion might make it difficult for Greek Cypriots not to take criminal or civil proceedings against the members of the Security Forces concerned." Higham added that "it

[307] FCO 141/4615 Governor, Cyprus to Colonial Office, 29 Jul 58.

[308] FCO 141/4615 Governor, Cyprus to Colonial Office, 1 Nov 58.

[309] FCO 141/4615 Governor, Cyprus to Colonial Office, 29 Jul 58.

[310] FCO 141/4615 Higham to Foot, 30 Aug 58.

had been officially stated on a number of occasions, in a 'human rights' context, that misconduct by members of the Security Forces would not be tolerated and that offenders would be punished. If the Chief Justice's opinion was made public, there might be a good deal of pressure on the Cyprus Government itself to prosecute those concerned."[311]

Peck and Higham attempted to convince Bourke to remove his statement that the "walking home" practice was unlawful on the grounds that Bourke's comments represented a legal opinion, not an official finding. Peck pointed out that Bourke's inquiry was established to ascertain the events that occurred on June 12, 1958 in Geunyeli and whether British forces bore any responsibility for the deaths of eight Greek Cypriots. The inquiry was not designed to pronounce judgment on the "walking home" practice. Bourke agreed that he would omit the sentences in which he deemed "walking home" unlawful. Bourke also agreed to remove Major Redgrave's evidence in paragraph 32 because it was "merely an extract of evidence, and not a finding." But Bourke refused to eliminate all of paragraph 38 from the record. Based on the law, Bourke insisted, "it was doubtful whether a Commissioner, having heard his inquiry and submitted his report, had the power to alter or amend it."[312] Echoing Peck's rationale, Solicitor-General Ned Munir argued that Bourke's assertion about the unlawfulness of the Security Forces' decision to make their prisoners "walk home" was not a "fact" in "the strict sense of the term." It was, instead, the Chief Justice's opinion. As such, Munir argued, Bourke's opinion could "properly be omitted from the findings to be published."[313]

In November, Foot helped to mediate a solution in which Bourke agreed to delete the sentences to which Bower and Darling had originally objected while Bower and Darling

[311] FCO 141/4487 Record of a Meeting Held in the Colonial office at 11 A.M. on Friday, 5th September, 1958.

[312] Ibid. See also FCO 141/4615 Colonial Office to Governor, Cyprus, 2 Sep 58.

[313] FCO 141/4615 Munir to Administrative Secretary, 16 Sep 58.

acquiesced in principle to the publication of Bourke's report.[314] Foot convinced the generals that "much more harm will be done if we refuse to publish than if we do. Refusals to publish the findings may well be taken as indicating that there is some foundation for the terrible accusation that British Security Forces acted in collusion with Turks to bring about the murder of the Greek villagers." Foot also believed that he could not delay the report's publication much further—over four months had already elapsed since the Geunyeli incident. During this time, the murders and the inquiry faded from public view, but Foot expected "that the matter will be raised again before long—possibly in the U.N. debate or at Strasbourg."[315] But Bower preferred to publish the report only after deleting the entire paragraph in which Bourke criticized the "walking home" practice. Bourke refused to remove the paragraph. Foot supported Bourke: "There surely could be no justification for publishing the findings with the omission of one of the findings because we disliked it."[316] The paragraph stayed, but the offending sentences did not.

The omission of key sentences regarding the "walking home" practice's legality constituted a manipulation of the commission of inquiry's findings. On November 22, Lennox-Boyd finally authorized Foot to publish Bourke's report, "with omission of 2 sentences of para. 38 agreed by Chief Justice" and the exclusion of "[Major] Redgrave's evidence in para. 32."[317] One week later, with the U.N. debate approaching, Lennox-Boyd recommended that Foot defer publication of the report until after the debate.[318] Bourke's report was finally published on December 9—almost six months after the incident and five

[314] FCO 141/4615 Governor, Cyprus to Colonial Office, 4 Nov 58.

[315] FCO 141/4615 Governor, Cyprus to Colonial Office, 1 Nov 58.

[316] FCO 141/4615 Governor, Cyprus to Colonial Office, 7 Nov 58.

[317] FCO 141/4615 Colonial Office to Governor, Cyprus, 22 Nov 58.

[318] FCO 141/4615 Colonial Office to Governor, Cyprus, 1 Dec 58.

months after Bourke completed his inquiry.[319] Pressure from senior leaders such as Lennox-Boyd, Soames, Bower, and Darling resulted in the publication of a report that whitewashed British actions. Without Bourke's condemnation, the Security Forces had little to fear from the report's publication. Their conduct would not face further scrutiny either locally or in Strasbourg.

"Cold Fury": The Cutliffe Murder

Officials also whitewashed criticism of the Security Forces' brutal response to the murder of Catherine Cutliffe. On October 3, 1958, two sergeants' wives from the Royal Artillery's 29th Field Regiment, Catherine Cutliffe and Elfriede Robinson, along with Cutliffe's 18-year-old daughter Margaret, visited the picturesque seaside Famagusta suburb of Varosha for a shopping trip. As they left a dress shop, two EOKA gunmen confronted them. The women tried to run away but were shot as they fled. Catherine Cutliffe died instantly while Robinson fell wounded. The gunmen shot Robinson two more times as she lay on the ground, but she survived. Margaret Cutliffe escaped unharmed. A Greek Cypriot shopkeeper phoned the police to report the murder. Upon hearing that the victims of the attack were the wives of two British soldiers, British soldiers reacted with tremendous fury. Royal Military Police units were the first to arrive on scene and ordered the arrests of everyone in the immediate vicinity of the murder and all males between the ages of 15-27 in the neighborhoods around Varosha.

Soldiers and police rounded up the town's inhabitants with little regard for niceties.[320] Civilian property damage compensation payments later totaled £14,223. One shop was looted, with the owner later receiving £91 in compensation. Several storefront windows and

[319] FCO 141/4615 Governor, Cyprus to Colonial Office, 6 Dec 58; Hansard HC Deb 10 December 1958 vol 597, c345.

[320] FCO 141/4493 SIG Report on Famagusta Allegations: Murder of British Serviceman's Wife, 10 Oct 58.

car windows were also smashed. The troops made 1423 arrests in the vicinity of the murder.[321] They were detained in three holding centers—the local police station, Karaolos Camp, and the government hospital. Soldiers moved with such fury that 258 people suffered injuries of varying severity, from bruises and scratches to fractures. It took the rest of the day and much of the night before the army had screened all detainees. The last detainees to be released were sent home at 3:00 AM on October 4.[322]

As they were brought to holding centers on Security Force cantonments, many arrested persons suffered further abuse. By evening, Karaolos Camp—29 Field Regiment's headquarters—held 396 of the 1423 detainees. Troops transported prisoners by truck to a drop-off point 70 yards from the entrance to the detainee holding center, which soldiers nicknamed the "snake pit." SIG chief Dutton later recorded that the arrival of Greek Cypriot detainees "was soon common knowledge among soldiers not on duty in the camp, as, indeed, was the knowledge of the atrocious shooting of the wives." Dutton concluded that "it cannot be denied that cold fury took a tangible form in goading the Greek Cypriots on their way as they doubled the 70 yards."[323] One 29 Regiment veteran described the events more candidly:

> All the other units in Famagusta were ordered out to arrest all males in Varosha between 14 and 60 and transport them to Karaolos Camp. We lined the roads from the Royal Ulster Rifles Gate. They were de-bussed and had to run the gauntlet to the Snake pit.[324]

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[321] Some were released and rearrested, conservative estimate of total individuals was 1000—see FCO 141/4493 SIG Report on Famagusta Allegations: Murder of British Serviceman's Wife, 10 Oct 58.

[322] FCO 141/4495 SIG Quarterly Progress Report, 1st October to 31st December 1958.

[323] FCO 141/4493 SIG Report on Famagusta Allegations: Murder of British Serviceman's Wife, 10 Oct 58.

[324] Harry Slater blog posting, Re: Photo - Karaolos Camp, Cyprus. Posted Oct 11, 2012. http://pub2.bravenet.com/forum/static/show.php?usernum=140248687&frmid=12&msgid=866080&cmd=show. Accessed June 29, 2014.

Bill Packham, a 29 Regiment veteran, said that at the "snake pit" he "saw bodies laid out in rows, with the Medical Officer and medics attending to the injured Greek Cypriots."[325] According to a hospital technician at the British Military Hospital, Nicosia, "the Ulsters had the reputation of being one of the roughest regiments on the Island."[326] Sixty-one of the Karaolos Camp detainees suffered injuries before British officers could restrain their men.[327]

For Foot, the Security Forces' anger at the murder of a family member was understandable, but their retaliation was counterproductive. When Governor Foot and General Kendrew visited the detainee holding sites, he found that "about fifty [detainees] were being given first aid for head wounds and other injuries and the nurses told me that another fifty had already been sent to hospital." Foot admitted that "as I feared when the report of the shooting came in it was impossible to prevent the troops from dealing very roughly with many of those they arrested" because "for a number of reasons I am afraid that some troops and some Police too are inclined to deal very hardly with Greek Cypriots when they get the chance." Yet he sternly insisted that "the very rough treatment of last night is quite inexcusable" and informed Whitehall that "I shall do my utmost to prevent it in future." He understood that brutality could generate negative consequences at the United Nations, in Strasbourg, or in Britain. He quickly ordered SIG to investigate.[328]

But Foot and Kendrew did not witness the Security Forces' worst excesses. When word went out that Foot and Kendrew were on their way to Famagusta, soldiers began cleaning up the mess they had made. Lance Corporal Chas Baily of 227 Provost Company recalled that "we rounded up as many squaddies as possible and told them to pass the word

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[325] David Carter, *Aphrodite's Killers: Cyprus, the EOKA Conflict and the Road to Partition* (London: Downlow Publications, 2010), 404–405. This work quotes heavily from former British servicemen's first-hand accounts.

[326] Ibid., 406.

[327] FCO 141/4493 SIG Report on Famagusta Allegations: Murder of British Serviceman's Wife, 10 Oct 58.

[328] FCO 141/4493 Foot to Colonial Office, 4 Oct 58.

and got everybody cleaning up the main roads. We knew from past experience that no one would look down the side roads." The side roads, however, "were a right mess. Blood, bits of clothing, odd shoes, shopping. . . . Ambulances were everywhere, the hospitals were full, and surgeries the same." Regardless, "by the time HE [His Excellency, Governor Foot] arrived there was not much out of place."[329]

On the morning of October 4, after the "clean-up," SIG began its investigation of the Security Force reaction to Cutliffe's murder. For four days, SIG collected 44 statements, including 24 from Greek Cypriots alleging ill-treatment. In addition, SIG met with senior civilian officials—including the District Medical Officer and staff at the Famagusta hospital—and military officers "to gain as clear a picture as possible on the general discipline and conduct of all units involved on the operation."[330] In his report, Dutton stated that he sought "to present the facts, as revealed by a quick on-the-spot investigation, with which to counter false allegations or subsequent faked or exaggerated allegations." The report "further serves as a record to refer to should the matter ever be raised at the Strasbourg Council."[331] In a second, routine quarterly update filed three months after the incident, Dutton wrote that "due to the swiftness of the operation at a time when the entire population were bent on getting home or out of Varosha on foot or in cars, it was inevitable that some force had to be used to detain, as a result of which a large number of persons sustained injuries varying in degree." He further reported that "injuries, mostly superficial, were sustained by a large number of males."[332]

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[329] As quoted in Carter, *Aphrodite's Killers*, 405.

[330] FCO 141/4495 SIG Quarterly Progress Report, 1st October to 31st December 1958.

[331] FCO 141/4493 SIG Report on Famagusta Allegations: Murder of British Serviceman's Wife, 10 Oct 58.

[332] FCO 141/4495 SIG Quarterly Progress Report, 1st October to 31st December 1958.

Faced with significant evidence that Security Forces had committed brutal violence toward Greek Cypriot civilians, Dutton could not reconcile his instructions to both shield the Security Forces from scrutiny and report the facts. On October 14, as he finalized his report on the Famagusta events, Dutton visited Foot. He told Foot that he was "somewhat uneasy about attempting to record a conclusion." Dutton explained that he could not in good conscience report that British forces had acted properly—because they had not—but SIG's approach of documenting the "facts of the case" was supposed to protect the Security Forces from ill-treatment allegations. Foot provided the answer: "I told him that in my view it was not possible to say that the Security Forces carried out their duties with commendable restraint and I told him that to include this final sentence would, it seemed to me, detract from the value of the factual report which he had submitted." In this case, Dutton was to record the facts, but neither defend nor accuse the Security Forces.[333] The facts, however, were damning: Of the 258 Greek Cypriots injured, three died, two were wounded when soldiers fired on them, five suffered bone fractures, and 21 were hospitalized for further treatment.[334]

The Inquest Debate

Because three Greek Cypriot civilians had died under mysterious circumstances in British custody during the arrest operations which followed Cutliffe's murder, several senior officials in the Cyprus government sought to avoid conducting inquests into their deaths. Major General Sir Kenneth Darling, Kendrew's replacement as Director of Operations in Cyprus, was foremost among them. Cyprus law required that a coroner conduct an inquest in the event of an "unnatural" death. During the Emergency, inquests continued to be held on those who died as a result of security operations. Coroners therefore were required to hold inquests into the deaths of each of the three Greek Cypriots who perished during the October

[333] FCO 141/4493 Foot to Deputy Governor, 14 Oct 58.

[334] FCO 141/4610 Munir to Henry, 17 Oct 58.

3 arrest operations. Inquests served four primary purposes: To determine who died, when the death occurred, the place of death, and the circumstances of death. Inquests were not meant to determine who was responsible for an "unnatural" death, but because inquests established the cause of death in a particular case, inquests into deaths resulting from security operations could have important consequences for the Security Forces. Inquests were judicial proceedings in which soldiers and police could be called to testify in court. Family members of the deceased were permitted to attend the proceedings and entitled to legal representation.[335] In Cyprus, the involvement of human rights committee lawyers ensured that members of the Security Forces would face intense questioning. Officials recognized that in this environment, inquest verdicts suggesting that the Security Forces bore responsibility for a civilian's death would lead to public outrage among Greek Cypriots—outrage which would fuel EOKA propaganda.

Darling sought to shield the Security Forces from legal action and public scrutiny by eliminating inquests. On October 16—while inquests into the Famagusta deaths were ongoing—Darling approached Attorney-General Sir James Henry and Solicitor-General Ned Munir with a suggestion: Amend Cyprus law to eliminate inquests in certain circumstances.[336] Darling argued that inquests simply slowed the judicial system and needlessly involved soldiers in the legal process. Holding inquests "takes up a great deal of time" and many inquests were never completed because legal procedure instructed inquests to be stayed if criminal proceedings were pending—allowing the trial to determine the facts of the case. Darling's most strenuous objection to inquests, however, was the involvement of soldiers in court proceedings. In a reference to the Cyprus Bar Council's human rights

[335] For information on inquests, see Jonathan Law and Elizabeth A. Martin, "Inquest," *A Dictionary of Law* (7th Ed.), online, Oxford University Press, 2014; available from http://www.oxfordreference.com.

[336] FCO 141/4610 Munir to Henry, 17 Oct 58.

committees and EOKA's "atrocity campaign," Darling argued that soldiers "are very apprehensive of being brought up before the coroner and asked a great many questions about their actions by persons whose object was to make dishonest political capital and not just to safeguard the interests of deceased persons and their families."[337]

Chief Justice Sir Paget Bourke supported Darling's view. Bourke, who had previously served as a justice during the conflicts in Malaya and Kenya, believed that "this whole inquest business is a nightmare. It was not allowed to worry us in the Kenya Emergency."[338] Bourke had no problem with taking a hard line against insurgents. He informed Henry that "personally I would welcome the adoption of the Kenya and Malaya legislation substituting a procedure that would bring terrorists more speedily to trial."[339]

The issue of dispensing with inquests had been raised before. In 1956 Munir prepared a draft law that would dispense with inquests. The law was based on regulations previously enacted during the 1946-47 Palestine conflict and the Malayan Emergency. Munir's draft stated that

> where the Coroner responsible for holding an inquest upon the body of any person is satisfied that such person has been killed as a result of operations by Her Majesty's Forces or by the Police Force for the purpose of suppressing disturbances or for maintaining public order, the Coroner may dispense with the holding of an inquest on the body of such person.[340]

If enacted, Munir's draft would have allowed the Cyprus government to avoid conducting inquests into the circumstances in which three Cypriots died during the British reprisals on October 3.

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[337] FCO 141/4610, Henry to Foot, 22 Oct 58; here Henry relates Darling's points to the Governor.

[338] FCO 141/4403 Bourke to Henry, 28 Nov 58.

[339] FCO 141/4610 Bourke to Henry, 11 Oct 58.

[340] FCO 141/4610 Munir to Henry, 17 Oct 58.

Henry agreed with Darling and Bourke to an extent, but Henry also noted that in some circumstances an inquest might prove beneficial to the Security Forces. Henry told Foot that dispensing with inquests "might be the very strong factor in re-inforcing morale."[341] Inquests into persons killed during operations remained part of judicial procedure during the emergency because the inquest could help to dispel "otherwise unfounded and malicious allegations" against the Security Forces. In Avgorou, for instance, British forces opened fire on rioters and killed one bystander. Greek Cypriot newspapers criticized the soldiers' actions, but the Coroner's report determined that villagers had thrown rocks, sticks, and bottles at the troops, inflicting several injuries on British forces in the process. The soldiers fired one machine gun burst of 15 rounds. The Greek Cypriot bystander, a woman named Louka, died from a ricochet. Henry recommended a measure which would have allowed the "the Coroner or to some other authority such as myself" to conduct an inquest only "if it was thought advisable in the public interest."[342]

Foot ultimately decided to retain the preexisting inquest procedures.[343] He wrote to the Colonial Office that "I very well understand how the Army feel about this and I should greatly like to help in shielding them from the public ordeal to which they are sometimes subjected at the inquests." But Foot determined that inquests were necessary because "the fact that an inquest is to be held restrains Press comment and tends to prevent wild

[341] FCO 141/4610 Henry to Foot, 22 Oct 58.

[342] FCO 141/4610, Henry to Foot, 22 Oct 58; on Avgorou, see FCO 141/4610 Coroner's Verdict, Inquest Nos. 10/58 and 11/58, 8 Aug 58. The debate over inquests proved far more controversial than officials would have liked. Local doctors from the Cyprus Medical Association established a human rights committee based on that of the Cyprus Bar Council. On October 29, the committee requested permission from the government to allow a member of the Association to observe post-mortem examinations of individuals killed by Security Forces. Their request was denied, but the timing of the doctors' involvement—weeks after the Cutliffe murder—suggests that they wanted to observe the autopsies of the three Greek Cypriots who died during the wave of British reprisals. Foot and Brigadier Gleadell, the Chief of Staff, dismissed the doctors' motives as "of course primarily political." See FCO 141/4610 Minute by Chief of Staff, 29 Oct 58; Minute by Chief of Staff, 31 Oct 58; Governor to Colonial Office, 1 Nov 58.

[343] FCO 141/4403 Governor to Colonial Office, 9 Nov 58.

accusations." The elimination of inquests would result in allegations "of attempting to cover up evidence of ill-treatment or worse by Security Forces and such criticism would obviously be particularly damaging at this time following the inquests at Famagusta."[344]

Despite their concerns, army commanders need not have worried. Finalized between November 24 and December 3—as senior officials debated the necessity of holding inquests in the first place—the inquest reports exonerated British troops through masterful equivocation. The first detainee to die in custody was Panayiotis Chrisostomou, who collapsed as he was unloaded from an army truck. The coroner concluded that Chrisostomou died from heart failure brought on by "respiratory embarrassment caused by seven broken ribs." The coroner determined that Chrisostomou's ribs "were not broken before his arrest, and, consequently, they must have been broken whilst he was on the truck." But the coroner did not go so far as to find British forces responsible for Chrisostomou's injuries.[345] Foot reported to the Colonial Office that "there is no sufficient or reliable evidence from which I can express an opinion on how the seven ribs came to be fractured."[346] The inquest succeeded in determining the cause of death, but did not identify a culprit. Law officers therefore could not pursue the matter further.

The coroner likewise downplayed the Security Forces' role in the death of Andreas Loukas, the second person to die in British custody on October 3, despite evidence to the contrary. According to SIG's description of the coroner's report, Loukas was killed "by a blow from a blunt instrument which fractured the skull." Furthermore, the coroner stated that he "had not sufficient evidence to enable him to say when or by whom such a blow was struck." SIG's assessment of the coroner's report was equally cautious and carefully

[344] FCO 141/4610 Foot to Melville, 27 Nov 58.

[345] FCO 141/4495 SIG Quarterly Progress Report, 1st October to 31st December 1958.

[346] FCO 141/4493 Governor to Colonial Office, 24 Nov 58.

ambiguous: "it was obvious from this inquest that during the arrests or thereafter, there was used on some of those arrested a degree of force that would appear to be entirely unjustified."[347] Other evidence, however, suggested that an officer may have injured Loukas. At one point during the aftermath of Catherine Cutliffe's murder, Royal Military Police Captain Blakesley struck Loukas on the head. But, as Foot reported to Whitehall, the coroner conveniently concluded that "he could not with any confidence say that it was Capt. Blakesley's blow which fractured the deceased's skull and that such being the case he did not propose to examine in detail the question of criminal liability or exoneration in so far as it affected Capt. Blakesley." Grasping for a possible explanation for Loukas' death, the coroner added that Loukas could have died "during his journey in the vehicle or when he alighted and was placed in the cage to which the arrested persons were taken."[348]

The third individual who died during the October 3 round-up was a young girl named Ioanna Zacharidou. British authorities insisted that she had not been touched by the Security Forces and her death had nothing to do with the military response to the Cutliffe murder.[349] After conducting an inquest, the coroner reported that Zacharidou "died of shock accelerated by status lymphaticus brought on by fear but there was insufficient reliable evidence to deduce what brought on the state of fear."[350] British officials appeared to eliminate the possibility that the Security Forces' brutal response had anything to do with the "state of fear" to which Zacharidou eventually succumbed.

Senior officials understood the damage done by the Cutliffe reprisals. "I must say," Foot wrote, "that we should prevent any such actions ever taking place again." George

[347] FCO 141/4495 SIG Quarterly Progress Report, 1st October to 31st December 1958.

[348] FCO 141/4493 Governor to Colonial Office, 4 Dec 58.

[349] FCO 141/4493 Governor to Colonial Office, 1 Nov 58.

[350] FCO 141/4493 Governor to Colonial Office, 1 Dec 58.

Sinclair concurred that "much harm was done to our reputation at Famagusta on that day."[351] Foot and Sinclair knew that the implications of events like the Famagusta reprisals could reverberate beyond Cyprus. The second Greek application under the European Convention on Human Rights was proceeding. From November 12-18, 1958, oral hearings were held in Strasbourg. The Sub-Commission eventually accepted 13 of 49 individual torture cases for further investigation. Foreign Office legal adviser Francis Vallat concluded that "we are now faced with the prospect of being called upon to fight the thirteen cases and to produce witnesses."[352]

Ultimately, officials' attempts to cover up Security Forces transgressions were not necessary to defend British interests against the second Greek human rights application. The potential for a political settlement to the Cyprus conflict had emerged. From November 25-December 4, Turkish and Greek diplomats agreed to begin negotiating an end to the Cyprus conflict. In mid-December, they met again in Paris. In February 1959, discussions between the Turkish and Greek governments in Zurich and between the Turkish, Greek, and British governments in London produced a political settlement between all three parties that was essentially imposed on Greek and Turkish Cypriots alike. Rather than achieving enosis or partition, Cyprus gained independence and remained a single political entity. As part of the settlement, the Greek and British governments agreed to jointly request that the European Commission terminate proceedings on Application 299/57. The Sub-Commission agreed.[353] The "shadow of Strasbourg" had receded.

Conclusion

[351] FCO 141/4493 Foot to Sinclair, 17 Nov 58 and Sinclair to Foot, 18 Nov 58.

[352] LO 2/503 Vallat to Hylton-Foster, 22 Jan 59.

[353] Holland, *Britain and the Revolt in Cyprus, 1954-1959*, 304–318; Simpson, *Human Rights and the End of Empire*.

Greece's applications before the European Commission of Human Rights forced Britain to respond to abuse allegations. Greek Cypriot lawyers and others who participated in the "atrocity campaign" were certainly partisan actors in the conflict, but in that regard they were no different from British authorities. Colonial officials manipulated legislation and the content of investigative reports to protect and enable the counterinsurgency effort. In Cyprus legal and human rights were not impartial entities. The realm of rights was a contested space populated by civilians, soldiers, journalists, politicians, and international jurists in which British authorities and pro-EOKA lawyers battled for primacy. Their struggle over laws and rights transformed rights issues into as much a part of the battlefield as the streets of Famagusta or the Troodos Mountains. British officials sought to wield the law as a weapon that could restrain their enemies' freedom of action while enabling the Security Forces to operate with fewer restrictions. Greek Cypriot lawyers had an agenda, too—a pro-EOKA agenda—but it was an agenda that also included the protection of individual rights, at least for Greek Cypriot nationalists.

Abuse allegations led to the development of a "siege mentality" in which the Cyprus government sought to resist the notion that they had infringed on Cypriot rights. Colonial officials largely succeeded in this effort. They publicly defended their actions through a counterpropaganda campaign involving the documentation of false or exaggerated accusations which, once made public, would discredit the accusers. After its creation in June 1958, the Special Investigation Group stood at the forefront of this effort. In addition, British officials stifled internal criticism of the Security Forces by intervening in the Chief Justice's Geunyeli inquiry and attempting to dispense with inquests after the Cutliffe murder reprisals. Throughout the Cyprus conflict, colonial officials remained committed to protecting British forces from criticism by concealing evidence of their transgressions and undermining the credibility of their accusers.

Colonial cover-ups and scandals were not unique to Cyprus. During Kenya's 1952-60 Mau Mau conflict, British officials tolerated widespread violence against civilians and detainees during the war's early years. Before 1956, this violence served a similar logic in Kenya as in Cyprus—coercive interrogation use to extract intelligence. Both Whitehall and the colonial government knew that such measures were widespread, but did little to stop them. After 1956, as government efforts to forcibly relocate hundreds of thousands of Kikuyu to detention camps gathered pace, torture emerged as a systemic practice which fed what historian David Anderson has called a "culture of impunity" among colonial Security Forces in Kenya.[354] The most notorious atrocity to occur during the Kenya Emergency was the Hola massacre. Violence was systematic and pervasive at the Hola detention camp. On March 3, 1959 guards beat 11 detainees to death for refusing to participate in forced labor. Opposition MPs and sympathetic journalists called for an inquiry and debate in the Commons. Labour MPs such as Barbara Castle joined with disgruntled Tories such as Enoch Powell to criticize the government's Kenya policies in a Parliamentary debate. In 1959, Justice Patrick Devlin led a commission of inquiry into the colonial administration of Nyasaland's actions during a state of emergency declared the previous year. The subsequent Devlin Report labelled the government's actions as tantamount with that of "a police state."[355]

Greece's applications under the European Convention on Human Rights inspired other anticolonial nationalists to follow suit in resisting the legalized repression that characterized Britain's colonial counterinsurgencies. In February 1960, following the publication of the Devlin Report, a group of African lawyers traveled to Iceland in an attempt

[354] David Anderson, "British Abuse and Torture in Kenya's Counter-Insurgency, 1952-60," *Small Wars & Insurgencies* 23, no. 4–5 (2012): 700–719; David Anderson, *Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire* (W. W. Norton & Company, 2005), 327.

[355] Caroline Elkins, *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya* (Macmillan, 2005), 340–353.

to gain sponsorship from a state party to the European Convention. Iceland may have appeared an odd choice of sponsor, but at the time Iceland and the United Kingdom were involved in one of a series of fishing disputes called the "cod wars." Led by Kenyama Chiume of Nyasaland and Kenya's Joseph Murumbi, the delegation sought to convince the Icelandic government to submit an application protesting British violations of the Convention in Nyasaland and Kenya. Unfortunately for these anticolonial nationalists, their efforts proved fruitless. The Icelandic government expressed sympathy for the delegation's intentions, but despite their animosity toward the UK, Iceland's leaders ultimately declined the African delegation's request.[356]

British officials, too, learned from the Greek applications. Brigadier George Baker, who authored an after-action report on the Cyprus Emergency, concluded that the Security Forces' experience with human rights complaints "was a bitter and distasteful experience."[357] Deputy Governor George Sinclair later passed a copy of Baker's report to the Governor of Aden. "Since then," Sinclair wrote to Baker, the Governor of Aden "has sent to Cyprus two teams to study our arrangements for dealing with our Emergency. The officers who have come over have told me that your Report has been of the greatest value to them."[358] In Aden, rights activism and counterinsurgency policies collided again.

[356] "Iceland Asked to Act Against Britain: Detainees in Africa," *The Guardian*, 19 Feb 1960; "Urging Release of Dr. Banda: Iceland's Action," *The Guardian*, 26 Feb 1960; "Iceland Fired on Ship, British Say," *Los Angeles Times*, 24 Feb 1960.

[357] FCO 141/4459 Baker Report, p.64.

[358] Harding Papers AFH 5 Sinclair to Baker, 24 Apr 59.

CHAPTER 4:
"HUNGER WAR": HUMANITARIAN RIGHTS AND THE RADFAN CAMPAIGN

Introduction

When Brigadier Baker's report on the Cyprus Emergency arrived in Aden, it generated such interest that the Aden government decided to send a four-person liaison team to visit Cyprus in an effort to learn more about countering insurgencies.[359] The Aden government would soon put theis new knowledge to work. By 1960, it was clear to British policymakers that the empire was crumbling. In February, Prime Minister Harold Macmillan gave his famous "wind of change" speech in South Africa, where he described the emergence of African anticolonial nationalism as "a political fact." British withdrawal from many of its remaining African colonies was increasingly becoming a policy priority. Withdrawal from Africa, however, went hand-in-hand with the desire to maintain British influence "east of Suez," meaning that Britain sought to maintain access to Persian Gulf oil. Three years after Macmillan's speech, an anticolonial insurgency erupted in the colony of Aden—one of the three territories comprising the South Arabian Federation and a valuable base for securing the sea lanes between the Suez Canal and Persian Gulf. Within a decade, British forces had completely withdrawn from Aden in what many contemporaries viewed symbolically as the end of the British Empire.[360]

In Aden, British officials used many of the same coercive tactics as their colleagues had in Cyprus, such as curfews, collective punishments, and abusive interrogations. Officials in Aden also tried to control the public narrative concerning brutal actions in order to protect

[359] FCO 141/4458 Luce to Sinclair, May 31, 1958; Sinclair to Churchill, June 5, 1958; and Harding Papers AFH 5 Sinclair to Baker, April 24, 1959.

[360] See for instance Paget, *Last Post*.

Britain's reputation as a guarantor of human rights and justice. As the Emergency intensified, British officials faced scrutiny from the International Committee of the Red Cross and a newly established activist group called Amnesty International (AI). The ICRC's interest in providing humanitarian assistance to refugees fleeing the Radfan violence and prisoners detained in South Arabian Federation jails was consistent with the ICRC's support for what scholars called "humanitarian rights," in which the ICRC asserted the right of all people to receive humanitarian aid.[361] It was also similar to ICRC efforts during Britain's colonial wars in Kenya and Cyprus.[362] AI, however, added a new dimension to the Aden Emergency that was not present in Cyprus. Whereas most human rights activism during the Cyprus war came from partisan Greek Cypriot lawyers and their Greek government patrons, AI was a British-based group dedicated to protecting the rights of individuals everywhere. The Aden conflict therefore exemplifies the growing influence of international non-governmental organizations in warfare—a trend that has become increasingly common since the 1960s.

After the Aden Emergency began, British forced launched a massive operation in the Radfan, a mountainous region approximately 60 miles north of Aden city. British forces intended to wage a scorched earth campaign in the Radfan that was consistent with how they had handled "tribal" revolts in the past. British tactics harmed civilians and combatants alike, while also creating a refugee crisis. This humanitarian crisis, combined with the detention of many anticolonial nationalists in Aden, prompted ICRC efforts to provide humanitarian aid. The ICRC's request was two-fold: They asked permission to provide humanitarian relief in the Radfan and to conduct periodic visits to South Arabian prisons to ensure that detainees were treated humanely. When British officials chose to block the ICRC from entering the

[361] Cabanes, *The Great War and the Origins of Humanitarianism, 1918-1924*, 3–8. Cabanes sees humanitarian rights as a precursor to contemporary human rights movements.

[362] Klose, "The Colonial Testing Ground: The International Committee of the Red Cross and the Violent End of Empire," 107-126.

South Arabian Federation so that ICRC delegates would not discover the devastation caused by the campaign, the ICRC subtly forced its way into the Federation on an "unofficial" visit. The ICRC's activism on behalf of humanitarian rights meant that during the Radfan campaign, British officials faced a difficult choice. They could either permit an ICRC visit that was likely to lead to private censure through the ICRC's confidential reporting system, or they could refuse the ICRC's request to enter the South Arabian Federation—a choice which British administrators expected would lead to public accusations that the government had "something to hide." This chapter examines how Britain dealt with this dilemma.

In contrast to Cyprus, where the British were often caught having to react to rights activists' criticisms, colonial officers in Aden proactively shielded the brutal Radfan campaign from scrutiny. When the Radfan operation began in April 1964, colonial officers resisted calls by the ICRC to uphold humanitarian rights by preventing the ICRC from entering the South Arabian Federation. In February 1965, after the campaign had ended, the ICRC delegate forced his way into the Federation on an "unofficial" visit. High Commission officials recognized an opportunity to turn the ICRC's presence into a public relations advantage for Britain. With the refugees having returned to their homes after the fighting and with the construction of a new, modern prison facility in November 1964 to house detainees in humane conditions, colonial officers realized that the ICRC was unlikely to find negative information to report. Officials could therefore benefit from the public image of allowing the ICRC to visit, but without the danger of this scrutiny leading to public criticism. By controlling the ICRC's physical access to these sensitive sites, British officials sought to neutralize rights activists' potentially reputation-damaging findings by restricting public knowledge of the Radfan campaign's brutality.

The Middle East Balance of Power and the Threat to Aden

The Aden insurgency was embedded in a regional balance of power in which Egypt challenged British influence in the Middle East. By the early 1960s, this struggle had expanded into a proxy war in Yemen which threatened the stability of the South Arabian Federation. For an important clique of Conservative Party policymakers, the maintenance of Britain's great power status and geopolitical role in the Middle East depended on control of Aden.[363] After losing control over the Suez Canal in 1956, Aden became the linchpin of British security in the Middle East.

Aden was a key air and naval base for securing oil supply routes from the Persian Gulf to Britain. Persian Gulf oil was shipped from the Gulf to the Red Sea, through the Suez Canal, to Mediterranean and European markets. At the time, two-thirds of European oil traveled through the canal. To ensure that the British economy had access to the Gulf States' vital oil resources, Britain established a series of defense treaties with states such as Kuwait and Oman. These defense arrangements influenced British policy in Aden. As one diplomat wrote, "if we were forced out of Aden our prestige in the Gulf would suffer severely."[364] Maintaining a strong position in Aden would bolster Arab monarchies' confidence in their British ally.

Aden also played a valuable role in British Cold War strategy. It acted as a regional hub for deterring Soviet incursions into the Middle East and as a base for a potential deployment of Britain's strategic reserve of ground forces. In 1963, the British signaled their

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[363] Spencer Mawby, *British Policy in Aden and the Protectorates 1955-67: Last Outpost of a Middle East Empire* (London: Routledge, 2005), 3–5. French, *Army, Empire, and Cold War*. Quotation from CAB 131/28, D 3 (63) Future defence policy: Cabinet Defence Committee meeting minutes, February 9, 1963, from Hyam and Louis, *The Conservative Government and the End of Empire 1957 - 1964 Part I*. See also CAB 130/190, GEN 796, The implications of withdrawal from the Middle and Far East: minutes of a Cabinet (Official) Committee on Defence meeting, May 21, 1963. It is clear from these two texts that Cabinet officials considered a variety of policy options regarding an enduring presence in the Middle East, but officials consistently viewed Aden as central to protecting British interests.

[364] FO 371/174488, "No. 13 Policy and strategy in the Gulf: Aden and Kuwait," June 17, 1964, from Ronald Hyam and Wm. Roger Louis, *The Conservative Government and the End of Empire 1957 - 1964 Part I* (London: The Stationery Office, 2000), 289.

continued interest in bolstering their position in the Middle East when they merged the Crown Colony of Aden city with the Western and Eastern Aden Protectorates—rural territories governed by local Arab shaykhs, sultans, and emirs under British "protection"—into the South Arabian Federation.[365] Britain had essentially constructed a state of its own to counter the possible emergence of a pro-Nasser Yemen to the north.

Under the 1963 merger, the South Arabian Federation became a hybrid polity which combined elements of direct colonial rule with limited local sovereignty. Local rulers retained sovereignty in the Federation territories of the Western and Eastern Aden Protectorates, but their rule was circumscribed by a series of "advisory treaties" with Britain. The original nineteenth-century treaty system consisted of a series of agreements between Britain and local tribal chiefs in which the chiefs received British protection in exchange for British political officers who would advise the chiefs on political and military matters. The treaty terms, however, mandated that local rulers obey this "advice." In the 1930s and 1940s, new treaties extended this "mandatory advice" to welfare and development policies as a reaction to what the British perceived as Arab "misrule." According to colonial officers, local shaykhs had done little to improve the lives of their followers. The new treaty terms gave British "advisers" control over internal governance, making "indirect" rule far more direct.[366] After the Aden Crown Colony merged with the two Protectorates in 1963, Britain retained advisory powers related to defense, foreign affairs, and internal security throughout the Federation.[367] British officials could therefore make all key security-related decisions.

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[365] Reynolds, *Britannia Overruled*, 210–212; Thomas, *Fight or Flight: Britain, France, and Their Roads from Empire*, 279–281; William Roger Louis, *Ends of British Imperialism: The Scramble for Empire, Suez and Decolonization: Collected Essays* (London: Tauris, 2006).

[366] Dresch, *A History of Modern Yemen*, 10.

[367] Mawby, *British Policy in Aden and the Protectorates 1955-67*, 65-75.

Middle East politics, however, were more complex than the Cold War struggle between superpowers as regional actors pursued independent agendas. The greatest threat to British primacy in the Middle East came from Egyptian President Gamal Abdel Nasser. Nasser represented a generation of anticolonial leaders who did not intend to maintain close ties with their former imperial masters. Instead, Nasser wanted to be rid of British influence.[368] He opposed colonialism and advocated Egyptian nationalism, stating that "to be an Egyptian patriot was to struggle to cleanse Egypt of the British presence and to safeguard Egypt's territorial integrity."[369] In addition to his calls to rid Egypt of British influence, Nasser encouraged similar programs for all Arab territories. Under Nasser, Egypt adopted an aggressive foreign policy advocating pan-Arab solidarity, liberation from colonialism, and freedom from the interference of Cold War superpowers. In truth, Nasser's relationship with each superpower was complicated. He cultivated close relations with the Soviet Union but did not embrace communism. In the United States, the Eisenhower Administration alternated between containing Nasser and trying to win his support.[370] Britain, however, was Nasser's implacable enemy.

Throughout the 1950s, Nasser challenged Britain's Middle Eastern supremacy. In 1955 Nasser took a leading role at the Bandung Conference in Indonesia, where he joined with delegates from newly independent states such as India, Sri Lanka, Burma, Pakistan, and China in denouncing colonialism. The following year he nationalized the Suez Canal, which resulted in Britain's failed Suez Canal intervention. In the aftermath of the Suez Crisis,

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[368] Mawby, *British Policy in Aden and the Protectorates 1955-67*, 33–34.

[369] Adeed Dawisha, *Arab Nationalism in the Twentieth Century: From Triumph to Despair* (Princeton University Press, 2003).

[370] Mawby, *British Policy in Aden and the Protectorates 1955-67*, 32 and Dawisha, *Arab Nationalism in the Twentieth Century*, 139. On Nasser's relations with the United States, see Salim Yaqub, *Containing Arab Nationalism: The Eisenhower Doctrine and the Middle East* (University of North Carolina Press, 2004).

Britain seemed to have reached a nadir in terms of its influence in the Middle East, but Nasser saw his popularity surge throughout the region.[371]

Nasser's challenge to British primacy in the Middle East led to a series of confrontations between republican governments supported by Egypt and the Soviet Union against conservative Arab monarchies supported by the United Kingdom and United States. In September 1962 a coup d'état in Yemen installed a pro-Nasser republic in the country neighboring Britain's Aden base. Republican conspirators failed to assassinate the ruling Imam of Yemen, Mohammad al-Badr, who fled to the northeast seeking refuge with supporters. The Yemen Revolution quickly descended into civil war.[372]

In response to the confrontation with Egypt and the 1962 Yemen Revolution, defeating Nasser became an obsession for British political leaders including Colonial Secretary Duncan Sandys, Minister of Aviation Julian Amery, MP Neil McLean, and Defence Secretary Peter Thorneycroft. Dubbed the "Aden Group," these policymakers intended to strengthen British forces in the Middle East in order to curb Egyptian influence in the region.[373] Prime Minister Macmillan supported the Aden Group and described the Egyptian threat in the gravest terms. Upon receiving a telegram urging reconciliation with Nasser, Macmillan furiously scribbled in the margins "for Nasser put Hitler and it all rings

[371] On Suez, see Nigel Ashton, "Macmillan and the Middle East" in Richard Aldous and Sabine Lee, *Harold Macmillan and Britain's World Role* (New York: Macmillan, 1996); and William Roger Louis, *Ends of British Imperialism: The Scramble for Empire, Suez and Decolonization: Collected Essays* (London: Tauris, 2006), pp.589-638.

[372] Malcolm H. Kerr, *The Arab Cold War, 1958-1966: A Study of Ideology in Politics* (New York: Oxford University Press, 1965). For an insightful call to incorporate the tools of diplomatic history and postcolonial studies in understanding the Cold War, anticolonial nationalism, and the emergence of the "Third World," see Matthew Connelly, "Taking Off the Cold War Lens: Visions of North-South Conflict during the Algerian War for Independence," *The American Historical Review* 105, no. 3 (June 1, 2000): 739–69.

[373] On the Aden Group, see Mumford, *The Counter-Insurgency Myth*, 74 and Clive Jones, *Britain and the Yemen Civil War, 1962-1965: Ministers, Mercenaries and Mandarins : Foreign Policy and the Limits of Covert Action* (Brighton: Sussex Academic Press, 2010).

familiar." Macmillan and the Aden Group were committed to resisting Nasser and refused any suggestion of "appeasement."

Obsession over the Egyptian threat drove the British government's decision to intervene in the Yemen Civil War. Prime Minister Sir Alec Douglas-Home, having replaced Macmillan, maintained an official policy of non-intervention in the civil war, but authorized covert military assistance to support Mohammad al-Badr's Royalist side. Code-named "Operation Rancour," Britain waged a secret war against the Egyptian-backed Yemeni Republicans by supplying weaponry, financial aid, and building a mercenary organization in cooperation with French intelligence. British and French intelligence organizations also collaborated with Saudi Arabian intelligence officials to hire private aircraft, purchase weapons and ammunition, and recruit experienced ex-soldiers. Many of the organization's recruits were former British Special Air Service commandos or French veterans of the Algerian and Indochina wars. The South Arabian Federation played an important part in the effort—the mercenary force used Aden as a logistics hub and established a field communications center in Bayhan, along the border with Yemen.[374]

In Aden, High Commissioner Sir Kennedy Trevaskis worried that the Yemen Civil War could lead to Nasser gaining influence in Aden. "It became apparent," Trevaskis wrote in his memoirs, "that the Yemen was not far short of being an Egyptian satellite."[375] He worried that Yemen would become a base from which Egyptian forces could subvert the South Arabian Federation. Trevaskis arrived as High Commissioner to Aden in 1963. By the time of his appointment as High Commissioner, he had served in the territories that had

[374] For a detailed investigation of British covert action in the war, see Jones, *Britain and the Yemen Civil War, 1962-1965*. There is also conjecture as to the extent and nature of Israeli involvement in the operation, see pp.148-149. For an analysis of the war from the Egyptian perspective, see Jesse Ferris, *Nasser's Gamble: How Intervention in Yemen Caused the Six-Day War and the Decline of Egyptian Power* (Princeton University Press, 2013).

[375] Kennedy Trevaskis, *Shades of Amber: A South Arabian Episode* (London: Hutchinson, 1968).

become the South Arabian Federation for over a decade. Trevaskis knew the region, its customs, its rulers, and, perhaps most importantly for the leaders of Britain's Conservative Party government, he shared their views on Aden's strategic importance. To Trevaskis, Nasser "in effect declared a cold war on Britain, with the object of removing her from the Middle East." Yemen's increasingly intimate relationship with Egypt therefore "had sinister implications." "Aden Group" member Julian Amery agreed, labeling the Aden situation "potentially our most explosive Colonial problem."[376]

Trevaskis feared links between Aden's well-organized labor movement and Nasser's influence in Yemen. Connections between the Aden Trades Union Congress (ATUC) and Yemeni labor organizations strengthened throughout the 1950s. Primarily comprised of Yemeni migrant workers, ATUC sponsored strike actions to protest arbitrary arrests, low wages, and discriminatory employment practices. ATUC members largely embraced Nasser's message of pan-Arab unity, which spread rapidly in the South Arabian Federation through radio services such as Voice of the Arabs, a program broadcast from Cairo. In August 1962, ATUC established a political wing, the People's Socialist Party (PSP). This move allowed the PSP to mobilize ATUC's collective action networks toward political ends without violating colonial laws stipulating that labor unions could not strike for political purposes.[377] The combination of Arab nationalist sentiment and labor militancy worried colonial administrators, who justified breaking strikes and imprisoning labor activists on the basis of political connections with Arab nationalism. Trevaskis saw the PSP and ATUC as pawns in Nasser's quest for Middle Eastern supremacy—a perception which was reinforced by escalating violence between socialist activists and British security forces. Following the

[376] Mawby, *British Policy in Aden and the Protectorates 1955-67*. Trevaskis, *Shades of Amber*, 68. Julian Amery Papers 1/7/7 Amery to Douglas-Home, December 10, 1964.

[377] Mawby, *British Policy in Aden and the Protectorates 1955-67*, 78–81.; Trevaskis Papers I, 3/3 p.4; CO 1055/154 "The People's Socialist Party" memorandum, August 17, 1962.

September 1962 Yemen revolution, Trevaskis's concerns multiplied as he fretted over the possibility that a pro-Nasser government in Yemen would exacerbate Aden's labor problems: "The ATUC/PSP could expect to receive ready and active support from the new regime in the Yemen."[378]

To limit PSP and ATUC political influence, Trevaskis limited the voting franchise to 8,000 people—mostly members of propertied, established Aden families likely to vote for pro-British candidates—banned labor strikes, shut down the ATUC weekly newsletter, and deported hundreds of trade union activists.[379] Violence escalated throughout 1963, culminating in a December 10 grenade attack at the Aden airport in which Trevaskis was wounded and two others died. The next day, Trevaskis and the Federal Supreme Council declared a state of emergency.[380]

Unrest in the Radfan

In addition to PSP agitation in the city of Aden, Trevaskis had to contend with an uprising in the South Arabian Federation's hinterland. As Britain's covert war in Yemen continued, Egyptian and Yemeni Republican forces increasingly sought to expand the anti-colonial conflict into the Federation. They established a guerrilla force called the National Liberation Front (NLF), smuggled arms across the border, and trained sympathetic villagers. In 1962, Radfan rulers developed close relations with Yemeni and Egyptian forces supporting the spread of revolutionary Arab nationalism in the region. The Radfan, a mountainous region about sixty miles north of Aden city with a population of about 27,000 people, was dominated by the Qutaybi people. Yemeni troops began supplying automatic weapons,

[378] Trevaskis Papers, I 3/3 pp.1-13.

[379] CO 859/1784 General Secretariat, ATUC to Director-General, International Labour Organization (ILO), December 15, 1962; Secretary of the World Federation of Trade Unions to Director-General, ILO, December 11, 1962.

[380] Hickling Papers 2, pp. 165-169.

grenades, land mines, and military advisers to these inhabitants in the Radfan. As the British had feared, civil war seeped beyond Yemen's borders, finding a receptive audience among the Qutaybi.[381]

In 1963, a dispute between the Qutaybi and Federation forces led to open revolt. In October, an exchange of gunfire between a Federal Regular Army (FRA) patrol acting on behalf of the local Federation authority, the Amir of Dali, and Qutaybi residents resulted in the death of a Qutaybi shaykh. The Qutaybi complained that the Amir had been hoarding the state's finances for himself, had changed the system of customary law, and favored some clans at the expense of others. Trevaskis dismissed the Qutaybis' appeals, instead seeing the nefarious influence of Nasser, Yemeni Republicans, and the NLF as the true source of Radfan discontent. The NLF had, in fact, taught guerrilla warfare techniques to several Radfan family groups like the Qutaybi. Trevaskis also knew that Radfan peoples had also traveled to Yemen and returned with arms supplied by the NLF. By 1963, residents of the Aden hinterlands had spent a decade listening to broadcasts that spread Nasser's vision of "Islamic World Power" and glorified anticolonial struggles in Cyprus, Algeria, and Kenya. Radio had a tremendous impact on isolated Arab populations. After the Second World War, the proliferation of portable wireless receivers enabled villagers to listen to broadcasts from Cairo Radio and the Egyptian-backed Sana'a Radio. During the 1950s, Cairo Radio's *Voice of the Arabs* became the most popular radio program in the Middle East. Both stations' anticolonial rhetoric proved popular in the South Arabian Federation. News traveled quickly and easily by radio, making it almost impossible for the British to control the flow of information in Aden. As one Sana'a Radio broadcast recognized: "Could the iron screen which the British imperialists

[381] WO 386/22 Report on Operations in Radfan, August 1, 1964, p.1 and 75, 80-81.

put around the Arab South prevent the spread of news about our struggling people?"[382] The answer was a resounding "no."

Anticolonial propaganda, however, was not the sole reason for the Radfan revolt. Local politics also influenced tribal leaders' competition with each other and their decisions to ally with Britain or its enemies. Radfan peoples' grievances derived as much from local conflicts such as that between the Qutaybi and the Amir of Dali as the influence of Nasser's pan-Arab nationalist vision. The NLF, however, perceived local tensions in the Radfan as an opportunity to organize sympathetic populations outside Aden city to harass British and Federation forces with raids and ambushes.[383] On December 22, 1963, the FRA reported that convoys along the Aden-Dali' Road, which ran through the Radfan, had come under attack. For Trevaskis, the situation was "now getting seriously out of hand."[384] As one scholar described, British officials were often keen to label local unrest "the result of 'subversion' cross-cut with 'tribalism.'"[385]

With the Qutaybis challenging British rule through open revolt, Trevaskis decided to launch a punitive operation to reassert British and Federal authority. In January 1964, the FRA, supported by a small British contingent, attacked the Radfan. Dubbed "Operation Nutcracker," three FRA infantry battalions and an armored car squadron assembled at the nearby village of Thumair. British support consisted of a tank troop, artillery battery, several helicopters, and RAF bomber support. Over the next three weeks, Federation and British troops drove deep into Radfan, using helicopters and air support to move from ridge to ridge.

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[382] Dresch, *A History of Modern Yemen*, 96.

[383] Victoria Clark, *Yemen: Dancing on the Heads of Snakes* (New Haven, CT: Yale University Press, 2010), 80–81.

[384] Paul Dresch, *A History of Modern Yemen* (Cambridge: Cambridge University Press, 2000), 96–98; Trevaskis, *Shades of Amber*, 207. Mawby, *British Policy in Aden and the Protectorates 1955-67*, 102–103. As quoted on p.102.

[385] Ibid., 98. See also 76-78. On radio in the Middle East, see Connelly, *A Diplomatic Revolution*.

Each forward movement was followed with the construction of a gravel road to facilitate resupply. The NLF-trained Qutaybi rebels, nicknamed the "Red Wolves of the Radfan," harassed the attackers with long-range sniper fire, raids, and small-scale ambushes, but as Federation forces drew near Qutaybi forces would withdraw. By the end of January, due far more to the rebels' hit-and-run strategy than to the FRA's skill, the Radfan was largely under Federation control and most rebel groups had negotiated peace. Still, NLF attacks against FRA forces continued sporadically into February. The campaign succeeded in driving the rebels out of Radfan, but as soon as the Federation withdrew its forces, the rebels returned.[386]

Qutaybi raids resumed in March and April, but when Trevaskis outlined his plans for a harsh counteroffensive, Whitehall encouraged him to be mindful of the potential for international censure. [387] In response to the resumption of hostilities, Federation authorities requested that British forces lead a new offensive in the Radfan. Trevaskis sent his recommended courses of action to Colonial Secretary Duncan Sandys, who briefed Prime Minister Sir Alec Douglas-Home. Sandys proposed that Douglas-Home should authorize "whatever methods are necessary to ensure the success of the operation while endeavouring, as far as possible, to minimise adverse international criticism." Trevaskis also asked for £200,000 to "strengthen the loyalty of the tribes"—that is, bribe them into submission—which "might well save expensive and embarrassing military operations later on." In terms of propaganda, Trevaskis wanted £39,000 to support pro-British politicians in Aden as well as £44,000 to fund pro-British radio broadcasts and news services. Sandys called the initiative

[386] Jonathan Walker, *Aden Insurgency: The Savage War in South Arabia, 1962-1967* (Staplehurst, UK: Spellmount, 2005), 79–84; Clark, *Yemen: Dancing on the Heads of Snakes*, 80. DO 174/19 Trevaskis to Colonial Secretary, January 16, 1964 and January 30, 1964; WO 386/22 p.76.

[387] DO 174/19 Trevaskis to Colonial Secretary, April 9, 1964. Also see Mawby, *British Policy in Aden and the Protectorates 1955-67*, 102–103.

"well worth this expenditure."[388] Acutely aware of how brutal counterinsurgency methods negatively affected Britain's public image, Sandys prioritized the need to avoid criticism.

Militarily, Trevaskis intended to strike hard through a scorched earth campaign. The Political Directive issued to British forces outlined his expectations: "the effectiveness of punitive action" depends "on the firmness with which it is conducted." British troops, therefore, "must take punitive measures that hurt the rebels, thus leaving behind . . . memories that will not quickly fade." The idea was "to make life so unpleasant for the tribes that their morale is broken and they submit."[389] In line with Trevaskis's directive, British troops employed "ground proscription" tactics in which they designated certain areas as off limits, or "proscribed." All inhabitants, regardless of their status as civilians or combatants, were required to leave, turning virtually the entire population of a proscribed area into refugees. Proscription tactics purposefully placed a severe burden on the Radfan population. Trevaskis's strategy was to wage war against the entire community, without regard for individuals' status as civilians or combatants.

In preparation for the campaign, British military officers and colonial officials did articulate rules of engagement to regulate the use of violence, but the scope of actions allowed under these rules was immense. Regulations sanctioned the use of force against civilians and combatants alike. Rules of engagement stipulated that in proscribed areas "all movement of any kind in the open (i.e. human or animal) should be treated as hostile and engaged," although with the tepid caveat that "deliberate casualties to women and children" should simply be "avoided." And yet, British soldiers were ordered to destroy standing crops, "confiscate property, burn fodder, destroy grain, grain stores, and livestock." Livestock and crops were sources of wealth and sustenance for Radfan peoples. Attacks against these targets

[388] CO 1055/216 Annex, Aden and the Federation of South Arabia, April 21, 1964.

[389] WO 386/22 Political Directive to British forces, April 29, 1964, p.70.

amounted to economic warfare waged with little distinction between civilian and combatant. By devastating villagers' food stores, British troops ensured that women and children would suffer from malnutrition and starvation. In any areas where the villagers refused to surrender, British rules of engagement allowed commanders to use aerial and artillery bombardment "to the maximum extent necessary." In such circumstances, the Directive bluntly stated, "casualties to women and children must be accepted."[390]

Still, Trevaskis thought that a successful campaign would require even harsher methods than ground proscription tactics. As British forces continued planning the offensive, Trevaskis wrote to Lieutenant General Sir Charles Harington, the Commander-in-Chief of Middle East Command, that "ground forces cannot deal effectively with rebels." Trevaskis based this assessment on his experiences as a colonial political officer in the Middle East, where "tribal" rebellions were commonplace. Believing that he was far more of an expert on the "Arab mind" than Harington, Trevaskis insisted that actions such as "the taking of hostages, banning tribesmen from markets, dismissing members of rebel tribes from the security forces" were useful methods against rebels, but were not enough to end the rebellion entirely. Victory required "interfering with their livelihood and by doing and threatening to do damage to their property." Trevaskis argued that damaging a population's livelihood required persistent punitive action—it took time to generate an effect. Since it was often too difficult to sustain ground troops on long-term deployments to remote areas, Trevaskis insisted that "the only means which has proved effective has been air proscription with our other weapons employed in an auxiliary role."[391] He repeated this message to Colonial Secretary Duncan Sandys, describing punishment by air as "the only form of action" that had

[390] Ibid., 71.

[391] Trevaskis Papers, Part I 6/1 Trevaskis to Harington, April 5, 1964, pp.7-8.

been successful against past Arab revolts.[392] The general commanding the Radfan operation, Brigadier Cecil Blacker, agreed with Trevaskis's assessment. Blacker later told the Associated Press that "this is largely a political war and undoubtedly an economic squeeze is the most effective weapon against the dissidents."[393]

Trevaskis's proposed air proscription was a resuscitation of a popular colonial policing technique called "air control." Developed by the Royal Air Force (RAF) during the 1920s and employed throughout Britain's Middle Eastern dependencies since then, the concept of air control rested on the notion that the act of bombing would inspire fear and terror among rebel groups. Physical destruction was not the objective, but the means to achieving a psychological effect. RAF air control advocates argued that policing the colonies by air was cheaper than maintaining large ground forces. Aircraft could also easily traverse mountain ranges and deserts, identify rebel troop movements from afar, concentrate quickly to attack rebel troops or villages, and deliver significant damage through bombs and machine guns. A racist dynamic also fed the air control myth, as RAF and colonial officials felt it was best suited for use against "primitive" peoples and "certain stubborn races" in underdeveloped areas.[394] The assumption was that such "semi-civilized" peoples would be over-awed by Britain's ability to strike any target by air that these peoples would quickly submit to British authority.

In a 1937 lecture at the Royal United Services Institution, an RAF senior officer described how air control functioned in practice. When "primitive" peoples—such as semi-

[392] DO 174/19 Trevaskis to Sandys, April 5, 1964.

[393] IOR: R/20/D/63 Cairo to POMEC, June 1, 1964.

[394] Charles Townshend, "Civilization and 'Frightfulness': Air Control in the Middle East Between the Wars" in Chris Wrigley, *Warfare, Diplomacy, and Politics: Essays in Honour of A.J.P. Taylor* (London: H. Hamilton, 1986). See also James S Corum and Wray R Johnson, *Airpower in Small Wars: Fighting Insurgents and Terrorists* (Lawrence, KS: University Press of Kansas, 2003).

nomadic Arabs in the Aden protectorates—upset the balance of British rule, a political officer would visit the community in question and deliver an ultimatum that usually instructed the shaykh to pay a fine or hand over the individual "miscreants" responsible for causing trouble. During the period before the ultimatum expired, the RAF would conduct aerial reconnaissance to identify key targets. If the shaykh failed to fulfill the terms of the ultimatum, "aircraft appeared all over the country and dropped a few small bombs in the principal villages." The local population, who knew that the bombing raids were coming, would have usually evacuated their villages and relocated to the mountains. RAF aircraft would then patrol above the abandoned villages, bombing anyone who had remained behind as well as destroying crops and cattle until the shaykhs agreed to make peace. No matter how defiant, the officer concluded, eventually the shaykh would realize "that if they did not start ploughing soon they would lose their crop."[395]

Perversely, airpower advocates argued that air control was not only cheaper and more effective than maintaining large ground forces, but was also more humane. They suggested that air control methods protected political officers, allowing them to travel into frontier zones without fear. Guarded by the shield of airpower, political agents could safely immerse themselves in Arab society, gaining the familiarity and expertise necessary to understand and manipulate the "Arab mind," thus minimizing further conflicts. Air control created a benevolent regime that promoted cooperation and understanding despite being built on coercive foundations.[396] In this sense, air control served as the military equivalent of indirect imperial rule, offering control without occupation much like the maintenance of British political authority through "informal" collaboration with Emirs, Sultans, and other local

[395] C.F.A. Portal, "Air Force Co-Operation in Policing the Empire," *RUSI Journal* 82 (November 1937): 343–58. Quoting 353.

[396] Priya Satia, *Spies in Arabia : The Great War and the Cultural Foundations of Britain's Covert Empire in the Middle East* (Oxford, UK: Oxford University Press, 2008), 256.

elites.[397] Although air control doctrine gained an almost mythical reputation for effectiveness, in reality its effects were largely temporary and it appealed to policymakers due more to fiscal than military logic.[398]

After the Second World War, aerial bombardment persisted as a common British response to local rebellions in the territories that eventually became the short-lived South Arabian Federation. Groups displaying "insolence" or "disobedience" toward colonial rule faced overwhelming force. In 1947, the RAF bombed the Mansuris of Lower Awlaqi. Over the course of three days in November 1947, the RAF pummeled Qutaybis with 66 tons of bombs and 15,000 pounds of rockets. Another community was bombed for failing to deliver its salt taxes.[399] In 1957, the commander of British forces in Kenya, Lieutenant General Sir Gerald Lathbury, expressed his support for similar tactics.[400]

As a colonial officer with a long history of service in the Middle East, Trevaskis enthusiastically promoted air proscription, but officials in London balked because of the consequences from a March 1964 attack on Harib, Yemen. The fort at Harib served as a distribution center for arms smuggling and the movement of recruits and advisers into the South Arabian Federation. On March 28, less than two months after the first Qutaybi uprising in the Radfan, with approval from the Cabinet Defence Committee, eight RAF bombers dropped leaflets on the fort as a warning for civilians to evacuate. A mere fifteen minutes later, however, the RAF attacked with rockets and bombs. When Yemeni forces claimed that the attack had killed 25 civilians, Nasser and all Arab League governments condemned it.[401]

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[397] David E. Omissi, *Air Power and Colonial Control: The Royal Air Force, 1919-1939* (Manchester, UK: Manchester University Press, 1990), 18–38.

[398] James S Corum, "The Myth of Air Control," *Aerospace Power Journal*, no. Winter (2000): 70–72.

[399] Dresch, *A History of Modern Yemen*, 60–61.

[400] Bennett, *Fighting the Mau Mau*, 93.

[401] Peter Lewis, *The Sunday Times*, April 5, 1964.

The bombing generated a wave of international condemnation at the United Nations. The U.K. Permanent Representative reported to Whitehall that sentiment at the U.N. was overwhelmingly negative, with many claiming that the bombing represented "methods of the last century" that engendered "no public support" from the international community.[402] Trevaskis originally planned to initiate the Radfan offensive on April 6, but Sandys asked him to postpone the operation. A renewed offensive, in Sandys' words, "could scarcely happen at a worse moment in relation to our United Nations position."[403] To launch a massive aerial bombardment so soon after the Harib incident would be a public relations nightmare for Britain.

Concerned with international criticism following the Harib attack, British officials at the United Nations and Whitehall opposed Trevaskis's appeals for air proscription. From the U.N., the U.K Permanent Representative wrote of his surprise at the extent of hostility toward Britain following the Harib bombing and warned that by continuing air attacks "we shall constantly be playing into the hands of our enemies," who made good propaganda use of the Harib strike.[404] In London, Colonial Secretary Duncan Sandys instructed Trevaskis not to proceed with the Radfan operation or air proscription until gaining his approval.[405] Likewise, after consulting with Sandys, the Chief of the Defence Staff notified Harington, who had overall responsibility for Aden military operations, that "air strikes against the Radfan were politically unacceptable at present."[406] But Trevaskis resisted, listing a litany of problems:

> The resolutions of the United Nations Security Council and the Committee of 24, the hostility of the Arab League and most Arab Governments, the virulent propaganda

[402] DO 174/19 Dean to Foreign Office, April 7, 1964.

[403] DO 174/19 Colonial Secretary to Trevaskis, April 5, 1964; Annex to Minute 3-Part I to COS 29th Meeting/64, April 64.

[404] DO 174/19 Dean to Foreign Office, April 7, 1964.

[405] DO 174/19 Sandys to Trevaskis, April 5, 1964.

[406] DO 174/19 Annex to Minute 3, Part I to COS, 29th Meeting, April 1964.

> from Cairo and Sana [sic] Radios, the universally hostile and to some extent menacing tone of the Aden press . . . the critical tone of important sections of the British press on the Harib incident . . . our failure to deal with the rebellion in Radfan and the knowledge that [anti-colonial forces] are planning to provoke rebellions and disorders throughout the Federation.

These British setbacks had "made a serious impact on the morale" of Federation rulers, Trevaskis argued. "They know only too well of our fear of criticism in the United Nations and the United Kingdom."[407] His protestations failed to entirely overcome Whitehall's reluctance to employ proscription bombing, but Trevaskis's superiors did authorize the use of air attacks in a close air support role to assist ground troops. Final instructions to Trevaskis specified that close air support "will be kept to the minimum necessary" and "will not repeat not include the use of bombs."[408]

Trevaskis yielded to the Colonial Office's instructions and the campaign began without using air proscription. To carry out the attack, the military established a temporary organization—the Radfan Force, or "Radforce"—consisting of Royal Marines from 45 Commando, a company each from 3rd Battalion, The Parachute Regiment and 1st Battalion, The East Anglian Regiment, two battalions from the Federal Regular Army (FRA), a Special Air Service (SAS) squadron, as well as armored car and artillery support. Assessing the Qutaybis' capabilities and available British forces, military planners expected the campaign to last three weeks.[409]

British troops began the operation on April 30 with several night assaults to occupy key terrain features, allowing Radforce to isolate the Radfan from access to Yemen.[410] The

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[407] CO 1055/122 Trevaskis to Colonial Secretary, April 16, 1964.

[408] DO 174/19 FO tel. 271, April 24, 1964. DO 174/19 COS(64) 33rd Meeting, Minute 6, May 5, 1964 references a previous decision that air proscription should not be used, referencing DO(64) 18th Meeting, Minute 1. The Commander-in-Chief, Middle East and Chief of the Defence Staff urged civilian leaders to authorize close air support when ground forces were under enemy fire. See DO 174/19 Annex to Minute 3, Part I to COS, 29th Meeting, April 1964.

[409] Walker, *Aden Insurgency*.

[410] Ibid., 97.

greatest danger to British troops came from sniper fire. Radfan fighters who knew the terrain would occupy well-protected positions on high ground near villages or above mountain passes. As British patrols moved into these areas, rebel snipers would fire on them at long ranges and quickly withdraw before the patrol or British air support could engage them. British troops grew frustrated with their enemy's ability to initiate contact and quickly melt away, but the British also faced challenges unrelated to the enemy. The harsh terrain proved difficult for British logistics: front-line troops consumed ammunition, food, and water as fast as the supplies could be brought forward. Helicopters and animal transport by pack mule or camel ameliorated the supply situation, but frustration with logistics and the enemy only grew as the campaign ground on. After only three days, British commanders realized that they were embroiled in what had rapidly become a protracted operation.[411]

Impatient with the campaign's slow progress, Trevaskis again requested authorization for air proscription. In a lengthy personal memorandum to Sandys, Trevaskis condemned "half-measures" and "half-hearted action," reiterating his conviction that success demanded "stern repressive measures undertaken thoroughly and with determination."[412] In a reflection of his growing sense of desperation, Trevaskis cabled colonial officials in London on May 2, calling the situation "every bit as menacing as I have believed." He implored Sandys to reconsider the ban on air proscription and ominously warned that "failure to deal effectively with Radfan will, of course, enhance the possibility of serious trouble elsewhere."[413] Lieutenant General Harington cabled the Ministry of Defence also requesting authority to begin proscription bombing.[414] Still concerned with air proscription's negative public image,

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[411] Ibid., 104–106.

[412] Trevaskis Papers Part I 6/1, Trevaskis to Sandys, April 30, 1964.

[413] DO 174/19 Trevaskis to Sandys, May 2, 1964.

[414] DO 174/19 CINC MIDEAST to MOD UK, May 7, 1964.

Sandys resisted withdrawing the embargo.[415] For Sandys, public criticism remained a greater problem than the Radfan offensive's slow progress. Trevaskis soon persuaded Sandys to change his mind.

Airpower Unleashed

Facing multiple, simultaneous security crises over Britain's covert involvement in the Yemeni Civil War, labor unrest in Aden, and now a revolt in the Radfan, Trevaskis's desperation to begin proscription air attacks only grew. Throughout the first week of May, he continued pressuring officials in London. Ground proscription, he argued, had been "slow and restricted" while also imposing "a terrible strain on our troops." Trevaskis lamented that "quite frankly we cannot afford to go on like this much longer" because "if we are to forego the use of the most powerful weapon in our armoury, we shall have to pay for it with further loss of life and limb. . . without even a reasonable prospect of success." Only "proscription . . . and punitive action against the rebel villages" could win the campaign. Trevaskis insisted that failure to quickly subdue the Radfan would lead to "three more Radfans" in the Federation territories of Dhala, Haushari, and Subeihi that could easily overwhelm Britain's limited military capabilities.[416] Besides, Trevaskis argued, British forces were already employing aircraft in a close air support role to assist ground forces pinned down by enemy fire. To him, using aircraft in any capacity would inevitably generate "all kinds of vicious criticism." Air proscription tactics therefore would not "make a halfpenny worth's difference internationally."[417] Trevaskis described the use of air proscription as absolutely necessary for the success of the operation. His lobbying worked.

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[415] DO 174/19 Sandys to Trevaskis, May 3, 1964.

[416] DO 174/19 Trevaskis to Sandys, May 7, 1964.

[417] DO 174/19 Trevaskis to Sandys, May 4, 1964.

Concerned with Trevaskis's gloomy assessment that the offensive might fail and that violence might spread if the campaign was not successful, ministers in London approved air proscription on May 8. Sandys, however, remained anxious over a possible international backlash and decided to visit Aden immediately to discuss the implementation of air proscription with Trevaskis in person.[418] Sandys arrived on May 11 and met with Trevaskis right away. At this meeting Trevaskis convinced Sandys that proscription bombing was necessary. After the meeting Sandys cabled the Prime Minister and Defence Secretary that "air proscription is absolutely unavoidable" and "the sooner we start it, the better."[419] Concerned as usual with the potential for international criticism, Sandys reassured himself and his London-based colleagues that airstrikes could be justified publicly by stretching the circumstances. He wrote that since "tribesmen have been regularly firing at our aircraft and have hit several of them, we might be able to claim that our aircraft were shooting back."[420] As Sandys approved the use of methods which he knew would garner criticism, he began coming up with cover stories with which to deflect the potential controversies.

As with ground proscription, approval of air proscription came with certain restraints. During Sandys's visit to Aden, he and Trevaskis decided that before an attack began, British forces should warn villagers to evacuate. The idea was to air-drop warning leaflets on villages at least 24 hours prior to bombing them.[421] A written warning would be printed on each leaflet stating "the crimes of violence committed by the Radfan tribes, followed by a demand that they should . . . send a representative delegation to make submission to the

[418] DO 174/19 Sandys to Trevaskis, May 8, 1964.

[419] DO 174/19 Aden to Colonial Office; from Sandys to Prime Minister and Defence Secretary, May 11, 1964.

[420] DO 174/19 Sandys (from Aden) to the Colonial Office, May 11, 1964.

[421] WO 386/22 p.73.

Federal Government."[422] But the typical leaflet message, according to the War Office's official after action review, did not actually specify the consequences facing villagers who refused to leave. Instead they stated vaguely:

> Let it be known to you that for the maintenance of law and order the Federal Government has declared the district in which you live to be an area of military movement. For your own safety you should therefore leave the district by dawn tomorrow, taking your women and children with you.[423]

By dropping leaflets prior to an attack, British officials could claim that those villagers who failed to evacuate made a conscious decision to stay despite knowing the consequences. Yet by not including an actual threat of the consequences for remaining in a proscribed village, British forces could avoid condemnation in Arab media and at the United Nations. As Sandys reported, "for international reasons it seemed to me desirable to avoid including in the leaflets any threat about the consequence of non-compliance." He did not want to provide written evidence of British threats to destroy villages, kill livestock, or attack potentially unarmed villagers. A leaflet threatening military action against civilians could become a propaganda tool in the hands of Arab nationalists. Instead of written warnings, Sandys and Trevaskis proposed sending FRA soldiers of Radfan origin into the villages to "put the fear of death" into the population. By word of mouth, "the message would quickly spread from village to village and would no doubt improve with the telling."[424] As the Sandys-Trevaskis proposal suggests, intimidation was the real benefit of forewarning the population.

With the approval of air proscription, the Radfan population felt the full force of colonial coercion as the RAF bombed villages, slaughtered livestock, and destroyed crops. For the RAF, the approval of air proscription meant that "villages may be attacked with

[422] DO 174/19 Sandys (from Aden) to the Colonial Office, May 11, 1964.

[423] WO 386/22 p.73.

[424] DO 174/19 Sandys (from Aden) to the Colonial Office, May 11, 1964.

cannon and grenades" and allowed pilots to shoot cattle, goats, crops, and people loitering in proscribed areas.[425] It was a scorched earth campaign waged from the air. In one attack, a single Shackleton bomber expended 600 20mm cannon rounds and dropped 60 aerial grenades—lightweight 20-pound bombs. The pilot reported firing his cannon at a herd of goats and a wadi, while dropping six aerial grenades on another goat herd, eleven on "cattle," eight on "people"—without specifying civilian or combatant—four on "people in Wadi," six more on "people and four camels," and an additional fourteen on "people under trees." In another instance, a flight of two Hunter Mk 9 fighter-bombers fired 370 rounds of 30mm cannon, reporting "cows attacked."[426] Later, two Hunter Mk 9s fired 1,040 cannon shells while strafing "houses and crops."[427] Such battle damage reports were commonplace. In early May, the RAF usually reported between three and five ground attack sorties per day, but this rate increased to between eight and fifteen sorties beginning on May 26 as British reinforcements entered the fight and the campaign's intensity escalated.[428] The Aden High Commission ordered the RAF to maintain "continuous harassment of the area by day and by night by: (a) attacking all signs of movement; (b) shooting up inhabited areas and agricultural areas; and (c) generally causing damage to property."[429] By the end of the campaign, the RAF had flown over 600 sorties, launched 2,500 rockets, and fired 200,000 cannon rounds.[430]

Although senior leaders deemed harsh punitive measures necessary, British troops were often unenthusiastic about enforcing them. One East Anglian Regiment lance-corporal

[425] AIR 20/12115, Radfan Operations—1964, page 8, Mission Nos. 3/202 and 3/201, May 31, 1964.

[426] AIR 20/12115, Radfan Operations—1964, page 6, Mission Nos. 209 and 281, May 23, 1964.

[427] AIR 20/12115, Radfan Operations—1964, page 16, Mission No. 3/226, June 4, 1964.

[428] AIR 20/12115, Radfan Operations-1964.

[429] IOR: R/20/D/63 HC Office to Air Officer Commander, May 31, 1964.

[430] Walker, *Aden Insurgency*, 110.

called the destruction "a bloody shame."[431] Soldiers' hesitancy to destroy homes and burn crops was enough of a problem that the War Office's official after action report specifically addressed the issue: "Soldiers were reluctant to embark on punitive operations, which although mild in nature, seemed to them to be directed against comparatively innocent people." Such operations "inevitably involve hardship for some, and the need was not always apparent to the troops and junior officers involved."

This resistance incensed political and military leaders like Ian Baillie, the British Agent in the Western Aden Protectorate. On May 8, Baillie received a radio message indicating that "very little was happening in the villages other than a thorough search of houses." On May 11, he went to the front to see for himself:

> When I flew up to the forward areas and talked to our troops in a village . . . with my own eyes I saw many stacks of fodder and a grain store with grain in it (both these items are specifically mentioned in the political directive), but the forward commanders had specific orders to the effect that the relevant paragraphs of the political directive were in abeyance.[432]

To his horror, Baillie discovered that the political directive had been ignored on orders from Middle East Command—the military headquarters overseeing the Radfan operation. Furious, he told the commanding general, Lieutenant General Charles Harington, that "Paragraphs B(iii) and B(vi) of the political directive attached to the Radfan Operation Order dated 29th April 1964 deal with the punitive activities of troops in abandoned villages and fields" and warned that "if they are not complied with, military domination of the area can have little or no lasting effect.[433] Harington assured Baillie that he would reinstate the political directive in full. Political and military leaders overcame soldiers' reluctance by cajoling them—as Baillie

[431] Hickling Papers 2, p.134.

[432] IOR: R/20/D/63 Baillie to Trevaskis, May 12, 1964.

[433] Ibid.

had—and providing information briefings intended to create an appreciation among the troops for the "political requirement" of punishment.[434]

Many troops may have been reluctant to destroy civilian livelihoods, but Radforce's punitive tactics proved effective. By the end of July, British and Federation forces had captured all of their territorial objectives and had pushed the rebels out of the Radfan. British troops occupied the Radfan and continued enforcing proscription through air and ground patrolling. These measures effectively sealed access to the Radfan, preventing combatants and civilians alike from returning to their homes until after they agreed to peace terms with British and Federal authorities. With the planting season coming to an end, Colonial officials knew that denying access to the region would pressure rebels to make peace so that they could return "to their land before it is too late to grow a crop this year." Unable to tend their herds or crops, Radfan fighters faced the agonizing choice of surrender or starvation.[435]

The British were prepared to wait as long as necessary. On June 21, Trevaskis's deputy, Timothy Oates, triumphantly reported that "ground and air operations in Radfan have been successful insofar as they have, up to the present moment, prevented the revolt from spreading and have effectively put a stop to attacks on the road." Although he noted lamely that proscription "inflicted some casualties and much damage and inconvenience," Oates cautiously observed that "the tribes of Radfan have already been taught a sharp lesson, but it cannot yet be said that we have reasserted our authority . . . any slackening of our pressure on the tribes may lead to renewed attacks."[436]

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[434] WO 386/22 p. 39.

[435] DO 174/19 Oates (Acting High Commissioner) to Sandys, September 9, 1964.

[436] CO 1055/201 Aden to Colonial Secretary, June 21, 1964.

The Refugee Crisis and Britain's Response

Proscription tactics had targeted civilians and combatants alike in order to break Radfan resistance, but these methods caused a refugee crisis, they elicited the very controversy that Colonial Secretary Sandys had hoped to avoid. This crisis stimulated the ICRC's desire to protect the refugees' rights to humanitarian assistance. But when the ICRC asked the British government for permission to aid the refugees, colonial officers in Aden tried to prevent the ICRC from entering the Federation.

In what Britain's *Sunday Telegraph* labeled a "hunger war," British actions caused thousands of civilian refugees to flee the Radfan.[437] The Arab League claimed that there were an astounding 30,000 people—a figure larger than British estimates for the entire Radfan population—fleeing "British aggression."[438] On May 25, the *New York Times* reported the official British line that "about 1,000 refugees from the Radfan area, mostly women and children, have left rebel territory."[439] Publicly, colonial officers downplayed the refugee crisis. In June *The Guardian* reported even more modestly that "earlier accounts of a thousand refugees arriving at Jaar, in the Yafai region south of Radfan, are now described here as greatly exaggerated," while the *Los Angeles Times* indicated that British officials "counted no more than 500 refuges."[440] Private calculations, however, contradicted public pronouncements. In reality, the numbers were far higher. Hugh Hickling, Trevaskis's Legal Adviser, visited the Radfan and recorded the relatively conservative number of 8,000

[437] R. Beeston, "'Hunger War' on Radfan Tribes," *Sunday Telegraph*, June 1, 1964.

[438] CO 1055/260 Letter from the League of Red Cross Societies to Renison, January 7, 1965. The British estimated that 20,000-27,000 people lived in the Radfan. See WO 386/22 Operations in Radfan, August 1, 1964, pp.80-81.

[439] "1,000 Refugees Ask South Arabia's Aid," *New York Times*, May 25, 1964.

[440] David Holden, "British troops burn Arab food stocks," *The Guardian*, June 1, 1964; "Aden Rebels Give Up Guns in Bid for Peace," *Los Angeles Times*, May 25, 1964.

refugees.[441] According to Don McCarthy, the Foreign Office's liaison to Middle East Command (Aden), "when situation was at its worst in April and May perhaps ten thousand people had moved to Yafa, Abyan and elsewhere. Movement back to Radfan had started by August." McCarthy also indicated that the humanitarian situation was not as dire as Cairo and Sana'a Radio reports indicated: "There is probably some malnutrition since area is poor, but no signs of actual starvation. Situation is being watched and some relief may have to be given before next harvest."[442] By November, most rebel groups had decided to agree to peace terms before their populations faced starvation.

Punitive tactics had indeed proved their effectiveness, but the refugee crisis elicited sharp criticism internationally as many within the Middle East and "Third World" called for the refugees to receive humanitarian aid. In June, PSP leader Abdullah al-Asnag traveled to Cairo where he delivered a press conference decrying the ICRC's failure to intervene on behalf of the people of South Arabia, who faced British "genocide" in the Radfan. Al-Asnag blamed the British, accusing the British government of opposing the entrance of ICRC representatives into the "occupied South."[443] In November, ten leaders of the Front for the Liberation of Occupied South Yemen (FLOSY), an armed insurgent group affiliated with al-Asnag's PSP, wrote to the Colonial Secretary decrying the Radfan campaign for "exposing the lives of the population to death and rendering them homeless after destroying their property."[444] Meanwhile, broadcasts on Cairo Radio and Sana'a Radio condemned the RAF for having "carried out brutal raids on peaceful citizens in Radfan." Cairo's "Voice of the

[441] Hickling Papers 2, p.134.

[442] CO 1055/201POMEC to Foreign Office, November 10, 1964.

[443] CO 1055/154 Cairo to Foreign Office, June 29, 1964.

[444] CO 1055/155 Translation of letter from the South Yemen Liberation Movement, November 29, 1964. FLOSY and the NLF, despite their common British foe, remained at odds with one another throughout the conflict. See Clark, *Yemen: Dancing on the Heads of Snakes*, 83–84.

Arabs" program also reported on the Red Crescent's efforts to aid the refugees with an initial installment of £1.25 million.[445] Sana'a Radio, meanwhile, informed its listeners that "Britain left the rebels to die of hunger because they demand their rights in life in accordance with international laws and human rights issued by the United Nations."[446] Reactions in former British colonies were also negative. Indian newspapers criticized the damage done to cultivated land and the effects of the campaign on the civilian population.[447] The British High Commission in Delhi reported that Indian newspapers "were generally unsympathetic" to the British campaign.[448] In the UN Committee of 24, Indian Prime Minister Jawaharlal Nehru and Tanganyikan President Julius Nyerere co-sponsored a resolution condemning British operations in the Radfan.[449]

This criticism was exactly what Colonial Secretary Duncan Sandys had hoped to avoid before the Radfan operation began; now he had to justify British operations in the face of condemnation from Arab countries and at the United Nations. As they had done during the Cyprus Emergency, British officials prepared a public relations campaign of their own. On May 10, Sandys met with Commonwealth Relations Office (CRO) officials to complain that "not enough is being done to put across our case" in defense of the Radfan operation.[450] The strength of Radfan resistance meant that "the relatively simple security operation in Radfan, to which we wished to give minimum publicity, is assuming proportions which compel us to take stronger action locally." On May 12, the CRO sent a telegram to High Commissions in

[445] CO 1055/260 Radio Monitoring Report, December 19, 1964.

[446] IOR: R/20/D/62 Radio Monitoring Service report, June 29, 1964.

[447] DO 174/22 Delhi to CRO, June 2, 1964.

[448] DO 174/22 Acting HC India to CRO, May 25, 1964.

[449] PREM 11/5184 Memorandum "UN Committee of 24," May 8, 1964.

[450] DO 174/22 Huijsman to Garner, May 11, 1964.

all Commonwealth states to notify British diplomats that "our objectives and motives are being misrepresented by undue publicity and unjustified criticism." The intent of this initiative was to bolster Commonwealth states' support for Britain at the United Nations. The CRO telegram included a series of approved talking points and instructions to "make positive use in publicity and other media."[451] Diplomats in some embassies, such as Cairo, were placed in the unenviable situation of having to explain British actions to a decidedly hostile public. The Foreign Office informed the Cairo Embassy that diplomats "should take the line" that "although every precaution is taken to keep hardship to a minimum it is inevitable that in such operations the civilian population should suffer some disturbance." The Foreign Office instructions followed this apparent admission of civilian suffering with the denial of British culpability: "The responsibility for this [civilian hardship] lies with those who initiated and have sustained the revolt"—that is, with those who "compelled" the British to escalate their response.[452] Seeking to manipulate the public debate over operations in the Radfan, British officials prepared to defend proscription tactics by denying that they had done anything wrong.

In addition to the public relations campaign, commanders recognized that rebuilding the Radfan would also help to combat international disapproval of British actions.. In June, Lieutenant General Harington and High Commissioner Trevaskis agreed that "it is desirable to demonstrate that our military presence can be constructive as well as repressive." Although he believed that "the time is not yet ripe," Harington proposed to "provide direct assistance in the areas adjoining Radfan and in the Radfan itself." But the purpose of economic assistance was not necessarily to win the Radfan population's "hearts and minds." Harington worried that focusing economic development efforts on the Radfan would send the wrong message—

[451] DO 174/22 CRO telegram "Security Operation in Federation of Southern Arabia," May 12, 1964.

[452] DO 174/22 Foreign Office to Cairo, June 3, 1964.

that is, rebellion results in economic assistance. Instead, Harington believed that economic aid should also go to neighboring rulers who had remained loyal "to demonstrate that it is not only the tribes that have misbehaved that we are prepared to reward" with assistance.[453] Unenthused, British Agent Ian Baillie reluctantly agreed: "We should probably find ourselves with little alternative but to make some contribution to the rehabilitation of Radfan. The only type of rehabilitation I was contemplating at the moment was the provision of wells and minor irrigation works, but the time was not yet ripe for such work in Radfan itself."[454] Baillie's reluctance to help the Radfan population reflected the cynicism with which British forces approached economic development in the Radfan. Colonial officers planned to terrorize the Radfan population into submission by destroying their economic livelihoods while simultaneously planning to demonstrate British "goodwill" by rebuilding the very livelihoods that British forces had destroyed.

Cynicism was rife in Britain's response to the refugee crisis and subsequent international censure. British forces used the refugee crisis as leverage to compel Radfan leaders to negotiate peace settlements. Officials then crafted a public relations strategy which denied British culpability for civilian suffering and blamed the Radfan population for bringing this suffering upon themselves by rebelling in the first place. British methods in the Radfan amounted to a wholesale rejection of the population's rights to receive care and relief from suffering. Civilian suffering, however, invited attention from the International Committee of the Red Cross and a recently established activist group called Amnesty International.

[453] IOR: R/20/D/63 CINC Mideast to MOD UK, June 8, 1964.

[454] IOR: R/20/D/63 Baillie to Harington, June 2, 1964.

Asserting Humanitarian Rights: The ICRC and Amnesty International

Helping victims of war lay at the heart of the ICRC's organizational identity. This assertion of what scholars have labeled "humanitarian rights" included such vulnerable populations as the wounded and sick, prisoners, and vulnerable civilians. The ICRC also embraced a "rule of silence" in which the organization pledged not to publicize states' violations of international humanitarian law. This provision was meant to encourage governments to permit the ICRC to provide humanitarian assistance in even the most devastating conflicts without fear of being criticized by the ICRC. Amnesty International, however, was founded as a human rights group that embraced public activism. By 1963, Amnesty International and the ICRC developed what AI co-founder Peter Benenson termed "a tacit agreement" in which AI lobbied governments on the ICRC's behalf to obtain invitations for the ICRC to visit prisoners and report on their treatment.[455] The ICRC and AI worked to protect two vulnerable populations during the Aden Emergency—civilians and prisoners.

Swiss businessman Henri Dunant founded the Red Cross after seeing the horrors endured by wounded French and Austrian soldiers during the 1859 Battle of Solferino. Dunant's subsequent memoir, *A Memory of Solferino*, amounted to a clarion call for the alleviation of human suffering during war. In 1863, the Genevan Society of Public Utility formed a committee of leading citizens that led to a conference of states and the 1864 Geneva Conventions as well as the establishment of the International Committee of the Red Cross. All state parties to the Geneva Conventions agreed to recognize the ICRC's mandate to protect victims of war and to permit the ICRC to carry out this mandate in wartime. National branches of the Red Cross emerged across Europe as volunteers embraced the ICRC's

[455] CO 1055/260 Draft, Monson to Trevaskis, March 24, 1964. The telegram describes a conversation between Benenson and Nigel Fisher, Minister of State for the Colonies, where Benenson told Fisher of the Amnesty-ICRC arrangement.

mission.[456] From its inception, ICRC efforts focused on alleviating the suffering of those populations deemed most vulnerable to violence, such as prisoners, civilians, the wounded, and the sick.[457]

The ICRC's commitment to protecting victims of war amounted to an assertion of what historian Bruno Cabanes has called "humanitarian rights." International organizations first employed the rhetoric of "humanitarian rights" in the aftermath of the First World War. Proponents of humanitarian rights claimed that all people had the right to receive humanitarian assistance and aid in ameliorating human suffering. These rights were usually applied to groups—such as refugees, veterans, or civilians—and claimed during or after a war.[458] The ICRC was one of the most influential and long-standing of these organizations. For the ICRC, the interwar period marked a time in which the organization grew in confidence and asserted a general right to take "humanitarian initiative" in international wars and internal unrest.[459] The ICRC's humanitarian rights claims persisted after the Second World War as it advocated increased rights for combatants and protections for civilian victims of war through the expanded 1949 Geneva Conventions.[460]

The ICRC did not engage in political activism, even as it sought to provide humanitarian aid to victims of war and violence. As a rule, the ICRC did not condemn

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[456] Michael Barnett, *Empire of Humanity: A History of Humanitarianism* (Ithaca, N.Y.: Cornell University Press, 2011), 76–80. For histories of the ICRC, see David P. Forsythe, *The Humanitarians: The International Committee of the Red Cross* (Cambridge, UK: Cambridge University Press, 2005); David P. Forsythe and Barbara Ann J. Rieffer-Flanagan, *The International Committee of the Red Cross: A Neutral Humanitarian Actor* (Routledge, 2007); Caroline Moorehead, *Dunant's Dream: War, Switzerland and the History of the Red Cross* (HarperCollins Publishers Limited, 1999).

[457] Barnett, *Empire of Humanity*, 13.

[458] Cabanes, *The Great War and the Origins of Humanitarianism, 1918-1924*, 3–8.

[459] J.D. Armstrong, "The International Committee of the Red Cross and Political Prisoners," *International Organization* 39, no. 4 (1985): 624.

[460] Bennett, *Fighting the Mau Mau*, 78; French, *The British Way in Counter-Insurgency, 1945-1967*, 139; Klose, *Human Rights in the Shadow of Colonial Violence*, 38.

governments for wartime decisions that caused suffering. The ICRC shared its reports and findings with the government concerned, but the ICRC kept those reports confidential. Each government, however, was allowed to publicly release ICRC reports if it desired. ICRC leaders believed that criticism would simply result in governments prohibiting further ICRC assistance. Such censure would result in continued human suffering; lives would not be saved if the ICRC could not provide aid. The ICRC was heavily criticized for this stance, particularly after the Second World War. For the organization's detractors, the fact that the ICRC did not speak out about the treatment of Jews and other persecuted minorities in ghettos and concentration camps during the Holocaust marked a serious moral failing.[461] During the Aden Emergency and in other colonial wars, the ICRC remained committed to this principle of confidentiality.

Yet ICRC leaders insisted that the organization was not blind to government abuses. ICRC President Léopold Boissier later defended the organization's position, writing that delegates' impartiality "does not mean that these witnesses remain silent." Instead, when delegates "observe a breach of the Geneva Conventions or acts contrary to morality or law they protest to the authorities and demand that such acts be stopped." But, Boissier stressed, "these facts are not publicized" precisely because of the danger that any "indiscretion" would result in the loss of ICRC access to the war zone.[462] The ability to immediately provide aid to those in need mattered more to the ICRC than legal accountability for violations of the Geneva Conventions.

The ICRC's reluctance to speak publicly about inhumane conditions continued during post-World War II colonial conflicts. The problem was that the ICRC espoused the idea that

[461] Ibid., 136–137; Moorehead, *Dunant's Dream*, 544-549.

[462] Leopold Boissier, "The Silence of the International Committee of the Red Cross," *International Review of the Red Cross*, April 1968, 179.

victims of war had the right to receive humanitarian aid, and based on the Geneva Conventions, it was the ICRC's responsibility to provide such aid. Despite their refusal to apply the Geneva Conventions to the Aden conflict, British officials had allowed ICRC delegates to provide humanitarian assistance during past colonial wars. During the Cyprus Emergency, for instance, the Red Cross periodically visited detention camps. But in Kenya during the 1955-60 Mau Mau conflict, British officials opposed ICRC attempts to visit prison facilities, detention camps, and resettled populations. But Britain eventually acquiesced in 1957, when military operations began winding down and colonial officers had already decided to release most detainees.[463] Based on the precedents of Cyprus and Kenya, as well as the ICRC's commitment to confidential reporting, ICRC leaders expected Britain to permit them to work in the South Arabian Federation as well.

Unlike the ICRC, Amnesty International did not embrace confidentiality and was committed to publicly chastising governments that failed to act humanely. Founded in London in 1961 by British Labour Party lawyer Peter Benenson as well as several colleagues such as Quaker peace activist Eric Baker, Irish international lawyer and politician Seán MacBride, and British lawyer Leon Blom-Cooper, AI embraced activism on behalf of the dignity of the individual. Although the group is often categorized as a human rights organization, AI's activism overlapped with other concepts such as the humanitarian rights espoused by organizations such as the ICRC. For example, the protection of prisoners' rights was central to the ICRC's humanitarian mission, but it also formed a core component of AI's agenda.

Benenson's experience working with the Cyprus Bar Council lawyers on detainee abuse allegations during the 1955-59 Cyprus conflict contributed to his desire to work on

[463] Klose, *Human Rights in the Shadow of Colonial Violence*, 128–132. Bennett, *Fighting the Mau Mau*, 77–78.

behalf of prisoners.[464] In 1960, he authored the foreword to the anonymously written book *Gangrene.*[465] *Gangrene* was about torture committed by French and British forces in Algeria and Kenya, but Benenson's foreword largely concerned similar allegations of abuse during the Cyprus Emergency. His discussion of torture allegations against British troops, the use of repressive legislation, and the obstacles that police and prison authorities placed in the way of lawyers seeking to defend their clients. The *Gangrene* foreword suggests that Benenson's experiences in Cyprus profoundly affected his opinions on the ubiquity of government repression on both sides of the Iron Curtain as well as how best to promote human rights in the future.[466]

These ideas found expression in Benenson's 1961 "Appeal for Amnesty"—the document which marked the birth of Amnesty International.[467] Published in the *Observer* on May 28, 1961, Benenson's article called on governments to grant an amnesty "for all political prisoners everywhere." The *Observer* article was republished across the world.[468] Within the first six months of the organization's existence, about 20 such groups had formed in Britain. Other branches formed in several European countries. In particular, AI focused on "prisoners

[464] Benenson's Cyprus experiences have often been overlooked in histories of Amnesty International's establishment. According to the traditional narrative, Benenson reading a newspaper article about two Portuguese students imprisoned by the ruling Portuguese dictatorship for making a toast to freedom in a local bar. On the other side of the Iron Curtain, Benenson was outraged by the Soviet crackdown during the 1956 Hungarian uprising and the suppression of Catholicism in the Eastern Bloc. See Ann Marie Clark, *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms* (Princeton: Princeton University Press, 2001); Hopgood, *Keepers of the Flame*; Larsen, *A Flame in Barbed Wire*; Neier, *The International Human Rights Movement*; Power, *Like Water on Stone*. For a critical analysis of Amnesty's origins, see Buchanan, "'The Truth Will Set You Free': The Making of Amnesty International."

[465] AI-982 Benenson essay, August 83, pp.4-6; Benenson interview, November 12, 1983, pp.55-56. *Gangrene* appeared first in French, then in English translation. Benenson authored the forward to the English translation.

[466] Although AI espoused impartiality by advocating on behalf of prisoners on both sides of the Cold War as well as the emerging "Third World," the organization was staunchly anticommunist. In the 1950s, Benenson had assiduously avoided joining the National Council for Civil Liberties because of its communist leanings. Instead he established Justice, the British branch of the anticommunist International Commission for Jurists (ICJ). AI's anticommunism stemmed from its leaders' intellectual origins in Christian peace movements and their aversion to official Soviet atheism. See Moyn, *The Last Utopia*, 130.

[467] Anonymous, *Gangrene* (London: Calder Books, 1960).

[468] EB 2/1 Benenson to Baker, January 13, 1961.

of conscience," whom Benenson described as persons imprisoned for expressing an opinion which he or she "honestly holds and which does not advocate or condone personal violence."[469] AI worked for the release of such "prisoners of conscience," supported the notion of a fair and public trial for all prisoners—even those who committed violence—and advocated for their humane treatment while in jail. Benenson wanted to shift the debate over political prisoners away from the beliefs that those prisoners espoused, instead focusing on the fact that they had been imprisoned *for a belief*.[470]

To Benenson, public scrutiny was the solution to prevent governments from wielding power arbitrarily and secretly. In his "Appeal for Amnesty," Benenson identified a "growing tendency all over the world" in which governments consistently concealed "the real grounds upon which 'non-conformists' are imprisoned." Such "cover-up charges," Benenson wrote, suggested "that governments are by no means insensitive to the pressure of outside opinion." The greatest implication of a government's susceptibility to public pressures was that "when world opinion is concentrated on one weak spot, it can sometimes succeed in making a government relent."[471] Benenson believed that "human freedom depends on public opinion. So long as public opinion is prepared to accept arrests of people who have committed no crime beyond holding a certain belief, Governments can and will continue to make inroads into personal freedom." The "re-awakening of conscience," Benenson wrote, was the pathway to stimulate public interest and activism.[472] Benenson continued: "There are few, if any states, totally immune from the influence of collective world opinion."[473] Amnesty

[469] AI-982 Benenson interview, November 12, 1983, p.77.

[470] Buchanan, "'The Truth Will Set You Free': The Making of Amnesty International," 575-579.

[471] Peter Benenson, "The Forgotten Prisoners," *The Observer*, May 28, 1961.

[472] EB 2/1 Amnesty, n.d., but likely composed in January, 1961.

[473] EB 2/1 Benenson, Appeal for Amnesty: A report on the first 6 months, n.d.

International would therefore place a premium on public activism to engage civic and social groups, individuals, and governments in the interest of unveiling injustice and ill-treatment. Given the declaration of emergency in Aden and subsequent large-scale detentions, it was no surprise that Benenson's fledgling group of activists would soon find itself embroiled in Britain's next colonial conflict on behalf of the ICRC.

The 1963-64 Aden Detention Controversy

Although the Radfan refugee crisis elicited the ICRC's interest in protecting refugees, it was not the first occasion in which the ICRC sought to fulfill its humanitarian mission during the Aden Emergency. Both the ICRC and Amnesty International first became involved in the conflict in the immediate aftermath of High Commissioner Trevaskis's December 1963 declaration of a state of emergency—over a year before the Radfan campaign began. Trevaskis's subsequent crackdown resulted in numerous arrests and drew the attention of the ICRC and AI.

After his 1963 declaration of emergency, Trevaskis targeted socialist anticolonial activists. Within a week, Trevaskis had ordered the arrest of 55 people associated with the People's Socialist Party and deported 300 socialist activists, many of whom were Yemeni migrant workers residing in Aden.[474] Trevaskis did not have proof of the PSP leaders' complicity in the December 10 attack, but in a controversial move he held them without charges in Federation territories outside Aden city. The World Federation of Trade Unions (WFTU), which British officials perceived as a communist front organization, complained that many of those arrested were imprisoned "in bad conditions." The head of the WFTU wrote to the Director General of the International Labour Organization to report that "there has been no attempt to provide any evidence that these arrested leaders had anything to do

[474] Mawby, *British Policy in Aden and the Protectorates 1955-67*, 95.

with the grenade incident" and called the arrests "a pretext to repress the anti-colonial movement" in Aden.[475] Colonial officers responded that "under the Emergency Decree, a group of five or more people constitutes an illegal gathering," and this measure therefore did not discriminate against ATUC because it applied to all organizations and individuals.[476] This excuse conveniently ignored the fact that PSP and ATUC tactics relied heavily on rallies and strikes. Trevaskis had clearly targeted the PSP and ATUC with these decrees.

Trevaskis's actions incited criticism in Britain. In Parliament, Labour MP Albert Oram raised concerns over whether the detainees' civil liberties had been violated.[477] Colonial Secretary Duncan Sandys insisted that no such abuse occurred. Sandys said that a British doctor visited the detention site three times. "I have the report from the British medical officer with me," Sandys continued, "he examined all the detainees and, apart from minor ailments of a normal character, found no signs of ill-treatment of any kind whatever."[478] Peter Benenson, the Labour lawyer who took an active interest in ill-treatment allegations during the Cyprus Emergency, added his voice to the criticism by writing to Sandys with a request that the government "to permit a delegate of the International Committee of the Red Cross to inspect the prisons." Benenson's letter arrived at Whitehall on behalf of a recently-formed NGO called Amnesty International.[479] Trevaskis's crackdown on the PSP and ATUC raised concerns within the ICRC and Amnesty International. Both groups sought to ensure that detainees in Aden received humane treatment.

[475] CO 859/1784 Zakaria to Morse, January 24, 1964.

[476] FCO 859/1785 Dewar to Director-General ILO, April 7, 1964.

[477] Mawby, *British Policy in Aden and the Protectorates 1955-67*, 95.

[478] Hansard HC Debate December 19, 1963, vol 686 c.1446.

[479] CO 1055/260 Benenson to Colonial Secretary, December 19, 1963.

Trevaskis, however, rejected calls for an ICRC inspection of prisoners' conditions. On December 20, in response to a complaint from ATUC, the British Red Cross Society requested that Trevaskis allow an ICRC delegate to visit the prisoners.[480] But when colonial officers in Whitehall cabled Trevaskis to suggest that the Federation government "may wish to consider advantage to be gained by inviting impartial investigation of this kind, which could be expected to provide unimpeachable proof that A.T.U.C. allegations are false," they received a curt reply.[481] Trevaskis insisted that "I would prefer not to press Federal Government to agree to a Red Cross inquiry" in another telegram. Instead, Trevaskis chose to conduct an inquiry that he could control—he ordered a local investigation to be carried out by the colony's Chief Justice. The subsequent report, Trevaskis conceded, would be released to the ICRC. Unsurprisingly, the Chief Justice found no evidence of ill-treatment.[482]

Trevaskis's reluctance to allow ICRC inspections struck Benenson as suspicious. Benenson made his concern quite clear: "Great Britain has regularly allowed such inspection in Kenya, Cyprus and Singapore; so has the Government of Southern Rhodesia. It would be gratifying to learn that the Colonial Secretary was prepared for a visit of the International Red Cross delegate." While the Chief Justice's inquiry was welcome news, Benenson was not satisfied. He pressured colonial officers further, writing that the local government inquiry "does not wholly deal with the point raised in my letter." Regardless of whether the detainees had been mistreated in the past, Benenson insisted that "the important principle is that

[480] CO 1055/260 Reid to Formoy, December 20, 1963.

[481] CO 1055/260 Colonial Office to Aden, December 20, 1963.

[482] CO 1055/260 Aden to Colonial Office, December 27, 1963; Gilmore to Benenson, January 7, 1964; The Chief Justice's findings were released in February 1964. See CO 1055/266 Report by the Chief Justice on the treatment of detainees, February 9, 1964.

wherever there are political prisoners held without judicial process, the International Red Cross should be invited to inspect their conditions."[483]

Peter Benenson sought to establish a mechanism for independently reviewing the treatment of prisoners. An ICRC mission to monitor prison conditions and the treatment of detainees would provide the independent, impartial oversight mechanism which Benenson desired. Toward this end, Benenson wrote to the Colonial Office again, this time asking for a private meeting to speak "off the record." Benenson conveyed the news that "the International Red Cross are not 'quite satisfied with the arrangements made by the High Commissioner' and we ourselves feel that the role of the International Red Cross in Aden has not, perhaps, been considered as fully as it deserves."[484] On March 19, 1964, Benenson met with Minister of State for the Colonies Nigel Fisher and explained his views. Fisher agreed to pass the information to Trevaskis, requesting that he "consider the matter."[485] With the looming unrest in the Radfan, however, Trevaskis had other concerns.

ICRC efforts to gain access to the South Arabian Federation received renewed impetus shortly after the Radfan campaign began. Brutal British tactics provoked international censure. On May 19, 1964, with the Radfan operation in full swing, the Arab League decided to act by formally requesting that an ICRC delegation visit the "occupied Yemeni South" to investigate the humanitarian effects of British military operations in the Radfan. The ICRC was willing to help. British officials, however, were less enthused. They knew that a request from the ICRC to provide humanitarian aid in the Federation would invite further scrutiny.

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[483] CO 1055/260 Benenson to Gilmore, January 9, 1964.

[484] CO 1055/260 Benenson to Doble, March 9, 1964.

[485] CO 1055/260 Draft, Monson to Trevaskis, March 24, 1964.

Britain Obstructs the ICRC

Trevaskis's large-scale detentions in the aftermath of the December 1963 declaration of emergency piqued the ICRC's interest and stimulated Amnesty International's lobbying on the ICRC's behalf, but the Radfan campaign changed the ICRC's priorities from inspecting prison conditions to caring for refugees. The ICRC was already providing humanitarian assistance in Yemen, having established a field hospital near the Yemen-South Arabian Federation border. Most Radfan refugees fled toward Yemen and no doubt some of them encountered Red Cross workers on that side of the border.[486] For the ICRC, the conduct of the Radfan campaign reinforced the organization's interest in gaining access to the South Arabian Federation. British officials, however, chose to obstruct the ICRC's efforts in order to avoid criticism over the Radfan campaign's brutality.

On May 24, 1964, André Rochat, head of the ICRC delegation in the Arabian Peninsula, approached Britain for permission to visit the South Arabian Federation, ostensibly for a fundraising trip.[487] British officials delayed the ICRC's request through June on the basis that "it was not possible to raise with Minister of External Affairs the question of visit to Federation of International Red Cross delegate on fund-raising mission" because all Federation ministers had traveled to London for a conference on the Federation's future constitution.[488] ICRC representatives accepted the explanation, but further delays soon tested their patience.

By July, the ICRC still had not received a response to its visitation request. On July 14, ICRC President Léopold Boissier wrote to British Foreign Secretary R.A. Butler. Boissier tactfully conveyed his exasperation, indicating that although the ICRC had been in contact

[486] CO 105/260 Geneva to Foreign Office, July 6, 1964.

[487] CO 1055/260 Foreign Office to Geneva, May 29, 1964.

[488] CO 1055/260 Aden to Colonial Secretary, June 4, 1964.

with the British government since May, Britain had not yet responded to the ICRC's request to send a delegate to the Federation. The mission, Boissier reiterated, was "to visit the prisoners and wounded in the hands of the authorities concerned" and "to enquire on the needs, if any, of the civilian population." He also expressed his desire to "avoid any undesirable publicity." Finally, Boissier reminded Butler that the ICRC's request to act "as a neutral intermediary between two parties to an internal conflict" was "in conformity with the stipulations of the Geneva Conventions. Article 3, common to all four Conventions, authorizes the Committee to offer its humanitarian services on behalf of the victims of such conflicts."[489]

Neither British nor Federation officials objected to the idea of an ICRC fundraising trip, but they still did not want ICRC delegates to investigate prison conditions. Mohammad Farid, the Federation's Minister of External Affairs, told Colonial Secretary Duncan Sandys that he saw no reason to object to an ICRC fundraising trip. He also agreed to allow a Red Cross representative to assess whether the ICRC could help "to alleviate any hardship suffered by the civilian population as a result of operations in Radfan." On the issue of ICRC prison visits, Farid echoed British sentiments in saying that such an investigation "would be regarded as unwarranted interference."[490] To officials in Whitehall, the matter seemed straightforward and routine: Allow the Red Cross to raise funds and assess the humanitarian situation in the Radfan, but deny ICRC access to prison facilities.[491] Duncan Sandys, however, urged Trevaskis and Federation leaders to allow the Red Cross fundraising visit. He

[489] CO 1055/260 Boissier to Butler, July 14, 1964.

[490] CO 1055/260 Colonial Secretary to Aden, July 16, 1964.

[491] CO 1055/260 Foreign Office to Jedda, July 28, 1964.

worried that blocking the visit of a reputable humanitarian organization such as the ICRC would suggest that British officials had something to hide.[492] They did.

Colonial officers at the Aden High Commission stridently opposed allowing the ICRC to visit South Arabia in any capacity due to the devastation that military operations had wreaked in the Radfan. On August 20, Timothy Oates, Trevaskis's deputy in Aden, cabled Assistant Under-Secretary of State W.B.L. Monson at the Colonial Office's Central African and Aden Department. Oates revealingly argued that "the Radfan operations were undertaken under British direction, and largely with British troops." As a result, "the operations themselves and their repercussions on the civil population are therefore a British responsibility." The repercussions were severe:

> H.M.G. has been obliged to take stern measures in Radfan. They have inevitably caused widespread distress and suffering and H.M.G. has come in for bitter criticism. Now that the situation is mending, I believe it would be directly contrary to H.M.G.'s interest to permit a factual exposé of the unfortunate side-effects of the Radfan campaign. Criticism of H.M.G. would be redoubled and our actions in Radfan would be used to belabor us in the councils of the world for months to come.

Oates concluded by informing Monson that Mohammad Farid and other Federal ministers—who in July had not opposed the idea of an ICRC visit—had, after returning to the Federation, changed their minds. Oates proposed to help Farid "draft a reply to the letter from President of the I.C.R.C. politely declining to permit the visit."[493]

Oates's opposition was not well-received in Whitehall. Colonial officers explained to Oates that they were "frankly puzzled at your criticism of our position." W.B. Leslie Monson, Assistant Under-Secretary for the Colonies, told Oates that the "Red Cross have always been helpful to us in the past, their visits being conducted in a non-controversial manner." Because

[492] CO 1055/260 Colonial Office to Aden, July 16, 1964.

[493] CO 1055/260 Acting High Commissioner (Oates) to Monson, August 20, 1964.

their reports were only shared between the ICRC and the government concerned, negative information remained private. "On the other hand," Monson explained, "a refusal to permit a visit would be treated as evidence that allegations of brutality are true." Monson suggested that ICRC attention could be directed toward improving living conditions in refugee camps if the High Commission did not want Red Cross delegates to spend time in the Radfan itself. Monson concluded that "unless there are overwhelming reasons against such visits, we are not in general opposed to I.C.R.C. missions." But he also included a caveat: "We would not wish to strain relations with Federal Ministers if they should be firmly opposed to a visit."[494]

On August 29, Oates further explained the High Commission's position by elaborating on the damage done in the Radfan. He wrote that "operations in Radfan, by their very nature, have involved the entire population." Refugees made their way out of Radfan to neighboring territories within the Federation. Federation authorities, however, decided not to establish formal refugee camps, leaving the refugees to their own devices. Oates added a positive spin to the humanitarian crisis, insisting that refugees "have been able to enjoy health and other services not available to them in Radfan. In the context of Arabian tribal life" the refugees' situation "does not present the same degree of difficulty or hardship that it would in more sophisticated urban societies." He cautioned, however, that "to anyone not versed in the grinding poverty of Radfan in times of peace, the apparent side effects of our military operations might well seem distressing" and warned that "if Rochat visited Radfan there would be the very real risk that he would find himself unable to report in favourable terms."[495]

Oates also exploited Monson's aversion to straining relations with the Federation. "I confirm," Oates reported, "that Federal Ministers are firmly opposed to an ICRC visit" and

[494] CO 1055/260 Colonial Office to Aden, August 21, 1964.

[495] CO 1055/260 Aden to Colonial Office, August 29, 1964.

"they do not wish to create the impression internationally that their social services are unable to cope with the situation" in Radfan. But Farid, although "generally agreeing with his colleagues in not wishing to allow the visit," was now reluctant to inform the ICRC of the Federation's decision to refuse the Red Cross delegation.[496] Farid wanted British reassurances that if he refused the ICRC's request now, High Commission officials would not overrule his decision at a later date. On September 10, the High Commission received authorization from Whitehall to provide Farid with the assurance he desired.[497]

The Federal rulers' change of heart and Farid's subsequent reluctance to notify the ICRC reflect the extent to which British High Commission officials controlled the Federation's policy decisions. When approached by Foreign and Colonial Office representatives in London, Federation leaders did not object to a Red Cross presence in the Federation as long as the ICRC mandate did not include detention facilities. Their sudden change of heart upon returning to Aden could have been the result of Trevaskis's and Oates's influence. Farid's hesitation to write to the ICRC and the subsequent "help" provided by High Commission officials in drafting a formal refusal—colonial officers heavily edited the content of the letter, if they did not write the entire document themselves—suggests that in practice, the High Commission held power in Aden by operating behind a Federal façade.[498] The Federation ministers' change of heart concerning an ICRC visit can therefore be seen as the product of British colonial administrators' influence. It was the High Commission that delayed the ICRC's visit, not the Federation.

[496] Ibid.

[497] CO 1055/260 Posnett to Shegog, September 10, 1964.

[498] See CO 1055/260 Aden to Colonial Office, September 12, 1964 and September 24, 1964; Posnett to Formoy, September 28, 1964.

ICRC representatives were losing patience as the Radfan campaign wound down during the autumn of 1964. Farid, for instance, waited until mid-October before formally notifying the ICRC of his refusal to permit a visit.[499] By November 1964, when Radfan peoples finished negotiating peace settlements and returned to their homes, the ICRC's primary interest in the Federation shifted from aiding refugees to protecting detainees. On December 29, Sir Patrick Renison, Vice Chairman of the British Red Cross Society, informed the Colonial Office that a group of Aden political prisoners complained to the ICRC of torture and poor conditions.[500] British officials promptly denied the allegations—and denied that the detainees were "political prisoners"—but Renison persisted.

The ICRC reassured British officials that they were less concerned with the detainees' legal status than with ensuring the prisoners received humane treatment. Renison acknowledged that "on no occasion has H.M.G. admitted that the Geneva Conventions were applicable in territories under its control" and explained to colonial officers that "the I.C.R.C. have no interest in the legal status of the detainees." Furthermore, Renison argued that there was "everything to gain" by allowing an ICRC delegation to visit and "nothing to lose" because "if no visit is made it is all too likely that allegations of inhumane treatment will continue."[501] ICRC officials believed that such practical arguments might resonate with governments stretched by wartime crises better than overtures to uphold the spirit of international law. Even so, after the Colonial Office forwarded Renison's letter to Aden, Red Cross representatives waited a further two weeks without receiving a reply. Meanwhile, ICRC delegate André Rochat decided to act on his own.

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[499] CO 1055/260 Aden to Colonial Office, October 13, 1964.

[500] CO 1055/260 Renison to Shegog, December 29, 1964.

[501] IOR:R/20/D/62 Renison to Shegog, January 26, 1965.

Forcing the Issue: The Red Cross Enters Aden

In February 1965, as Renison attempted to break down government obfuscation in the UK, Rochat made an unexpected "private visit" to Aden—over eight months after the ICRC first asked to provide humanitarian assistance in the Radfan.[502] By conducting a "private visit," Rochat was not coming on a formal trip as an ICRC delegate. As a private citizen of Switzerland, he was entitled to fly to Aden on his own. He stayed for two weeks. Rochat met with Sir Richard Turnbull—who had replaced Kennedy Trevaskis as High Commissioner—Mohammad Farid, and Sultan Saleh, visited hospital facilities, and received a helicopter tour of the Radfan areas affected by the previous year's fighting.[503] In the aftermath of Rochat's sudden "private visit," British officials realized that they could turn the ICRC presence into an advantage. By allowing the ICRC to provide aid and inspect prison conditions, colonial administrators could cultivate the public image that Britain was adhering to international standards of humane treatment.

Although Rochat's sudden appearance took colonial officials off-guard. Don McCarthy, a diplomat since 1946, had lived and worked in the Middle East for much of his career. Having previously served in Saudi Arabia and Kuwait, he was familiar with the region. McCarthy was an insightful commentator, provided honest and outspoken assessments, and at times criticized British policy in Aden. By 1964, McCarthy had been named Political Adviser to Middle East Command. He recognized the trouble that Rochat's arrival in Aden could cause:

> On the main point we are in a jam. M. Rochat has forced the issue. I do not see how we could let him return without contact with the Federal Government if we are not to create a deplorable impression in Geneva and, very probably, in London.

[502] CO 1055/260 Colonial Office to Aden, February 19, 1965.

[503] CO 1055/260 Aden to CO, February 27, 1965.

Rochat had established personal relationships with several Federation ministers, which created the social expectation that he would be able to meet the ministers again on subsequent visits. McCarthy recognized that if Rochat was permitted to visit the Federation again, he would be able to meet with Federation officials and potentially influence Federal policy.

Although Rochat's visit seemed to cause a problem for the British, McCarthy also sensed an opportunity. "My feeling," he reported, "is that with Radfan just about over we have less to be timorous about than we had last summer." McCarthy recommended that the High Commission should instruct Farid to host Rochat, but "we should advise Farid against access to detainees at present because of the conditions in Aden prison and the tendentious and harmful political use which would be made of M. Rochat's access." Later, McCarthy suggested, "when the new detention centre is ready and, perhaps, [constitutional] conference problems are less acute, it might suit us to facilitate access." The Red Cross request therefore should be "turned aside rather than turned down."[504] By 1965, High Commission officials had begun to see the ICRC's presence as potentially advantageous, but not until the potential for a negative ICRC report had abated. The end of the Radfan campaign, return of the refugees, and the opening of a new prison with modern facilities meant that the ICRC was unlikely to find violations of humanitarian rights. If ICRC delegates did find and report abuses, the public would never know—it was the ICRC's policy to keep its reports confidential. Besides the ICRC, only members of the British and Federal governments would have access to the reports.[505] As a result, British officials allowed Rochat to file a formal trip report with ICRC

[504] IOR: R/20/D/62 McCarthy to Turnbull, February 18, 1965. See also *The Diplomatic Service List 1966*, London: H.M.S.O., 1966, p.237.

[505] Klose, "The Colonial Testing Ground: The International Committee of the Red Cross and the Violent End of Empire," 107-126. Colonial officials applied a similar logic after the 1959 Hola camp massacre in Kenya. The government allowed ICRC representatives to visit detention camps in an effort to convince its critics that conditions in the camps were not as deplorable as the Hola incident made them appear. The approach, however, backfired because the ICRC delegates found widespread torture and other forms of physical punishment.

headquarters and granted permission for him to make official visits to South Arabia in the future.[506]

As Rochat built a fledgling ICRC presence in the Federation, Amnesty International continued its lobbying efforts on the ICRC's behalf. The October 1964 UK general election brought the Labour Party to power. As a well-connected barrister and member of the Labour Party, Peter Benenson used his connections to contact the new Colonial Secretary, Anthony Greenwood. In October 1965, several months following Rochat's "private visit" to the Federation, Benenson asked Greenwood "for an invitation to the Red Cross to visit detainees in Aden." He reminded Greenwood that "there was some difficulty about an International Red Cross delegate going to Aden at all" and that once the delegate finally arrived, "he was not able to visit any of the prisons." Permitting such access would, Benenson argued, assist the ICRC and serve as "a useful political move for Britain."[507] Greenwood agreed. He believed that ICRC inspections would help Britain counter "the constant flow of false allegations about both the number of detainees and the conditions of their detention." Fully expecting Red Cross visits to confirm the benevolence of British detention procedures, Greenwood wrote effusively to Turnbull that "I very much hope that you will agree that an invitation may now be extended." From Greenwood's perspective, Britain had "nothing to hide."[508] Benenson had won over the new Colonial Secretary.

By the time Benenson met with Greenwood, the danger of an adverse ICRC report had already subsided with the November 1964 completion of the state-of-the-art Al-Mansura detention center. Deputy High Commissioner Timothy Oates noted that poor prison

[506] CO 1055/260 "Note for the Secretary of State: Recent visit of M. Rochat, I.C.R.C. delegate in the Yemen, to Aden." March 9, 1965.

[507] CO 1055/261 Benenson to Greenwood, October 29, 1965.

[508] CO 1055/261 Greenwood to Turnbull, November 10, 1965.

conditions in Aden were no longer a problem: "This source of embarrassment, with the use of Al Mansura for detainees, has been removed. So in that respect we have nothing to fear from a I.C.R.C. visit." In many Federation territories beyond Aden city, however, the High Commission's concerns over prison conditions persisted. Oates suggested that "it might be politic to ask Ian Baillie to ensure that detainee conditions in the States would stand up just as Al Mansura would stand up to I.C.R.C. scrutiny."[509] But in terms of Britain's reputation, ICRC inspections of Federation-administered prisons mattered little. Colonial officers wanted to avoid criticism of detention facilities managed by Britain, not the Federation. If anything, Colonial Secretary Greenwood noted, critical ICRC reports might provide enough "embarrassment" to persuade Federation ministers to improve substandard facilities.[510] Greenwood expected the supposedly less civilized "tribal" Federation rulers to fall short of ICRC standards, but he was convinced that Britain treated its prisoners humanely.

With the ICRC now officially working in the Federation, colonial administrators used the ICRC's presence to buttress British credibility. The Foreign Office wanted to use Red Cross visits to counter anti-British propaganda from Egypt, Yemen, FLOSY, and the NLF. They hoped that making Rochat's visit public would help British and South Arabian authorities to "discourage those concerned from pursuing their original intention of making propaganda out of alleged inhuman conditions in the South Arabian territories"[511] After Rochat's February visit, the South Arabian Federation press service hailed the arrival of "the delegate of the International Committee of the Red Cross" as if Rochat's visit were officially sanctioned. Federal authorities published a press release that highlighted Rochat's Radfan tour, meetings with government ministers, and time spent reviewing "the organisation of

[509] IOR: R/20/D/62 Assistant High Commissioner to Turnbull, November 11, 1965.

[510] CO 1055/261 Greenwood to Turnbull, November 10, 1965.

[511] CO 1055/261 Wiltshire to Posnett, June 16, 1965.

medical services in the Federal territory."[512] Rochat was even allowed to make a second trip in May 1965. British officials seemed satisfied with the scope and substance of Red Cross reports on the South Arabian Federation because Rochat had not reported any negative findings. In August, the prevailing perception at the Aden High Commission was that Rochat has "established friendly relations" and indicated that "he was given everything he wanted in the way of reception and touring."[513] But High Commissioner Turnbull was skeptical. Formerly the Chief Secretary in Kenya during the Mau Mau conflict, Turnbull believed that tough measures were necessary to defeat colonial insurgencies.[514] Based on this conviction, he explained that "I am rather doubtful whether we should stimulate the I.C.R.C.'s renewed interest gratuitously."[515]

Ultimately, the propaganda potential of ICRC visits to the new detention facility outweighed Turnbull's reluctance. On November 25, Greenwood instructed Turnbull to "secure [the] Federal Government's agreement to an invitation being formally conveyed to Rochat through normal Foreign Office channels."[516] Whitehall official J.V. Mullin expressed the Colonial Secretary's sentiments succinctly: A Red Cross inquiry "would help us to counter the constant allegations of brutality and torture in detention camps, the gross exaggerations of the numbers under detention, the damaging effect of hostile propaganda over our alleged refusal to permit the International Red Cross to visit the detainees." He boasted that "we have nothing to hide: the detainees have now been transferred to the new

[512] CO 1055/260 South Arabian Press Service, International Red Cross Delegate Visits Federation, No.406/65.

[513] CO 1055/261 Mullin to Watts, August 24, 1965.

[514] French, *The British Way in Counter-Insurgency, 1945-1967*, 198–199.

[515] CO 1055/261 Turnbull to Greenwood, November 19, 1965.

[516] CO 1055/261 Greenwood to Turnbull, November 25, 1965.

prison at Al Mansura where the conditions are excellent."[517] Officials in the Foreign Office believed that a formal request would be more beneficial than Rochat's earlier informal visits, in which the lack of a formal report meant that colonial authorities "were unable to take any propaganda advantage of the very favourable impressions he [Rochat] formed of conditions in South Arabia."[518] British opinions had shifted from preventing ICRC visits to promoting formally documented prison inspections. Colonial administrators needed a way to counter torture allegations with credible evidence—positive ICRC reports provided that credibility.

Rochat visited detention facilities on two occasions in 1965, but colonial officers did not allow him to interview detainees—he could only visit the facilities and speak with British officials.[519] Despite this setback, prison inspections had finally begun. It had taken the ICRC over nine months since the beginning of the Radfan campaign and about six months since the rebels negotiated their return home. Over a year had elapsed since December 1963, when the first reports of detainee abuse surfaced and Benenson began his overtures on the ICRC's behalf. This delay had allowed colonial officials to clean up the damage they had caused in the Radfan. By November 1964, most Radfan refugees had returned home and British forces had opened a new prison with facilities capable of satisfying ICRC humanitarian standards. Rochat's initial visits produced positive assessments which British officials could use to defend themselves against allegations of abuse. By permitting ICRC inspections, Britain cultivated a public image in which they appeared to be playing by the rules.

Conclusion

The Radfan campaign and subsequent refugee crisis heightened the International Committee of the Red Cross' involvement in South Arabia. British officials knew that their

[517] CO 1055/261 Mullin to Goulding, November 26, 1965.

[518] CO 1055/261 Goulding to Mullin, December 2, 1965.

[519] WO 32/20987 Baker memorandum on Aden, October 1966.

Radfan operations intentionally created the need for humanitarian assistance. Homelessness and the threat of starvation, however, were clearly articulated and acceptable means for ending the conflict. The War Office's official report on the campaign recognized as much by noting that "the policy of 'big stick and no carrot'" had proved "to be the right one in South Arabia."[520] Officials also willingly perpetuated the humanitarian crisis by blocking ICRC access to the region. Going further, colonial officers also obstructed the ICRC's attempts to visit detainees. British authorities in Aden did not want the ICRC involved because they did not want their actions scrutinized.

When it proved impossible to prevent ICRC access to the Federation, colonial administrators tried to use the presence of the ICRC to their advantage. By early 1965, British officials had embraced High Commissioner Turnbull's dictum that it was "better to avoid than win a public controversy."[521]Colonial authorities dropped their objections to the ICRC's presence in the Federation because they spied an opportunity to manipulate the ICRC's presence to shield Britain from criticism. Aden officials prohibited ICRC delegates from visiting facilities that would not reflect positively on the British government. British officials controlled what ICRC delegates saw and who they could interact with to ensure that the delegates would provide positive reports. By limiting ICRC access to sensitive sites such as the Radfan and detention facilities, British officials restricted public knowledge of events which may have damaged Britain's reputation. These restrictions were largely successful in containing Amnesty International and ICRC assertions of humanitarian rights for refugees and prisoners.

The High Commission's attempts to stifle public knowledge and criticism of the harsh measures taken during the Radfan campaign were largely successful. Colonial administrators

[520] WO 386/22 p.74.

[521] PREM 13/1294 Aden to Foreign Office, September 25, 1966.

in Aden were far more proactive in shielding Radfan operations from scrutiny than their counterparts in Cyprus, where Greek Cypriots' aggressive publicity efforts often caught British officials off-guard. During the Radfan campaign, British officials succeeded in waging a brutal campaign while avoiding public controversies on the scale of the European Commission of Human Rights investigation in Cyprus. Certainly the Radfan's relative isolation helped the British to reduce the campaign's public exposure; British officials simply denied access to the Radfan during the campaign in order to hide evidence of brutality. By the time that the ICRC was permitted to visit prisons in late 1965, British priorities had shifted away from the Radfan toward the insurgency in Aden city. But civilian and military leaders in Aden soon faced awkward questions as ICRC delegates—and suspicious colonial officers—began to uncover evidence of torture.

CHAPTER 5
"THIS UNHAPPY AFFAIR": INVESTIGATING TORTURE IN ADEN

Introduction

At two in the afternoon on July 28, 1966 Selahaddin Rastgeldi—a medical doctor and Swedish citizen born in Turkey of Kurdish parents—landed at Aden International Airport.[522] He traveled on behalf of Amnesty International's Swedish Section to investigate persistent allegations that British interrogators had tortured detainees. AI became involved in Aden to prevent the use of torture by the British government. The decision to send an independent investigator in order to publicly pressure the British government into taking action against the abuse allegations represented a radical departure from previous involvement of international NGOs in war. AI acted independently—and against the interests—of the British government. Due to AI's efforts, human rights activism played a key role in shaping British counterinsurgency practices during the Aden Emergency.

This chapter examines the events leading to Rastgeldi's mission and the consequences of his visit. British forces employed violent and degrading interrogation techniques to obtain vital intelligence because they lacked other means of collecting intelligence and continued to believe that coercive measures were effective. The High Commission's Legal Adviser, Hugh Hickling, discovered evidence of these abuses. But senior civilian officials and military commanders in Aden adopted the same approach as their colleagues in Cyprus—they sought

[522] Amnesty International. "Aden Report by S. Rastgeldi," December 1966. p.7. Most studies of Rastgeldi's visit to Aden place it in the context of Amnesty International's organizational history as a human rights NGO. See Tom Buchanan, "Amnesty International in Crisis, 1966-7," *Twentieth Century British History*, 15, No.3, 2004, 267-289; Hopgood, *Keepers of the Flame*; Neier, *The International Human Rights Movement*; Power, *Like Water on Stone*; Kirsten Sellars, *The Rise and Rise of Human Rights* (Stroud: Sutton Publishing, 2002); Kirsten Sellars, "Human Rights and the Colonies: Deceit, Deception and Discovery," *The Round Table: A Quarterly Review of the Politics of the British Empire* 93, no. 377 (2004): 709–24.

to preserve the effectiveness of their intelligence apparatus by covering up the evidence. Where Hickling's inquiries stalled, Amnesty International's investigation was marginally more successful. British officials worried that AI's inquiry would embarrass Britain by publicly exposing evidence of torture in Aden. The Rastgeldi visit prompted an internal investigation—known as the Bowen inquiry, ordered by Foreign Secretary George Brown—which resulted in half-hearted reforms to the detention and interrogation regime. But the Bowen inquiry did not stop abuses. Unlike the ICRC's "rule of silence"—in which delegates' reports were shared only with the British government and South Arabian Federation—Amnesty International intervened in the Aden conflict using a mixture of public activism and behind-the-scenes politicking. Although AI hoped to regulate and restrain wartime violence, AI's activism forced colonial officials to find new ways of hiding detainee abuse.[523]

"An Uncoordinated Mess": Intelligence in Aden

As in Cyprus, intelligence was vital to countering the Aden insurgency, but obtaining intelligence on local political allegiances and insurgent activities proved difficult. Insurgents targeted Special Branch, knowing that the most effective intelligence officers worked in that organization. Furthermore, intelligence efforts were hampered by poor coordination and ineffective leadership from the Director of Intelligence. Intelligence collection methods such as recruiting spies and wiretapping telephones also proved ineffective. British forces

[523] Some writers are sympathetic to the government's view that torture allegations were unfounded, see Mockaitis, *British Counterinsurgency, 1919-60*; Paget, *Last Post*; Walker, *Aden Insurgency*. Others argue that the Bowen inquiry was generally critical of the High Commission and supported Amnesty's findings. Huw Bennett, "'Detainees Are Always One's Achilles Heel': Detention, Interrogation and Its External Scrutiny in Aden, 1963-67," *War in History*, 2015; Cobain, *Cruel Britannia: A Secret History of Torture*, 106; Sellars, *The Rise and Rise of Human Rights*, 105; Simpson, "Round Up the Usual Suspects," 676–677. Sellars argues that the Bowen inquiry was a whitewash; Bennett believes that the inquiry resulted in reform but did not end harsh interrogation. Another central tenet of Bennett's study is that British forces sought to protect the interrogation system from external scrutiny so that they could continue employing torture to collecting intelligence.. Sophia Dingli and Caroline Kennedy argue that the strengthening of an international human rights discourse during the 1960s meant that public criticism of the government's abusive practices in Aden—especially AI's activism—caused a "pivot" in which British security forces moved away from coercive counterinsurgency practices. See Dingli and Kennedy, "The Aden Pivot? British Counter-Insurgency after Aden," *Civil Wars* 16, no.1 (2014): 86-104. Although I agree with Dingli and Kennedy that AI's activism led to the Bowen inquiry, my conclusion that torture resumed in the months following the Bowen inquiry supports Bennett's analysis.

therefore had to rely on the interrogation of captured suspects as the primary means of collecting intelligence on the insurgency.

By the summer of 1965, the insurgency was gaining momentum, which included frequent assassinations of police informants and key security officers by insurgents. The Aden Intelligence Centre was located in the Crater neighborhood, a hotbed of anti-British sentiment, which increased Special Branch officers' vulnerability to attack as they traveled to and from to work each day. In July, insurgents killed the only two Arab officers in Special Branch.[524] On August 29, gunmen assassinated Harry Barrie, whom Major General John Willoughby, Commander-in-Chief of Middle East Land Forces, called "the mainstay in Police Special Branch & the only one left who really knew the town." Willoughby lamented that Barrie's death "puts us back 6 months" in the intelligence collection effort.[525] Due to the attacks on Special Branch, Willoughby decided that the intelligence center "simply must be moved."[526] On September 5, the Director of Intelligence, Brigadier Tony Cowper, relocated the Aden Intelligence Centre from Crater to the Post Office building near Steamer Point—much safer due to its proximity to British military bases.[527] But the assassinations continued. Willoughby recalled "another disgraceful murder" on September 14 in which the insurgent National Liberation Front (NLF) killed a Special Branch sergeant: "Tied up, 25 bullets, message pinned to the body."[528]

Relocating the intelligence center, however, did not automatically make collection and analysis more effective. Leadership was also an issue. One former Special Branch officer

[524] Willoughby Papers - diary entry, July 10, 1965.

[525] Willoughby Papers - diary entry, August 29, 1965.

[526] Willoughby Papers - diary entry, July 10, 1965.

[527] Willoughby Papers - diary entry, September 5, 1965.

[528] Willoughby Papers - diary entry, September 14, 1965.

with experience in Cyprus described Brigadier Cowper as "a big fat Zero" whose attempts to lead the intelligence effort were "an uncoordinated mess."[529] Cowper also proved unable to handle the growing number of detainees in his forces' custody. Willoughby recorded that "bomb throwers, murderers & members of the National Liberation Front who cannot be brought to proper trial because of the intimidation of witnesses" were all housed "in the Central Prison—there are about 200—and will almost certainly escape before long. . . . The Assistant Commissioner has gone sick and the prison is more or less in the hands of the inmates."[530] The September 1965 opening of a new facility—the recently constructed Mansoura Detention Centre—solved some of these problems by ensuring that detainees were housed more securely.[531]

Due to the general hostility of the local population, intelligence officers had a difficult time recruiting spies and developing knowledge of insurgent capabilities. NLF assassinations of many of the most experienced Special Branch officers deprived colonial forces of access to those officers' informant networks. Wiretapping telephones proved ineffective because the insurgents did not often use telephones to send operational details. Surveillance operations were also unproductive—Aden's dense urban landscape made it difficult for British troops to travel unseen or remain in hideouts without being noticed by the inhabitants. Colonial political officers could provide local context, but they lacked a nuanced understanding of the relationship between internal Federation politics and nationalist armed groups. High Commission officials continued to blame Egyptian interference for the problems they faced in Aden, rather than local conditions.[532]

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[529] Jim Herlihy, correspondence with author, July 22-23, 2013.

[530] Willoughby Papers - diary entry, August 30, 1965.

[531] Hickling Papers 2, pp.114-15.

[532] Huw Bennett, "'Detainees are always one's Achilles heel,'" 8; Spencer Mawby, "Orientalism and the Failure of British Policy in the Middle East: The Case of Aden." *History* 95, no. 319 (July 2010): 341.

The interrogation of prisoners proved the most valuable intelligence collection tool available to British forces. Detainees knew the dynamics of local insurgent networks, but convincing them to divulge this information was another matter. Officials in Aden adopted a similar approach toward intelligence as their forebears in Cyprus—they justified the targeted application of physical and psychological violence on detainees as a necessary and effective measure for gathering intelligence on the insurgency.[533]

With the assassinations of many experienced Special Branch officers, interrogation in Aden was largely conducted by military interrogators who were legally required to abide by the Joint Directive on Military Interrogation in Internal Security Operations Overseas. This directive had not existed during the Cyprus Emergency. Designed by Whitehall's Joint Intelligence Committee in February 1965, the directive ordered military interrogators to obey the Geneva Conventions and the laws of the territory in which they were operating. It banned torture, but did not define what "torture" meant in practice.[534] The laws of the territory in which they were operating included all emergency legislation in effect during the insurgency. Emergency laws authorized holding an individual for interrogation for up to seven days, but this could be extended to 28 days. To continue detention longer than 28 days, security forces were required to obtain a detention order approved by the High Commissioner. [535] In addition to the Joint Directive, a local High Commission regulation entitled "Instructions on Detainees" outlined the proper treatment of prisoners during interrogation and detention. Issued on September 30, the Instructions stipulated that despite the declaration of a state of emergency, Section 5 of the Aden Constitution remained in force. As a result, the document directed that "no person shall be subjected to torture or to inhuman or degrading punishment

[533] Huw Bennett, "'Detainees are always one's Achilles heel,'" 8.

[534] Ibid., 10.

[535] DEFE 11/505 Turnbull to Foreign Office, October 5, 1966.

or treatment" during interrogation and detention.[536] These legal restrictions appeared to restrain interrogators from using violence against detainees, but the failure to define the practices that constituted "torture" meant that British forces could claim that they did not torture prisoners.

Hugh Hickling, Legal Adviser to the High Commissioner, paid special attention to monitoring detainee treatment. The son of a police inspector, Hickling earned a law degree at Nottingham University and served in the Royal Navy during the Second World War. After the war, he worked in Malaya, where he drafted much of the legislation used during the Malayan Emergency. Later in life, he spoke of his concern that the postcolonial Malaysian government continued to use legislation that he drafted to arbitrarily detain political opponents and rights activists.[537] He was intelligent, humane, and had a strong sense of justice. He would find these qualities sorely tested in Aden.

The primary venue for monitoring detainee affairs was the Review Tribunal, which adjudicated detention orders and oversaw prisoners' welfare. The Tribunal did not have the power to order release, but it could recommend to the High Commissioner whether to release or continue holding a detainee. Under the 1965 emergency regulations, detainees were not supposed to be held longer than six months unless the Tribunal had reviewed the case and recommended continued detention. Six months' imprisonment without trial and without review of a detainee's case file made a mockery out of due process, but according to Hickling "the detainee always had a right to appear in person before the Tribunal" to contest his detention or make complaints. In Hickling's opinion, the Review Tribunal adopted "a liberal and humane approach."[538] It was the only appeal process available. Hickling's desire to

[536] Hickling Papers 2, pp.114-16.

[537] Hickling Papers 2, p.2; "Professor Hugh Hickling," Obituary, *The Daily Telegraph*, April 17, 2007.

[538] Hickling Papers 2, pp. 117, 126.

ensure that detainees were treated in accordance with the law brought him into conflict with military commanders and civilian officials who were more concerned with collecting intelligence than abiding by the legal requirements regulating detainee treatment.

Abuse Uncovered

In October 1965, one month after the new Mansoura detention facility opened, Hickling learned of several reports that detainees had been abused while in British custody. But after Hickling recommended an inquiry, High Commissioner Sir Richard Turnbull and Major General Willoughby tried to minimize knowledge of the abuses, not only in public but also within government circles. When Lord Beswick's visit brought unwanted scrutiny from Parliament, the High Commission deflected abuse allegations by convincing Beswick that the situation was not as bad as the allegations suggested. Over the next nine months, Turnbull and Willoughby successfully deflected additional pressure from Hickling and the ICRC.

Hickling first inquired into abuse allegations after the head of the Review Tribunal reported several instances. When Hickling visited the Mansoura detention center in October, an army medical officer notified him "that there was some evidence of physical maltreatment of detainees arriving at the centre."[539] Hickling raised his concerns with his superiors. In an October 19 memorandum to Deputy High Commissioner Timothy Oates, Hickling noted that "evidence of the physical maltreatment of detainees" required a judicial inquiry. But no such inquiry materialized. Two weeks later, Hickling again wrote to Oates, saying that he was "very disturbed" by allegations of cruelty and torture during interrogation and expressing his conviction that every allegation of abuse demanded "a full inquiry." Three weeks later, Hickling reiterated his assessment that "a case exists for an enquiry by a judicial officer," still with no results. Hickling was not the only voice calling for an investigation. On November

[539] Hickling Papers 2, p. 114-15, 118.

14, the army's Director of Health Services wrote to Oates that "the injuries sustained by the detainees . . . indicate that their interrogation was assisted by physical violence." Not eager to see the High Commission embarrassed by this assessment, Oates again chose not to pursue an inquiry.[540]

During the Aden conflict, local lawyers played a different role from Greek Cypriot barristers in the Cyprus Emergency. Many lawyers simply did not share Arab nationalist aspirations. Most lawyers in Aden were of South Asian descent, having settled in the city when it was under the jurisdiction of the India Office during the nineteenth and early twentieth centuries. South Asian migrants settled throughout the Indian Ocean basin during the height of British imperial expansion, and Aden was no exception. The South Asian population in Aden had little incentive for supporting the avowedly pan-Arab aspirations of the PSP and ATUC. Many South Asian lawyers therefore opposed the insurgency.[541]

When the few Arab lawyers practicing in Aden challenged British interrogation practices, colonial officials contained the attorneys' influence. Although several cases concerning detainee treatment went before the Aden courts, records of proceedings have not survived. In one instance, colonial officials bribed the detainees into dropping their complaints. In 1966, the Chairman of the Aden Bar Council, Saeed Hassan Sohbi, agreed to defend several detainees who alleged that British forces had tortured them. But on the day of the High Court hearing, Sohbi arrived at the courthouse only to discover that his detainee clients had dropped their complaints after colonial officials offered the prisoners scholarships

[540] DEFE 13/529 Bowen Report, November 14, 1966. Bowen's findings corroborate the version of events that Hickling describes in his manuscript.

[541] On South Asian migrations, see Sugata Bose, *A Hundred Horizons: The Indian Ocean in the Age of Global Empire* (Cambridge, MA: Harvard University Press, 2006); James L Gelvin and Nile Green, eds., *Global Muslims in the Age of Steam and Print* (Berkeley: University of California Press, 2014); and Thomas Metcalf, *Imperial Connections: India in the Indian Ocean Arena, 1860-1920* (Berkeley: University of California Press, 2007).

to study in London. The detainees were released, stayed in London for three months, then settled in Cairo.[542]

At the international level, local lawyers in Aden could not rely on the support of a state belonging to the European Convention on Human Rights, as Greek Cypriot barristers had during the Cyprus Emergency. Instead, the Aden Bar Council, PSP, and ATUC advocated for trades union rights protected under the umbrella of the International Labour Organization (ILO). Since the Second World War, the ILO had sponsored several international initiatives to reduce forced labor, restrain penal labor, and protect workers' freedom of association. For the ILO and Aden's anticolonial nationalists, workers' rights formed an important element of the emerging international human rights regime.[543]

In practical terms, the PSP and ATUC believed that intervention from the ILO could force Britain to permit the mass mobilization of Adeni workers. Colonial legislation had banned public gatherings and strike actions because PSP and ATUC activists used mass workers' strikes to further their political agenda. Between 1960 and 1962, hundreds of workers had been arrested for having participated in strikes and either imprisoned or deported. By lobbying the ILO, Aden socialists sought to restore workers' rights to free expression and association. Aden socialists could not organize workers into a mass political movement if colonial laws criminalized the most useful forms of protest. Throughout 1964, Aden activists filed hundreds of pages of allegations with the ILO concerning British violations of workers' rights. The ILO discussed the matter with the British government, but

[542] Author correspondence with Saeed Hassan Sohbi, May 26, 2015.

[543] On the ILO during the Cold War and decolonization, see Daniel Maul, *Human Rights, Development and Decolonization: The International Labour Organization 1940-70* (Basingstoke: Palgrave Macmillan, 2012); Daniel Maul, "'Help Them Move the ILO Way': The International Labor Organization and the Modernization Discourse in the Era of Decolonization and the Cold War," *Diplomatic History* 33, no. 3 (2009): 387–404; John McIlroy and Robert Croucher, "The Turn to Transnational Labor History and the Study of Global Trade Unionism," *Labor History* 54, no. 5 (2013): 491–511.

British government lawyers convinced the ILO not to take action.[544] Through bribery in Aden and persuasive legal arguments at the ILO, British officials avoided facing legal action.

Despite Arab lawyers' failure to effectively challenge Britain through legal action, the visit of Parliamentary Under-Secretary of State for Commonwealth Relations and the Colonies, Lord Beswick, brought unwanted scrutiny of the detainee situation.[545] Lord Beswick's visit lasted from November 5-23 and much of the agenda involved meetings with Federal ministers. Discussion topics revolved around constitutional affairs and movement toward South Arabia's eventual independence, but Lord Beswick also made a point to inspect the Mansoura detention center on three different occasions.[546] Willoughby saw Lord Beswick as naïve and too accommodating toward the insurgents. He complained that "Lord Beswick who has come out here for 3 weeks to become an 'expert' for Wilson has given the terrorists a shot in the arm. He has enforced the release of 6 Trades Union Leaders who were 'inside' for dubious activities."[547] According to Willoughby, "almost the first action of Lord Beswick during his stay here was to visit the Detention Centre, which is exclusively for members of the National Liberation Front and included at that time amongst some 90 inmates." Willoughby later fumed that Lord Beswick's visits to Mansoura were "a marvellous satisfaction to the NLF, whose morale had been severely lowered by our successes in Aden State." Lord Beswick declared the conditions in Mansoura "eminently satisfactory," but after

[544] Mawby, *British Policy in Aden and the Protectorates 1955-67*, 78–81. author correspondence with Saeed Hassan Sohbi (Chairman of the Aden Bar Council, 1960-66), May 18, 2015. The UK National Archives contain a host of additional files on the ILO's concern with trades union rights infringements in Aden. See for instance CO 859/1784, CO 859/1785, CO 859/1786, FCO 61/120, FCO 61/121, and LAB 13/933.

[545] CO 1055/276 Greenwood to Turnbull, November 3, 1965.

[546] CO 1055/276 Lord Beswick: Visit to South Arabia, 5th-23rd November 1965, Annex III (itinerary).

[547] Willoughby Papers - diary entry, November 17, 1965.

hearing detainees complain about their treatment, Lord Beswick cautioned that "there is a strong case for an enquiry by a suitably qualified lawyer."[548] Hickling agreed.

With his suspicions raised from Lord Beswick's visit, Hickling searched for and soon found more evidence of torture. Hickling visited Mansoura again on November 24. Accompanied by an Arabic-speaking colleague, he heard detailed complaints in which prisoners described specific acts of violence and degrading treatment. Hickling recorded the allegations as "being compelled to stand in the sun for hours with arms raised," having "pig's fat smeared on the body," and "having a wooden stick inserted in the anus." He further reported that he had seen "evidence of violence having been applied to the bodies of some detainees, who anxiously presented scars, bruises and weals as additional testimony." Despite his own biases—Hickling described the "native histrionic ability of the Arabs" and their "tendency to dramatise and exaggerate"—he found "a substantial body of evidence" pointing toward the systematic abuse of prisoners during interrogation.[549] He then examined detainees' medical records. The documentation he found led him to conclude that "there was *prima facie* evidence to the effect that the handling of detainees" at the Fort Morbut interrogation center "had been accompanied by physical violence."[550] On November 27, Hickling described his findings to the High Commission's senior staff members. They did not take kindly to Hickling's interest in detainee treatment. Concerned with the embarrassment that Hickling's findings could cause, John Willoughby confided in his diary "Thank God Lord Beswick isn't here any more."[551] Exasperated, Willoughby called Hickling "a great ferret" who had been

[548] CO 1055/276 Report by Lord Beswick, November 30, 1965, p.8.

[549] Hickling Papers 2, pp. 119-20.

[550] Hickling Papers 2, p.121.

[551] Willoughby Papers - diary entry, November 28, 1965.

"scouring around the Detention Centre" looking for evidence.[552] Hickling had uncovered evidence that senior High Commission officials and military commanders wanted to keep hidden.

Turnbull and Willoughby now faced uncomfortable scrutiny both within the High Commission and from London. On December 2, Colonial Secretary Anthony Greenwood informed Turnbull that the allegations of physical violence during interrogation required "immediate attention" and "cannot be ignored." Greenwood believed that "if the allegation of physical violence designed to extort confession were true the servicemen concerned would be guilty of a criminal offence triable by court martial." Cautiously—and perhaps hoping that he could change Hickling's mind—Turnbull asked Hickling to review the evidence and advise the High Commission on what to do next.[553] Turnbull was under pressure. So was Willoughby. Because the abuse allegations implicated soldiers, Defence Secretary Denis Healey notified Greenwood that "whatever the character of the further investigations which are being made, I am sure the Commander-in-Chief should associate himself with them."[554] Willoughby faced the prospect of investigating his own troops.

Willoughby ordered RAF Air Commodore William Thorburn, the senior medical officer in Aden, to examine the medical records belonging to detainees who had complained of physical abuse. Thorburn investigated the claims of 21 detainees. In five detainees' records, Thorburn found no evidence of injury. He identified seven detainees who were injured in transit from the Crater jail to Mansoura during an isolated incident that Hickling uncovered in October. Finally, Thorburn found that the records of nine detainees confirmed that they had been injured. He found "medical evidence that these nine men sustained injuries

[552] Willoughby Papers 7.2 Willoughby to Freeland, December 4, 1965.

[553] CO 1055/286 Roberts to Turnbull, December 2, 1965.

[554] CO 1055/286 Healey to Greenwood, December 9, 1965.

at Fort Morbut, or Al Mansoura or in transit between these places." Between October 12 and November 1, four of the nine detainees suffered ruptured eardrums, which Thorburn described as "consistent with being struck or pushed." On December 11, Thorburn had a specialist from the RAF Hospital examine the four men with perforated eardrums. The specialist "reported that the ears of each were healthy and showed no signs of perforation or scarring." Six to eight weeks after reporting their injuries, the detainees had recovered. Dismissing the severity of the detainees' injuries with circular logic, Thorburn concluded that "none of the injuries was gross since none persists." Furthermore, since his investigation occurred well after the injuries were first reported, he claimed that it was not "profitable to speculate how the injuries came about." And yet Thorburn declared that there was "no consistent pattern to suggest brutal interrogation" and therefore "the evidence does not support systematic ill treatment of detainees."[555]

After examining the same medical records, Hickling and Thorburn arrived at opposite conclusions. Hickling believed that the similarity of injuries among four of nine detainees and the type of injury—perforated eardrums were known to result from blows to the head—suggested a "consistent pattern" worthy of a formal inquiry.[556] Thorburn's conclusion is evidence of a careful attempt to deflect Hickling's call for an inquiry and clear the security forces of any potential wrongdoing. Thorburn did not want to speculate as to how four out of nine detainees received the same traumatic injury because the likely explanation was that perforated ear drums occurred during interrogation. But, Thorburn did speculate in concluding that "systematic" ill-treatment had not occurred. He may have felt that he could

[555] Willoughby Papers 7.2 Thorburn to Willoughby, December 15, 1965.

[556] Perforated ear drums are an injury commonly associated with torture. The injury can occur from a blow to the ear, which rapidly increases pressure in the ear canal, resulting in a rupture to the tympanic membrane. See Physicians for Human Rights, "PHR Toolkits Module 4: Torture Methods and their Medical Consequences," http://phrtoolkits.org/toolkits/istanbul-protocol-model-medical-curriculum/module-4-torture-methods-and-their-medical-consequences/torture-methods/ear-trauma/. Accessed March 2, 2015.

reasonably claim that indications of abuse were not "systematic" if injuries did not occur in a majority of prisoners. The word "systematic" is critical to Thorburn's assessment, because it removed the possibility that violent interrogation methods were a concerted British strategy. Thorburn's assessment led Turnbull to believe that if he ordered a limited inquiry into detainee abuse, the investigator would not find sufficient evidence to conclude that torture had occurred.

After Lord Beswick's visit and Hickling's unrelenting calls for an inquiry, Turnbull was forced to order a limited investigation. Air Commodore Thorburn's medical report may have convinced Turbull that an inquiry would not find evidence of torture, but to Turnbull's chagrin, the investigating officer confirmed Hickling's suspicions of torture rather than Thorburn's benign findings. Hickling suggested a judicial inquiry—a formal investigation by an officer of the court—but according to Hickling "no such inquiry was held."[557] Instead, on December 26, Turnbull ordered a police investigation. A British police officer was assigned to take statements from all detainees who had complained of abuse. The officer was instructed only to record detainees' statements. Hickling viewed the inquiry's limited parameters as evasive and deceptive: "No investigation, in any real sense of the word, had been ordered." But the investigating officer stepped beyond his mandate by reaching a conclusion about his findings. In his final report the officer suggested that detainee complaints were "more or less localized to two rooms at the Interrogation Centre and circulate round three men."[558] When the investigating officer filed his report with Hickling on March 6, 1966, Hickling cross-checked the report with existing evidence and concluded that the detainees' new statements, previous testimony, and documentation from medical records indicated "at least degrading and humiliating treatment, at worst vicious brutality." The

[557] Hickling Papers 2, p.121.

[558] DEFE 13/529 Bowen Report, November 14, 1966, p. 19.

evidence reaffirmed Hickling's opinion that the "common pattern" of abuse at Fort Morbut established "a *prima facie* case" against several military interrogators. Hickling recalled sardonically that "after a lapse of several months, we appeared to have established the accuracy of evidence that had already been known."[559]

While the police investigation was in progress, Red Cross delegate André Rochat also uncovered evidence that Fort Morbut interrogators had physically abused detainees. In March 1966, Rochat visited Mansoura with Don McCarthy (the Foreign Office political adviser to Middle East Command), Major General Willoughby, and a delegation of camp officials including the camp commandant, medical officer, and an interpreter. Rochat asked the detainees to speak with him if they had been abused. Approximately fifteen complained that interrogators had beaten them. For two hours, Rochat asked detailed questions to probe the validity of detainees' accounts. Ultimately he determined that about half of the complaints were invalid, but the other half appeared credible and accurate. In each case of the credible cases, detainees complained of brutal treatment during interrogation at Fort Morbut.[560] Willoughby recalled that "one detainee showed a thin 4'-5' scar behind one of his knees which he said had been made some months previously by a British soldier with a bayonet." The detainee's medical records corroborated his story, indicating that a "sharp instrument" had caused the wound. Another detainee reported being "stripped, beaten, kicked and burned with cigarettes and matches" while held at Fort Morbut. Willoughby noted, perhaps reluctantly, that "there were certainly marks on the man." Rochat interviewed five additional detainees and concluded that British interrogators had physically abused some of these prisoners as well.[561]

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[559] Hickling Papers 2, pp. 124-25.

[560] Willoughby Papers 7.2 McCarthy to Turnbull, March 24, 1966.

[561] Willoughby Papers 7.2 Willoughby to Oates, March 24, 1966.

As in Cyprus, interrogators used torture in Aden to gather intelligence rather than as punishment or retaliation for terrorist acts—and they had grown proficient at hiding evidence of torture. In his March 1966 report to ICRC headquarters, Rochat stated that detainees had been abused. He classified that abuse according to three categories. In the first category, Rochat indicated that approximately 25% of detainees appeared to have been "slapped around" during interrogation in a relatively "minor" manner. But 5% of detainees had been subjected to what Rochat considered "physical torture"—a category that included practices such as forcing the prisoner to strip naked; punching and kicking his body; and beating genitals with sticks. Interrogators did not mindlessly apply wanton brutality motivated by frustration or anger. A cold, calculated logic lay behind their decisions about which detainees should face torture. Rochat found that a detainee's alleged crime did not determine whether interrogators tortured them. Many detainees had clearly been involved in bombings, murders, and other forms of violence, but they were not necessarily the ones tortured. Instead, Rochat wrote, "the use of torture is applied to those who are likely to know a lot." Rochat's findings suggested that physical abuse occurred regularly to specifically selected prisoners.[562]

Interrogators abused prisoners in such a way that they could maintain plausible deniability when questioned about detainees' injuries. After a May 1966 visit to Fort Morbut, Rochat concluded that among the interrogators, "many precautions are taken so that detainees cannot in any way prove that they have been maltreated." When injuries were more obvious, prison officials simply claimed that they were self-inflicted—detainees wanted to convince the ICRC that they had been tortured when such allegations were clearly false. British officers also tried to insist that detainees had sustained injuries through such mundane activities as recreational football matches or when running up the stairs. In one instance,

[562] ICRC B AG 225-001-004 Rochat Report No.1, March 22, 1966.

prison officials attempted to explain how two detainees had developed similar bruises and sores on the soles of their feet. The detainees had apparently worn ill-fitting sandals during their exercise periods, when detainees were allowed a daily walk. Rochat found the officials' explanations unconvincing. "Is it not a little strange," he wondered, that on the same day, these two men developed "the same kind of injury on the soles of their feet?" He concluded "this problem [of ill-treatment] is serious" and wanted British officials to improve the situation.[563]

Willoughby and McCarthy immediately denied the allegations. Willoughby declared that "it was not accepted that ill-treatment had taken place." He tried to undermine the credibility of detainees' testimony, reminding everybody that these were individuals detained for "complicity in violent acts of terrorism." Willoughby also suggested that detainees could have received bruises and scars as a result of "involvement in riots before arrest" or while resisting arrest.[564] To shift the burden of proof onto the detainees, McCarthy asserted that "proving a negative is always difficult." In a final passive-aggressive dismissal of the matter, McCarthy and Willoughby explained the High Commissioner's willingness "to have Rochat visit Morbut at any time he liked."[565]

In keeping with the Red Cross's desire to alleviate suffering and improve prisoners' conditions, Rochat's goal was not to punish Security Forces for allowing abuse to occur, but to prevent abuse from continuing. Rather than taking on Willoughby and McCarthy, Rochat proposed to delay visiting Fort Morbut so that British officials could stop abusive interrogations without receiving a negative ICRC report. He suggested to Willoughby and McCarthy that he was willing to keep the evidence quiet as long as they worked to prevent

[563] ICRC B AG 202-001-001 Rochat Report No.2, May 28, 1966.

[564] Willoughby Papers 7.2 Willoughby to Oates, March 24, 1966.

[565] Willoughby Papers 7.2 McCarthy to Turnbull, March 24, 1966.

future abuse. Rochat knew of the police investigation of Fort Morbut that finished on March 6, but declared that he would file a positive report on Mansoura and would not directly implicate Fort Morbut before visiting it. He suggestively hinted to Willoughby and McCarthy that if he investigated at a later date, he would hopefully "find nothing to worry him."[566]

McCarthy believed that Rochat was providing a tactful "hint against recurrence," but saw no incentive for stopping the abuses. Rochat's and Hickling's claims increased McCarthy's suspicions that the allegations might have been true:

> I must say, nevertheless, that the allegations of ill-treatment under interrogation carry some degree of conviction and I think that they should be looked at again. The Legal Adviser [Hickling], who has not recorded other comment, has remarked that he is perturbed by the frequency with which allegations of being stripped naked for interrogation are made by detainees.[567]

But McCarthy was less concerned with the validity of the detainees' accusations than the confidentiality of them. McCarthy reminded Turnbull that Red Cross reports were only shared with the government concerned. Colonial officers would, at worst, only have to explain a negative ICRC report to the British government. As McCarthy explained to Turnbull, "what Rochat is doing is to give us time to create conditions in which he could then say that there was nothing currently wrong." But without the specter of public humiliation, McCarthy believed, the confidentiality of Red Cross reporting meant "we have nothing really to fear from the International Committee."[568]

Turnbull knew that Rochat's reports would not reach the public, but he still had to deal with the police investigation and Hickling's constant calls for a judicial inquiry. Civilian authorities did not have jurisdiction over military personnel, so the decision to prosecute the "three men" belonged with the army commander, Major General Willoughby, and his

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[566] Ibid.

[567] Willoughby Papers 7.2 McCarthy to Willoughy, April 14, 1966.

[568] Ibid.

superiors. On March 28, Turnbull instructed Hickling to send evidence of abuse—detainee statements, medical records, and the police investigator's report—to the Director of Army Legal Services. Writing on July 12, the Directorate of Army Legal Services informed Hickling's deputy legal adviser that, in their opinion, the evidence "did not in the main appear to substantiate the allegations." Army lawyers, however, were willing to question the "three men" if the Director of Intelligence in Aden, Brigadier Tony Cowper, consented.[569] But by June 1966 each of the "three men" had been reassigned outside Aden.[570] Cowper, too, was on his way out. He had received orders reassigning him to Malaysia and was to be replaced in Aden by the highly experienced John Prendergast. July 19 was his last day as Director of Intelligence in Aden. Based on the surviving records, Cowper apparently never consented to the Army Legal Services request and neither Turnbull nor Oates decided to pursue the issue further.[571]

Ultimately, Turnbull took the minimum action possible. He chose to not fully investigate the allegations and to not punish the culprits. On April 24, 1966, Turnbull wrote to the Colonial Office claiming that "I cannot put my hand on my heart and say that at no stage in the past was anyone under interrogation clouted or otherwise maltreated. It is simply not possible to check things many months old." But he reassured them that "there has never been 'torture' and I am satisfied that . . . no maltreatment takes place" at Fort Morbut.[572] By July 1966, Turnbull and other senior officials such as Oates and Willoughby had successfully sidestepped scrutiny of the interrogation system from Lord Beswick, Hickling, and the ICRC. Turnbull may have been satisfied, but Amnesty International's leaders were not.

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[569] DEFE 13/529 Bowen Report, November 14, 1966, p.20.

[570] DEFE 13/529 Bowen Report, November 14, 1966, p. 21.

[571] DEFE 24/252 Hewetson to Minister (Army), April 27, 1967.

[572] Willoughby Papers 7.2 Turnbull to Marnham, April 24, 1966.

Amnesty International's Intervention

In March 1966, as Turnbull dismissed the detainee abuse allegations and Rochat agreed to delay his visit to Fort Morbut, an Amnesty International delegation visited Lord Longford, a Labour Party MP and the new Colonial Secretary, to demand greater government transparency over prisoner treatment in Aden. AI representatives asked that he either publish Red Cross reports on the treatment of prisoners or permit an independent investigation. Longford, however, delayed. When confronted with the British government's obfuscation, AI leaders launched an investigation of their own and threatened to make the findings public if Britain did not take action to formally investigate the Aden torture allegations.

It is unclear if this delay was due to Longford's reticence to discuss the matter or the result of bureaucratic tangles. Administrative responsibility over Aden was in the process of transferring from the Colonial Office to the Foreign Office, which could have contributed to officials' slow to response to AI's subsequent queries. Regardless, Eric Baker, the Chairman of AI's British section, criticized the government's "dilatoriness" and later complained that "it took seven weeks to get an answer to a simple question despite repeated letters and telephone calls."[573]

The AI delegation had reason to expect a faster response because of the organization's close ties with the British government. The relationship began in 1962 under the Macmillan government when Amnesty leaders met with Peter Thomas, Conservative MP and Under-Secretary of State in the Foreign Office, to discuss right of individual appeal under the European Convention on Human Rights. AI made the anticommunist argument that supporting individual petition and the European Court would "deprive our enemies of a

[573] WO 32/20987 Baker memorandum on Aden, October 1966.

possible propaganda point." This perspective left Thomas convinced that Amnesty International shared many of the government's interests. In 1963 the Foreign Office notified its overseas posts that Amnesty International was to receive the government's "discreet support." Peter Benenson developed a particularly close working relationship with Foreign Office and colonial officials in which he regularly corresponded and met with senior ministers.[574] Many of Amnesty's senior leaders had close ties to Harold Wilson's Labour government. Peter Benenson was a long-standing member of the party, as were several other founding members including Peter Archer, an MP, and Elwyn Jones, MP and Attorney General for the Wilson government. Lord Gardiner, the Lord Chancellor, was a Labour peer and Amnesty supporter. Robert Swann, Amnesty's general secretary, was a former diplomat who understood the Foreign Office's inner workings.[575] The Labour Party's 1964 electoral victory offered an opportunity for Amnesty to broaden its relationship with the government even further.

AI used its close relationship with the government to advocate on behalf of detainee rights in Aden. Throughout June and July 1966, Robert Swann exchanged a series of letters with Minister of State for Foreign Affairs Walter Padley. Swann explained that AI's remit included the protection of "political prisoners" detained for expressing political beliefs contrary to colonial policies, even if prisoners participated in violence. [576] Eric Baker later clarified this position when he stated that Amnesty worked to prevent torture and support the right to trial of all prisoners—even violent ones—but would only advocate for the *release* of "prisoners of conscience" who did not advocate violence.[577] He requested that the British

[574] Sellars, *The Rise and Rise of Human Rights*, 98–103.

[575] Power, *Like Water on Stone*, 127.

[576] WO 32/20987 Swann to Padley, July 20, 1966.

[577] WO 32/20987 Baker memorandum on Aden, October 1966.

government take one of two actions: The government should publish the Red Cross reports on Aden or support an independent Amnesty International mission "to investigate the conditions under which persons are at present detained there under the emergency regulations."[578] Although the Red Cross kept its reports confidential, the ICRC did not oppose the public release of its reports as long as the British government agreed to publish them. So far the government had refused to do so. In arguing for an independent investigation, Swann noted that Britain already faced accusations at the United Nations that colonial authorities were holding political prisoners. It would therefore be "in the best interests of Her Majesty's Government that these allegations should be investigated by an impartial and experienced organisation like ourselves."[579]

Padley denied Swann's request for an AI investigator to interview detainees. Although he expressed "considerable sympathy" for Amnesty's work, Padley gave three reasons for the refusal. First, he argued that an investigation into the reasons why authorities decided to detain particular individuals would "inevitably acquire the character of a judicial enquiry." Padley claimed that it would be unacceptable for Britain to submit itself to such scrutiny by a non-governmental body. Secondly, Padley perceived Amnesty International as "being concerned only with the interests of political detainees." Padley denied that any such prisoners existed. Instead, he insisted that prisoners in Aden were terrorists jailed for acts of violence rather than political opinions. He asserted that "none of the persons at present detained in Aden is held because of his political opinions" and therefore AI had no business interfering.[580] The government would not publish the Red Cross reports nor would it facilitate

[578] WO 32/20987 "Letters from Mr. Walter Padley to Amnesty International," June 22, 1966. This letter references Swann's June 9, 1966 correspondence.

[579] WO 32/20987 Swann to Padley, July 1, 1966.

[580] WO 32/20987 "Letters from Mr. Walter Padley to Amnesty International," June 22, 1966.

an AI visit to Aden. Ultimately, Padley refused to allow an Amnesty delegate to meet with detainees, but he assured Swann that High Commission officials would at least meet with the Amnesty International representative, discuss detainee treatment, and answer his questions.[581]

Padley also rejected Swann's request that the government publish the Red Cross reports. He reiterated the High Commission's argument that the ICRC's presence was enough to ensure prisoners' well-being. Padley asserted that the Red Cross had already sent a delegate to Aden on multiple occasions. The delegate had investigated prison facilities and detainee conditions, but had found nothing untoward. To Padley, the fact that an esteemed international organization such as the Red Cross had already investigated prison conditions ought to provide "sufficient assurance to the world at large" that the government's treatment of prisoners "is in fact as humane as possible." Padley insisted that the government was not hiding anything by refusing to publish the Red Cross reports. Instead, he argued that the Red Cross reports contained positive assessments of prison conditions. Despite the potential advantages of publication, Padley informed Swann, British policy held that the reports were confidential and therefore would not be made public.[582]

Rather than backing down, AI leaders pressured the government into reforming the treatment of prisoners in Aden. First, Amnesty committed to launching an independent investigation. The organization's Swedish section selected a delegate—Selahaddin Rastgeldi, the Swedish doctor—and the British section pledged to fund half the cost of Rastgeldi's trip. Rastgeldi planned to travel first to London and Cairo before departing for Aden. He arrived in London on July 18.[583] Publicly, Amnesty-affiliated Labour MPs shamed their party leadership in Parliament. Privately, however, Robert Swann offered a compromise.

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[581] WO 32/20987 "Letters from Mr. Walter Padley to Amnesty International," July 18, 1966.

[582] Ibid.

[583] WO 32/20987 Baker memorandum on Aden, Oct 66.

On the day of Rastgeldi's arrival in London, Labour Party MP Peter Archer pressured Padley during Parliament's question time. Reiterating much of Swann's private correspondence in the public domain of Parliament, Archer asked Padley "on what grounds he informed Amnesty International that he did not think it appropriate for them to send an observer to Aden; whether he will reconsider this and provide every facility for the Swedish observer who is going; and whether he will publish the recent International Red Cross reports on Aden." Benjamin Whitaker, a first-term Labour MP, supported Archer. Whitaker suggested that Padley should "place a copy of the Red Cross report in the Library" so that other MPs could examine it. Facing dissent within the ranks of his own party, Walter Padley responded with the same explanation he had offered to Swann. He argued that the detainees were held due to "their implication in terrorist activities" and that none of the detainees were political prisoners, "which is the kind of detention with which Amnesty International is usually concerned." A visit by Amnesty International would therefore serve "no useful purpose." Padley also claimed that the Red Cross reports were confidential and "Her Majesty's Government are not at liberty to publish them." He said that "no report by a Red Cross representative on a visit to a detention camp or similar establishment in a British dependent territory has been published by the British Government." Archer pressed his point further, asking "if there is nothing to conceal, would not my honorable Friend agree that the sooner the fact is confirmed by an independent observer the better?" Padley insisted that "the International Red Cross is the appropriate body" for monitoring the treatment of detainees. The answer to Archer's question, apparently, was "no."[584]

In addition to Archer's public shaming, Swann wrote privately to Padley with the intention of using the threat of adverse publicity as leverage to change government policy.

[584] Hansard, July 18, 1966, vol 732, c24-25.

"Should the High Commissioner not be able to alter the decision conveyed in your letter of 18th July," Swann wrote, "we feel it would be useful to set out our point of view in writing so that it can be published together with your reply as an appendix to Dr. Rastgeldi's report." Having established Amnesty's willingness to publish, Swann created an escape for the government. He proposed an arrangement similar to what Rochat offered to McCarthy and Willoughby:

> If Dr. Rastgeldi is given the facilities necessary to carry out a complete and impartial investigation of the conditions of detainees, we, on our part, are prepared to delay the publication of his report for a period to be agreed, so that, if there should appear from his visit to be any matters capable of improvement these can be attended to prior to publication.

Swann insisted that the government's only alternative to an independent Amnesty International investigation was to publish the Red Cross reports. Until then, "public opinion both in Britain and at the United Nations will continue to accept prima facie the allegations of ill-treatment made on behalf of the detainees." More menacingly, however, Swann wrote that if Rastgeldi did not receive permission to visit detainees, "then the inference must be that there is something there which the authorities wish to conceal"—something embarrassing that Rastgeldi's visit could uncover.[585]

The Rastgeldi Mission

Rastgeldi's visit to Aden removed the shroud with which the High Commission hoped to hide the abuses committed during interrogation. Rastgeldi found evidence that British interrogators had used torture. Recognizing the British government's concern with public embarrassment, Amnesty International used the threat of publicly releasing Rastgeldi's findings to compel Whitehall into ordering an official inquiry. To avoid charges of bias,

[585] WO 32/20987 Swann to Padley, July 20, 1966.

Rastgeldi travelled to London and Cairo to meet with representatives from each side of the conflict.

In London, Rastgeldi met with C.S. Roberts, assistant secretary at the Foreign Office, who reiterated to Rastgeldi that the Foreign Office would not allow him to meet with detainees or visit interrogation and detention facilities. At the Arab League office in London, Rastgeldi received a letter of introduction to the League's Acting Secretary General, Sayed Nofal, in Cairo.[586] Rastgeldi arrived in Cairo on July 24, where he met FLOSY founder and Aden Trades Union Congress leader Abdullah al-Asnag, who lived in exile in Egypt along with much of the NLF's leadership as well as Sayed Nofal of the Arab League. Rastgeldi explained Amnesty's commitment to helping prisoners and the organization's abhorrence of violence. In response, Nofal claimed that Adenis and other Arabs supported the insurgency because it expressed Adenis' desire for liberation from Britain. Terrorism, Nofal insisted, would continue in parallel with negotiations until the British withdrew. Only then could the violence end. Rastgeldi left the meeting disappointed. In a letter to Robert Swann he noted disapprovingly "so you see the FLOSY terrorism is supported by the Arab League."[587] Rastgeldi sympathized with detainees who had been subjected to torture, but he also objected to insurgents' methods. After arriving in Aden on July 28, he concluded that FLOSY and the NLF "have injured many innocent people both among the British and the local people." He told one journalist that "It is very regrettable that many Arabs accept this way of terrorism as a high esteemed form of fighting against the British."[588] Rastgeldi hoped to convey AI's opposition to both torture and terrorism as a way to reinforce AI's legitimacy as an independent third party.

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[586] Amnesty International. "Aden Report by S. Rastgeldi," December 1966. p.7.

[587] AI-1298 Letter Rastgeldi to Swann, July 26, 1966.

[588] AI-1293 Rastgeldi to Swann, Second Report from Aden, August 7, 1966.

In Aden, Rastgeldi's meetings with two civic groups and several former prisoners convinced him that an investigation was warranted. Representatives from the Graduates' Congress, an association of university graduates, described the case of Adel Mahfood Khalifa, a law graduate of Hull University and member of a prominent Aden family serving as under-secretary to the Aden Chief Minister.[589] One morning, British soldiers broke into Khalifa's house, upended the furniture as they searched the premises, and threw him into the back of a truck. The truck drove to a camp where soldiers forced Khalifa "to stand up for seven hours" before transporting him to the Fort Morbut interrogation facility, where he was physically and psychologically abused. He was beaten until he vomited blood, held in a room with the air conditioner set at its coldest temperature, and contracted influenza as a result.[590] Khalifa complained that "I have never been charged with any offence. The treatment at Ras Morbut is like that of Nazis against the Jews and the French against the Algerians." Representatives of the Civil Service Association of South Arabia (CSASA), a group of Adeni government workers, also told Rastgeldi about detainee abuse. CSASA representatives gave Rastgeldi the sworn testimony of Abdul Majid Mockbel Sabri, who "was made to undress completely and was kept in a room with the air-condition and ceiling fan switched on at maximum capacity." Sabri also reported that "a wooden stick was inserted forceably in my anus causing bleeding" and that "the nails of my fingers and toes were forceably removed." Other detained civil servants—teacher Foad Mohamad Ali, Municipal Council employee Gawad Kaid Abdo, and Adel Ibrahim Hadad, employed by the South Arabian Broadcasting Service—reported similar experiences of guards forcing them to stand naked in rooms with the air-conditioning at its coldest settings, beating them, and spitting on them. None of these

[589] PREM 13/1294 "Memorandum from the Civil Service Association of South Arabia on the torture of Civil Servants detained by the British Military Authorities in Aden," n.d. The document was passed to Rastgeldi and later included in a letter from Amnesty's Swedish section to Prime Minister Harold Wilson.

[590] PREM 13/1294 Managing Committee, Graduates' Congress to Rastgeldi, August 2, 1966.

civil servants were charged with a crime.[591] In addition to testimony from the Graduates' Congress and CSASA, Rastgeldi heard the cases of thirteen detainees and met with former detainees. He found some allegations unconvincing, but, like Legal Adviser Hugh Hickling after his earlier inquiries, Rastgeldi found enough evidence to conclude that British officials should order an investigation.[592]

AI's Robert Swann privately lobbied the Foreign Office to improve the administration of justice and treatment of detainees in Aden. Robert Swann called on Walter Padley with four proposals for improving the administration of justice and treatment of detainees in Aden. The proposals echoed many of the same issues that Peter Benenson had encountered during his trips to Cyprus in the 1950s. First, Swann suggested that every detainee should receive access to a lawyer within 48 hours of arrest. He recommended that the families of those arrested should be notified quickly because authorities' refusal to do so "gives rise to rumours and lends credence to stories of ill-treatment." Swann also endorsed the idea that British civilian police should replace military interrogators. Finally, he insisted that the government initiate an independent, external inquiry into the abuse allegations.[593]

At the Aden High Commission, Turnbull bristled at Amnesty's suggestions and argued that existing interrogation and detention processes were absolutely necessary to the security effort. He rejected each of Amnesty's recommendations in turn, declaring that "there can be no question of lawyer's access before interrogation has been completed." Turnbull claimed that keeping a suspect's family and colleagues in a state of uncertainty allowed security forces to collect intelligence from the detainee and act on it before his close

[591] PREM 13/1294 "Memorandum from the Civil Service Association of South Arabia on the torture of Civil Servants detained by the British Military Authorities in Aden," not dated.

[592] WO 32/20987 Baker memorandum on Aden, October 1966.

[593] Ibid.

associates could warn insurgents. Turnbull likewise lambasted Swann's idea to replace military with civilian interrogators. He labeled the implication that "military interrogators are brutal and civilians not" as "slanderous" and quipped that if the Foreign Office "could find us a body of civilian policemen from the United Kingdom trained in techniques of interrogation and fluent in Arabic we should be delighted."[594] But Turnbull's most passionate rebuttal concerned AI's recommendation for an independent investigation. Such an inquiry, Turnbull believed, would fuel NLF and FLOSY efforts "to destroy our interrogation system." Interrogators, he argued, carried out "an exacting, unpleasant and difficult task" worsened by the abuse allegations they faced in the past. Turnbull warned that if the British government allowed inspections from Amnesty International or supported a judicial inquiry, the interrogators' morale "would be utterly destroyed." The consequences, Turnbull insisted, would be severe: "Interrogation would either have to cease entirely or become a purely token procedure yielding nothing." Without effective interrogation, security forces would have "virtually no forewarning against terrorism or information on its development." British forces would lose "the only intelligence weapon we have."[595]

Military and Foreign Office leaders agreed with Turnbull's dire assessment. Admiral Michael Le Fanu, the Commander-in-Chief of Middle East Command and Major General Willoughby's direct supervisor, stressed that "unhindered operation of the interrogation centre in Aden is critical to all our operations." Le Fanu insisted that "interference" with the center "would result in a very sharp deterioration of the security situation" that would lead to "a more sophisticated and determined form of terrorism" if interrogation operations were disrupted. Echoing Turnbull's language, Le Fanu despaired that if the security forces lost access to "virtually our only avenue of intelligence," the consequences would be

[594] PREM 13/1294 Turnbull to Foreign Office, September 25, 1966.

[595] PREM 13/1294 Turnbull to Allen, September 28, 1966.

"incalculably damaging" to British interests in both South Arabia and the Persian Gulf.[596] In the Foreign Office, assistant undersecretary for policy Frank Cooper wrote to the Ministry of Defense that "the Foreign Office are now going to advise the Foreign Secretary that the Amnesty International requests in any form should be refused."[597]

Due to a related set of events in Rhodesia, Foreign Secretary George Brown believed that the government could not "return a completely negative reply" to AI's dogged insistence on an investigation.[598] In 1965, Ian Smith, leader of Rhodesia's white minority government, unilaterally declared independence from Britain in an attempt to prevent black majority rule. Rhodesia soon became an international pariah state. In 1966, Smith ordered the arrest of four British expatriate university lecturers. In response, the British High Commission to Rhodesia formally protested against the Smith regime's actions and requested the detainees' release. Smith rejected the request.[599] By September, he had authorized police to detain for up to 30 days anyone believed to have committed—or who might commit—an act "prejudicial to the public safety."[600] Smith promptly jailed many black political leaders. Opposed to what they perceived as an illegal regime illegally detaining people for political purposes, the British government worked with Amnesty to provide financial and legal aid to the Rhodesian detainees' families.[601] Rejecting AI's request would have made Britain vulnerable to accusations of hypocrisy and could have jeopardized the government's work with AI in Rhodesia.

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[596] DEFE 11/505 Le Fanu to Hull, September 29, 1966.

[597] DEFE 11/505 Cooper to Private Secretary to the Defense Secretary, September 29, 1966.

[598] PREM 13/1294 Marnham to Aden, September 28, 1966.

[599] "Rhodesia Refuses To Free Lecturers," *The Times*, July 30, 1966.

[600] "Rhodesia Uses Emergency Powers For Detention," *The Times*, September 3, 1966.

[601] Sellars, *The Rise and Rise of Human Rights*, 108.

Brown did not wish to interfere with measures that senior military leaders believed to be necessary for the war effort, but he also did not want to ignore Amnesty. Brown asked for Turnbull's opinion on which of Amnesty's demands the government could accept that would inflict the "least harm" to military operations. Following the Foreign Secretary's lead, John Marnham, the Foreign Office assistant under-secretary responsible for Aden and southern Africa, conceived of two options. The government could either allow an Amnesty representative to visit Fort Morbut or "agree to an independent investigation" led by "someone of judicial standing"—a British judge or lawyer. Marnham also suggested that "an investigation of specific complaints would be better than an investigation of general allegations of ill-treatment."[602] On September 29 Brown met with Swann and Benenson. The Amnesty representatives suggested that Brown choose an external investigator suitable to Amnesty and government ministers. Brown did not commit, but indicated that he would make a decision over the next week.[603]

Predictably, Turnbull found the notion of Amnesty International's involvement in an investigation to be "highly objectionable." He did, however, note that an inquiry headed by a "personal representative" of the Foreign Secretary "would of course be welcome."[604] Turnbull did not want to invite scrutiny, but he knew that he had little choice in the matter. If Brown chose a "personal representative," Turnbull would have to comply with the representative's instructions. He was a colonial civil servant. He could not openly defy a Cabinet Secretary.[605] The decision to order an external investigation was therefore not Turnbull's to make.

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[602] PREM 13/1294 Marnham to Aden, September 28, 1966.

[603] DEFE 11/505 Foreign Office to Aden, October 1, 1966.

[604] DEFE 11/505 Turnbull to Foreign Office, October 5, 1966.

[605] The Foreign and Colonial Offices merged on August 1, 1966, making George Brown responsible for both organizations.

By October 10, Brown had made up his mind to order an inquiry by a "personal representative," but who that representative might be and the scope of the investigation remained vague. George Thomson, as Minister of State in the Foreign Office, met with Defence Secretary Denis Healey to obtain Healey's opinion on the matter. Thomson told Healey that the inquiry would examine only "the procedures for the arrest and detention of suspects." The Foreign Secretary, Thomson said, "wished if possible to meet British Amnesty on this matter" but believed that "we had clearly no obligation towards the foreign members of Amnesty International." For Brown, the issue of detainee treatment would remain a British matter. Healey expressed his "high regard for Mr. Benenson personally" and agreed with Brown's decision. But Healey also voiced two reservations. His first priority was to ensure that "efficient interrogation" continued. He did not want the investigation to undermine intelligence collection efforts. Healey was also concerned with the publication of the investigator's report. He suggested that Brown should not state in advance that he would publically release the report. Publication would be dealt with later.[606]

Swann and Benenson, frustrated that their private appeals had generated only the nebulous acknowledgement of a future inquiry, resolved to drive the government into action. They decided to publicize Rastgeldi's findings. On October 11, Swann and Benenson were informed that Brown had agreed to appoint a representative to visit Aden but had not decided who the representative would be, when the investigator would travel to Aden, the scope of the inquiry, and whether the report would be released to the public.[607] To Amnesty's leadership, Brown's offer was "a poor 'concession.'"[608] On the night of the 11th, Swann and

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[606] DEFE 13/529 O'Neill to Allen, October 10, 1966.

[607] AI-1293 Benenson to Franck, November 17, 1966. Benenson wrote to the head of Amnesty's Swedish section in November 1966 in which he summarized the events leading to the publication of Rastgeldi's report.

[608] WO 32/20987 Baker memorandum on Aden, October 1966.

Benenson conferred with the head of Amnesty's Swedish section and decided to publish Rastgeldi's report. On October 12 an official from the Foreign Office called Swann to ask if Amnesty intended to publish Rastgeldi's findings. Swann said yes.[609] The following day the Foreign Office issued a press release that stated "the Foreign Secretary has decided to appoint a personal representative to examine the procedures for arrest, interrogation and detention of suspected terrorists in Aden."[610]

Amnesty's publication of the report and subsequent press statements created a situation that could seriously embarrass the British government. On October 17, Amnesty's British section issued a press release that deplored the British government's refusal "to allow proper investigation" or improve existing detention procedures.[611] The following day, Hans Göran Franck, Chairman of Amnesty International's Swedish Section, wrote to Prime Minister Harold Wilson to formally condemn the "unlawful, inhuman practices of the British military personnel in Aden." Franck argued that incarcerating individuals without trial amounted to "a violation of the United Nations Declaration of Human Rights." Likewise, the use of physical brutality and torture was "unworthy of a civilized nation." He insisted that Amnesty would continue to monitor the treatment of political prisoners in Aden "until the day when they are released."[612] In an October 20 press conference, Amnesty blamed the government for its "procrastination and vacillation" in response to Amnesty's private overtures. Public controversy could have been avoided, Amnesty representatives declared, if the government had simply "shown 'a little bit of good will and intelligence.'" Instead,

[609] AI-1293 Benenson to Franck, November 17, 1966.

[610] FO 953/2506 Press Release No. 92, October 13, 1966.

[611] WO 32/20987 Amnesty International Press Release, October 17, 1966.

[612] PREM 13/1294 Letter from Franck to Wilson, October 18, 1966.

"procrastination and vacillation" had been the government's response to Amnesty's efforts.[613] The *New York Times* reported that "Britain has been embarrassed by the actions of a Swedish doctor."[614] It was embarrassment that British officials would not take lightly.

Once publicity became inevitable, British officials tried to shape the narrative that emerged in the media. At a press conference, public affairs officers' off-the-record comments indicated that officials wished to obscure the reason why the Foreign Office press statement coincided with the Amnesty Swedish section's release of Rastgeldi's findings. Despite newspaper reports to the contrary, the Foreign Office's announcement of Brown's decision to send a personal representative to Aden resulted from Amnesty's advocacy on behalf of detainee rights. In its first story on the inquiry, *The Times* noted that "the decision to appoint a special representative was taken before it was known that Amnesty International was to publish Dr. Rastgeldi's report."[615] This report, however, simply reproduced off-the-record comments that Foreign Office public relations personnel purposely conveyed to *The Times*.[616] In private, government officials admitted that Amnesty's intent to publish details of Rastgeldi's visit forced the inquiry. A note from the Ministry of Defense to Le Fanu and Willoughby expressed regret that "the Swedes have forced the issue." Officials at the Ministry were "sorry we have not been able to prevent this."[617] Ultimately, Amnesty's efforts compelled British officials into a course of action they had hoped to avoid.

Publicly, British officials attempted to undermine the credibility of Rastgeldi's inquiry. The Foreign Office insisted that "none of the allegations made by Dr. Rastgeldi

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[613] "Government is Criticized by Amnesty," *The Times*, October 21, 1966.

[614] "Torture Charged to British in Aden," *The New York Times*, October 20, 1966.

[615] "Inquiries on suspects in Aden," *The Times*, October 14, 1966.

[616] FO 953/2506 Press Release No. 92, October 13, 1966. The news brief lists the statement that appeared in *The Times* under "unattributable" comments. *The Times* reproduced the statement almost verbatim.

[617] Willoughby Papers 7.2 MOD UK to CINC MIDEAST, October 13, 1966.

appears to be corroborated."[618] The MOD's British Forces Broadcasting Station accused Rastgeldi of supporting Nasser and al Asnag because of his Cairo meetings. Newspapers such as the *Daily Express* carried the story as well. The Foreign Office's Information Research Department prepared to release unattributed material indicating that communists had gained significant influence in AI's Swedish branch.[619] Some sections of the British press accused Rastgeldi of bias on the basis of his Kurdish-Turkish background. Government officials gave journalists "non-attributable" briefings in which they suggested that Rastgeldi was anti-British and "naturally" preferred the Arab cause due to his Kurdish origins.[620] This public smearing went so far that Peter Benenson felt obliged to comment publicly that Rastgeldi was "not an Arab" and that Rastgeldi's Kurdish origins were not a source of pro-Arab bias because "the Kurds have been conducting a bitter war against the Arabs."[621] Rastgeldi also faced criticism in newspaper editorial columns. Lady Listowel, a former journalist and the wife of Labour peer Lord Listowel, found "the conditions under which Dr. Salahadin Rastgeldi carried out his investigation and reached his conclusions far less credible" than the allegations themselves. She claimed that Rastgeldi said he had investigated 300 torture cases during his seven-day visit and asked incredulously "How has he done this single-handed in seven days?" Rastgeldi never stated that he had investigated 300 cases, but Lady Listowel's letter to the editor of *The Times* contributed to the emerging aura of disbelief that Defence and Foreign Office officials sought to create.[622]

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[618] "Allegations of torture 'not corroborated,'" *The Guardian*, October 19, 1966.

[619] Tom Buchanan, "Amnesty International in Crisis, 1966-7," *Twentieth Century British History* 15, no. 3 (2004): 277.

[620] Sellars, *The Rise and Rise of Human Rights*, 107.

[621] "'Nothing to be ashamed of in Aden': Minister's letter to Amnesty official." *The Times*, October 20, 1966.

[622] Judith Listowel, "Amnesty Report: Letters to the Editor." *The Times*, October 22, 1966. Robert Swann corrected Lady Listowel's error in Robert Swann, "Amnesty Report: Letters to the Editor." *The Times*, October 26, 1966. See also Power, *Like Water on Stone*, 127.

Many officials in Aden blamed the Foreign Secretary's decision to investigate detainee abuse on Amnesty International. Turnbull sought to undermine Rastgeldi's credibility by criticizing his "Middle Eastern background." According to Turnbull, Rastgeldi was an "unscrupulous little Levantine" who visited FLOSY and Arab League representatives in Cairo "to form his impressions before coming here."[623] Willoughby perceived the shadowy hand of Cold War Communism operating behind Amnesty's façade. "As we suspected," he confided in his diary after the Rastgeldi smear attempts began, "the Swedish Branch of Amnesty International which has started all this up is Communist controlled and hand in glove with Egypt."[624] Don McCarthy reiterated Willoughby's perspective. In a telegram to the Foreign Office, he wrote that "as seen from here, Amnesty International have succeeded in carrying the UAR's objective of destroying our only major source of operational intelligence nearer to achievement than ever before."[625] In London, Gerald Gardiner was the only cabinet minister who supported AI's position.[626]

Finding Britain's reputation in danger, officials attacked AI's credibility, but their attacks did not change the effect of Amnesty International's rights activism. Rastgeldi's visit to Aden had succeeded. Rastgeldi's independent fact-finding mission and AI's threat to publish Rastgeldi's critical report convinced Foreign Secretary Brown to preempt the possibility of negative publicity by ordering a formal inquiry.

[623] WO 32/20987 Turnbull to Roberts, October 1, 1966; PREM 13/1294 Turnbull to Foreign Office, September 25, 1966.

[624] Willoughby Papers - diary entry, November 5, 1966.

[625] Willoughby Papers 7.2 McCarthy draft telegram to Foreign Office, December 2, 1966.

[626] Buchanan, "Amnesty International in Crisis, 1966-7," 278fn45.

The Bowen Inquiry

AI's activism resulted in the announcement that Roderic Bowen would lead an immediate inquiry into prisoner abuse. Bowen was a deeply religious Presbyterian, barrister, lifelong bachelor, and Liberal Party Member of Parliament for Cardiganshire, on Wales' west coast. Elected in 1945, he later fell out with Liberal Party leader Jo Grimond over the 1956 Suez Crisis. Grimond opposed the Conservative government's military intervention, whereas Bowen castigated parliamentarians like Grimond who criticized the government. Throughout the 1950s Bowen remained one of a handful of Liberal MPs in Parliament until a Labour delegate finally ousted him during the 1966 general election. Upon leaving Parliament Bowen became the National Insurance Commissioner for Wales, where he worked until Foreign Secretary George Brown requested that he conduct the Aden inquiry.[627] On October 24, two days before he left for Aden, the Foreign Secretary hastily brought Bowen to Whitehall and briefed Bowen on his terms of reference. Brown outlined a narrow purpose—Bowen was to examine and suggest improvements to existing detention and interrogation procedures. Brown did not authorize Bowen to investigate or offer judgment on specific allegations. The inquiry was restricted in scope to avoid the potential for embarrassing disclosures that could result in legal action against colonial officials or security forces. Even so, Bowen produced a critical report which resulted in some, albeit limited, reforms.[628]

Bowen's thoroughness worried Major General Willoughby. Willoughby complained that Bowen was "tapping the walls" of the interrogation center "to discover hidden torture chambers." Bowen toured detention and interrogation facilities, reviewed interrogation and detention files, examined medical records, and interviewed military and civilian personnel.

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[627] John Graham Jones, "Bowen, Evan Roderic," Welsh Biography Online, National Library of Wales. http://wbo.llgc.org.uk/en/s8-BOWE-ROD-1913.html. Accessed December 9, 2013.

[628] DEF 13/529, Bowen Report, November 14, 1966, p.1.

Willoughby recalled that Bowen even insisted "on the drawer of a table that was stuck being forced open."[629] Bowen also received an unexpected piece of evidence from the editor of *The Sunday Times*. *The Sunday Times* had found a member of the British army who provided information to support Amnesty's findings. Corporal Glen Lennox served as a guard for a unit billeted near the interrogation center. One of his duties, patrolling the perimeter fence, brought him in close proximity to the interrogation center, where he could occasionally hear "pathetic screaming and howling." Upon inquiring what had happened, soldiers assigned to the interrogation center told him "in boastful fashion, of the beatings and tortures which they had had a hand in." Lennox reported that on one occasion, he witnessed three interrogators drag a detainee into the exercise yard and beat him into unconsciousness. The interrogators revived him with a fire hose and resumed the beating.[630]

In his report, Bowen balanced praise with criticism. He commended the concept of oversight that lay behind the Review Tribunal and Committee of Inspection, but he also found ways to improve their work. He determined that members of the Review Tribunal did not always receive enough information about detainees to make a well-informed judgment on whether prisoners should remain in detention. The High Commissioner's office also regularly failed to inform the Tribunal whether the High Commissioner agreed with the Tribunal's recommendations. Ultimately, the decision to release or continue to detain a prisoner rested with High Commissioner Turnbull. But Turnbull frequently disapproved the Tribunal's recommendations for the release of detainees. Bowen stated that he was "disappointed" Turnbull did not follow the Tribunal's recommendations. Bowen also criticized the practice of allowing detainees to remain incarcerated for long periods without the Tribunal's review.

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[629] Willoughby Papers - diary entry, November 5, 1966.

[630] DEFE 13/529 Lennox to C.D. Hamilton, Editor, *The Sunday Times*, October 25, 1966; Hamilton forwarded Lennox's letter to Bowen, where it circulated throughout the Foreign Office and Ministry of Defense. See DEFE 13/529 Ellis-Rees to AG, November 24, 1966.

Following a detainee's initial appearance before the Tribunal, Bowen concluded, a detainee might not appear before it again even though he could remain in detention "six, twelve, or even eighteen months" after his first appearance. The detainee bore the burden of ensuring that the Tribunal heard his case. Bowen considered the six-month detainee-initiated review process as an unsatisfactory protection of detainees' rights. He suggested that "the Tribunal should be required to examine each case every three months irrespective of the wishes of the detainee himself."[631]

The Committee of Inspection also appeared to Bowen as a useful entity for protecting detainees' rights. Consisting of two civilian Arab officials, the Committee was responsible for monitoring detainee conditions and treatment at Mansoura. Bowen found that the Committee was efficient and that prison authorities took the Committee's recommendations seriously. But the Committee lacked authority to monitor interrogations at Fort Morbut. Bowen believed that extending the Committee's mandate to include Fort Morbut was necessary for enabling the Committee to "take note and report on allegations of cruelty and torture." In short, Bowen suggested the creation of a civilian oversight committee to monitor the treatment of detainees at Fort Morbut.[632]

Although Bowen found positive aspects of the Review Tribunal and Committee of Inspection, he criticized the length of time that detainees were held without charges. The High Commission's failure to prosecute detainees in court gave Bowen "considerable concern." After interrogation and after the High Commissioner approved a detention order, detainees simply sat behind bars to await the end of the conflict. Authorities in Aden cited several mitigating circumstances for why trials were not held. They argued that witnesses were "either too frightened or too hostile" to provide evidence required to convict suspects.

[631] DEFE 13/529 Bowen Report, November 14, 1966, p. 13.

[632] Ibid., 13-14.

Bowen recognized the "considerable strength" of arguments against trying detainees in court, but he insisted that authorities should prosecute insurgents whenever possible. Bowen also censured the practice whereby interrogators continued to question detainees at the interrogation center after the High Commissioner granted a detention order. A detention order was supposed to result in transfer from Fort Morbut to Mansoura. Sometimes, however, detainees remained at Fort Morbut for further interrogation. On other occasions, security forces transferred prisoners confined at Mansoura under a detention order to Fort Morbut for additional interrogation. Bowen labeled both practices "highly undesirable."[633]

Finally, Bowen saved his gravest condemnation for the way in which senior officials—particularly Turnbull and Deputy High Commissioner Timothy Oates—handled allegations of prisoner abuse that surfaced between October and December 1965. During his investigation, Bowen received 40 written complaints from detainees and several petitions from detainees' family members and civic associations. He also interviewed colonial officials and received unrestricted access to interrogation records, medical records, and other official files. Like Hickling and the police investigator before him, Bowen concluded that the interrogation center was main site of complaint. Bowen's review led him to believe that "there was a most regrettable failure to deal expeditiously and adequately with the allegations of cruelty." Failure to take action occurred even though "the existence of serious allegations came to light" and "it was recognized that they should be investigated without delay." Bowen surmised that early investigations of detainee complaints would have either disproved the allegations or identified problems that required corrective actions.[634]

Bowen concluded his report with seven suggested "improvements" to existing detainee procedures designed to "enable the investigation of allegations to take place with

[633] Ibid., 11.

[634] Ibid., 17-18, 21.

greater promptitude and thoroughness." He proposed relocating the interrogation center to a special annex at the detention facility; to recruit civilian interrogators; to care for prisoners using civilian rather than military medical personnel; to assign a civilian High Commission official to the detention center with the responsibility of recording and investigating all abuse allegations; to conduct a daily medical examination of all detainees held at Fort Morbut to prevent physical abuse; to instruct the Review Tribunal chairman and Director of Health Services to report all detainee complaints "without delay"; and to have the High Commission prepare a monthly report on all complaints made, investigations carried out, and actions taken in response to the allegations.[635]

Foreign Secretary George Brown's decision to publish the Bowen report led to a weeks-long bureaucratic battle with army and MOD officials. Although Brown acknowledged that the report contained "a number of criticisms," he decided to publish the document "in its entirety" based on the Foreign Office consensus that the government would face strong public pressure to do so.[636] Brown determined that publically releasing the entire report "will do less harm than the continuing cloud of allegation and suspicion."[637] Although they eventually agreed "to publication in full, reluctantly and with grave misgivings," several senior officers objected to any hint of criticism toward the security forces.[638] Major General Willoughby called Bowen "the Foreign Secretary's inquisitor." The inquiry itself struck Willoughby as "a disgraceful act of Political dishonesty."[639] He confided in his diary that "I

[635] Ibid., 22-23. See also WO 32/20987 Brown to Turnbull, November 14, 1966; Brown conveyed Bowen's recommendations to Turnbull immediately upon receipt of Bowen's report.

[636] DEFE 13/529 FO to Aden, November 15, 1966 and WO 32/20987 Batstone to Vallat, November 17, 1966.

[637] DEFE 13/529 Memorandum by the Foreign Secretary, "South Arabia: Bowen Report on the Handling of Detainees in Aden," November 29, 1966.

[638] DEFE 13/529 Minister (Army) to Defence Secretary, November 23, 1966.

[639] Willoughby Papers - diary entry, November 5, 1966.

no longer trust our government to support us."[640] But what most irked Willoughby was the Foreign Secretary's decision to adopt some of Bowen's recommendations and publicly release Bowen's report without waiting for High Commissioner Turnbull's input—that decision was "inexcusable and unforgivable"[641] At Middle East Command headquarters, Admiral Le Fanu also chafed at Bowen's report and its potential publication, claiming that "the hands of our interrogators are clean. They need support not suspicion." Le Fanu believed that an admission of torture or physical cruelty would provide Britain's adversaries with a significant propaganda victory.[642] Within the Ministry of Defence, officials worried that the report faulted "a number of authorities in Aden, including, for example, the Director of Intelligence," Brigadier Tony Cowper.[643] A few officials objected that some of Bowen's comments were "not within his Terms of Reference" and hoped to restrict publication of the report to only the part within Bowen's terms of reference. Such restrictions would have ensured that the army's failure to act on known, credible abuse allegations remained private.[644]

Despite hostility from Middle East Command and some offices in Whitehall, the Bowen inquiry reformed some interrogation and detention procedures. First, the inquiry resulted in the assignment of a civilian High Commission official to the Mansoura detention center for the purpose of documenting and acting upon detainee complaints. Before he left Aden, Bowen discussed the idea with Turnbull, who implemented it immediately. Each time that security forces transferred a detainee from Fort Morbut to Mansoura, the High

[640] Willoughby Papers - diary entry, November 7, 1966.

[641] Willoughby Papers - diary entry, November 16, 1966.

[642] DEFE 13/529 CINC MIDEAST to MOD UK, November 16, 1966.

[643] DEFE 13/529 Nairne to PS/Minister (Army), November 24, 1966.

[644] DEFE 13/529 Cooper to PS/Secretary of State, November 16, 1966.

Commission representative would ask the detainee if anyone tortured, beat, or otherwise treated him cruelly. The High Commission official would then document the detainee's complaints and follow up with an investigation. He was to report the results and make recommendations for further action to the Legal Adviser and Deputy High Commissioner. The rationale for handing responsibility for detainee complaints to a single individual and collecting those complaints immediately upon transfer was that past allegations often did not surface until several weeks or months after abuse occurred. Some detainees were afraid to accuse their captors while incarcerated, whereas others complained only when their cases arrived before the Review Tribunal during the mandatory review scheduled six months after detention. On other occasions detainees first raised allegations of abuse to third parties such as the Red Cross, sometimes well after the abuse occurred. Bowen believed that the creation of a systematic approach to collecting, categorizing, and acting on detainee complaints would permit faster investigations of abuse allegations. Soldiers could be questioned before the end of their deployments to Aden and medical records reviewed while the detainee still bore the physical marks of maltreatment.[645] Assigning an official to record detainee allegations helped to screen out false or exaggerated complaints and ensured that interrogators knew that someone was watching their activities.

On November 21, Turnbull implemented another Bowen-recommended reform by establishing a system for reporting detainee complaints to the Foreign Office on a monthly basis. The monthly reporting requirement meant that officials in Whitehall could scrutinize soldiers' and colonial officers' responses to detainee abuse. Each report included an individual "case sheet" for every detainee. Case sheets indicated personal details such as the detainee's name, place of origin, and date of arrest, as well as the details of the complaint,

[645] WO 32/20987 Turnbull to Brown, November 11, 1966.

investigation conducted, and actions to be taken by the High Commission.[646] The first report documented 15 complaints, 10 of which were first raised to Rochat during his visits in September and November 1966. The remaining five complaints were reported to High Commission officials during November and December. Systematic documentation ensured that all allegations were investigated, but such investigations almost always determined that detainee complaints could not be substantiated.[647] The inability to prove abuse, however, did not mean that abuse did not occur.[648]

The High Commission's policy toward ICRC involvement in detainee affairs shifted as a result of the Bowen reforms. Turnbull established formal protocols for handling Red Cross inspections. He also allowed Rochat access to previously off-limits facilities, although this was done according to a schedule set by High Commission officials. Beginning with his January 1967 visit, Rochat was taken to Fort Morbut and allowed to examine the premises and observe the detainees, although Turnbull prohibited Rochat from speaking to detainees because they were still under interrogation. Security forces also provided Rochat with a list of all detainees held at the Mansoura facility. He was allowed to interview each detainee individually. Turnbull instructed the head of the detention center "to give M. Rochat any help he may require in recording allegations or complaints." Turnbull insisted that Rochat submit all future reports "in the form of a written document" and that if detainees complained to Rochat, "a separate document should be submitted in respect of each case." All allegations were to be submitted to a designated High Commission official, colonial civil servant A.C.W. Lee. Lee and the Assistant Legal Adviser maintained individual case files containing

[646] DEFE 24/252 Oates to Brenchley, January 17, 1967.

[647] DEFE 24/252 "Return of Complaints—31st December, 1966. See DEFE 24/252 Oates to McCarthy, April 11, 1967 and DEFE 24/252 Ollquist to McCarthy, April 27, 1967 for additional monthly reports.

[648] FCO 8/180 Turnbull to Foreign Office, February 9, 1967.

evidence on each detainee's allegations. Lee then circulated the files to the Director of Intelligence and Director of Health Services for their assessment prior to final review by Timothy Oates, the Deputy High Commissioner. Oates would consult civilian attorneys from the Legal Adviser's office and military lawyers from Army Legal Services on actions to be taken in response to the allegations. Once Oates made a decision, Lee would inform Rochat.[649] After the Bowen inquiry, colonial administrators took Red Cross inspections more seriously. The justification for this systematic approach to ICRC visits, however, resided in a desire to control what Rochat saw rather than a genuine commitment to increased transparency.

The Bowen reforms resulted in the establishment of oversight mechanisms to monitor the treatment of detainees, but did not create *external* oversight. On March 18, 1967, Turnbull designated Legal Adviser Hugh Hickling as the authority for deciding whether detainee complaints required formal investigation. He then instructed the Aden Police Criminal Investigation Division (CID) to conduct the resulting inquiries. CID's role as the investigating arm ensured that an organization independent from the interrogation and detention apparatus held responsibility for investigating abuse allegations.[650] The result was a system in which civilian High Commission staff members monitored the actions of military interrogators and prison guards at Fort Morbut and Mansoura. A November 21 directive reinforced this system by requiring the Director of Intelligence to investigate his own staff members in detainee abuse cases.[651]

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[649] DEFE 24/252 Proposals for procedure to be adopted on the occasion of M. Rochat's visit to Aden in January 1967, December 15, 1966.

[650] FCO 8/226 Turnbull to Brenchley, March 22, 1967.

[651] Turnbull did not accept all of the Bowen report recommendations: He did not relocate the interrogation center and did not replace military interrogators with civilians because they were deemed impractical. See DEFE 13/529 Turnbull to Foreign Office, November 16, 1966 and WO 32/20987 POMEC (Chairman LIC) to Foreign Office, November 15, 1966.

Despite the establishment of several interrogation oversight mechanisms, these reforms left Turnbull with decision-making authority over the conduct of investigations and how to respond to investigatory findings. The Bowen reforms required Turnbull to report allegations to the Foreign Office, investigate those allegations, and report the results of those investigations. But Turnbull controlled the information sent to the Foreign Office because all of the government bodies charged with conducting investigations reported to him. CID, the Director of Intelligence, the Legal Adviser, and the civilian High Commission official fell under Turnbull's authority. The Bowen reforms established a sense of accountability in which colonial officers were expected to follow the procedures and guidelines established for them. But this "accountability" was largely self-imposed—officials monitored themselves.

The only organization responsible for monitoring interrogation and detention that remained beyond Turnbull's control was the ICRC. But Turnbull limited what ICRC delegates could do and see: André Rochat could visit the interrogation center, but British officials escorted him the entire time.[652] ICRC reports on these investigations, however, remained private. If Rochat found evidence of torture or cruelty, colonial officials could rest assured that the Red Cross would not publicly release his discoveries. ICRC President Leopold Boissier later described the organization's silence in such matters as necessary to obtain the "confidence of governments." Red Cross delegates therefore made their criticisms known to governments privately and discreetly because, Boissier argued, "any indiscretion would cost [the ICRC] the confidence it needs and would close to it the internment camps and centres and the hospitals to which its delegates are privileged to have access."[653] The ICRC had gained greater access to prisons and interrogation centers as a consequence of the Bowen inquiry, but remained committed to its "rule of silence."

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[652] FCO 8/226 McCarthy to Brenchley, April 29, 1967.

[653] Boissier, "The Silence of the International Committee of the Red Cross."

Although the criticisms of Bowen's post-inquiry report and the debate over the report's public release had infuriated many military commanders and High Commission officials in Aden, the report generated several reforms. Besides the ICRC's expanded access to interrogation and detention facilities, new oversight mechanisms such as the establishment of a centralized complaints system relied on the High Commission to scrutinize itself. Colonial officials, however, quickly reached the limits of their self-imposed oversight procedures.

A Hollow Victory

At first, the Bowen reforms seemed to have curbed interrogation and detention abuses. In January 1967 several detainees complained to the High Commission officer. They claimed that during transfer from Morbut to the detention facility, soldiers blindfolded them and beat them with rifle butts. In line with the new detainee investigation protocols, an inquiry began immediately. The army commander issued new orders to his soldiers designed to prevent such conduct in the future, but he also determined that "formal disciplinary action was not justified."[654] In February, a detainee complained that guards placed a hood over his head and pushed him against a wall. Guards commonly "hooded" a detainee prior to moving him throughout the facility. A doctor examined the detainee and found that his right forehead was swollen. The guard involved in the incident claimed that "the injury was caused by the detainee walking away when told to wait, and striking his head on a pillar." Although Turnbull did not challenge the guard's version of events, he instructed the guard force to stop hooding detainees except under "exceptional circumstances."[655] Turnbull proved willing to restrain some procedures such as hooding, but he and other officials refused to punish

[654] DEFE 24/252 March Return, Complaints by Detainees 234 and 1/67, April 27, 1967.

[655] DEFE 24/252 February Return, Complaint by Detainee 240, March 1967; the individual case sheets are dated March 1967, but the return was not filed with the Foreign Office until April 11, 1967.

soldiers for interrogation-related transgressions. Only one interrogator faced prosecution, but he was a civilian under civil, rather than military, jurisdiction. Meanwhile, an internal organizational crisis prevented Amnesty International from sustaining its "watchdog" role in enforcing British compliance with the Bowen reforms. Worse still, the ICRC discovered that as the Bowen inquiry faded from public view, torture of detainees resumed.

British officials involved in interrogation controversies escaped punishment. The "three men" identified during the January-March 1966 police investigation and referenced again in the Bowen report were investigated but not prosecuted. The "three men"—named as Lieutenant Edmund Briffa de St. Vincent, Warrant Officer Second Class Joly, and Sergeant Knibbs—faced inquiries from the Royal Military Police Special Investigations Branch (SIB). SIB investigators interviewed over 200 members of the battalion that provided guards for the interrogation center, 10 doctors, 7 detention center staff members, 8 interrogators, and the "three men" themselves. Of the 200 guards interviewed, 16 claimed to have witnessed the use of force against detainees. The decision of whether or not to prosecute the "three men" put MOD officials in a bind. Gerald Reynolds, Minister of Defence for the Army, lamented that he would face criticism regardless of his course of action. If the army did not prosecute the "three men," he wrote, "we shall no doubt be accused of trying to 'whitewash' the people involved." But if he proceeded with a court-martial "there will inevitably be a lot of dirty linen washed in public."[656] Attorneys from the Army Legal Services directorate decided that the available evidence was insufficient to bring any of the "three men" to trial on torture charges. But army lawyers also determined that "there is prima facie evidence of common assault." Despite this evidence, Army Legal Services insisted "that a court martial would be unlikely to convict any of the three men" because the 16 guard force witnesses "would be

[656] See DEFE 13/529 Minister (Army) to Defence Secretary, November 23, 1966.

testifying to events 18 months old" and all members of the interrogation center staff "firmly denied" that detainee abuse occurred. In a letter to the Minister of Defence for the Army, the army's Adjutant General, Major General Reginald Hewetson, concluded that "I do not propose to take disciplinary action of any kind against any of the 'three men.'"[657] Sir Richard Turnbull, Timothy Oates, and Tony Cowper—the three officials who Bowen criticized for their failure to quickly investigate abuse allegations—also escaped formal censure.[658]

Only one colonial official faced prosecution for the abuse of detainees in Aden during the emergency. On March 29, 1967, a Fort Morbut doctor, following the Bowen-recommended procedure of medically examining detainees on a daily basis, discovered that a detainee had two black eyes. The detainee identified P.J. Hurr as the assailant. Hurr, an Arabic-speaking member of the Diplomatic Service assigned to Fort Morbut, was the sole civilian interrogator. He was therefore the only interrogator subject to civil law rather than military jurisdiction. Hurr admitted to slapping the detainee one time, but claimed that he slapped the man because the detainee became hysterical during the interrogation. Hurr denied that he beat the detainee and rejected the notion that his one slap could have caused the detainee's injuries. Hickling reviewed the available evidence and determined that the evidence was sufficient to file charges. On April 24, the Aden Attorney General decided to prosecute Hurr.[659] Don McCarthy noted the irony that "criticisms of interrogation have included the fact that the executive investigates itself and that interrogators are military," but

[657] DEFE 24/252 Hewetson to Minister (Army), April 4, 1967.

[658] Some scrutiny fell on Brigadier Tony Cowper and the army major in command of the interrogation center. See DEFE 13/529 Assistant Secretary, Adjutant General Secretariat to PS/Minister (Army), November 28, 1966.

[659] FCO 8/238 Turnbull to Foreign Office, April 24, 1967.

in this instance "post-Bowen procedure has now worked admirably at the expense of the only civilian interrogator."[660] Hurr went to trial, but the court delivered a "not guilty" verdict.[661]

Officials held mixed opinions on the Hurr case. Turnbull thought it "distasteful" to prosecute Hurr for "a momentary loss of temper," but insisted that "the public interest in this case demands first and foremost that the carefully devised procedures we have ourselves elaborated to deal with these cases should be scrupulously and manifestly followed out."[662] McCarthy concurred. In a letter to Turnbull he declared that "after all your sufferings from Amnesty International, the Bowen report and so on it ill behooves anyone in London to complain about Hurr going to court."[663] Officials in London, however, also saw the case as a vindication of the Bowen reforms. Lord Shackleton, Minister for the RAF, believed that "there is clearly advantage for the Government to be seen to be following the procedure it has established for dealing with complaints by detainees."[664] In a letter to Robert Swann at Amnesty International, Minister of State for Foreign Affairs George Thomson applauded the Bowen reforms for ensuring "that a case of this kind does not get smothered."[665] The Hurr case appeared to demonstrate that British forces took the Bowen reforms seriously, but the failure to prosecute other interrogators suggested otherwise.

The Bowen reforms were introduced at facilities such as Fort Morbut or Mansoura, but the new procedures did not extend to "unofficial" questioning conducted beyond the

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[660] FCO 8/238 McCarthy to Brenchley, April 25, 1967, p. 3.

[661] FCO 8/238 see copy of "Black-eye case envoy cleared," *Daily Express*, May 12, 1967.

[662] DEFE 24/252 Turnbull to Foreign Office, April 22, 1967.

[663] FCO 8/238 McCarthy to Turnbull, April 29, 1967. McCarthy also attacked the High Commission's "legal eagles" who, in his opinion, had overreacted to what should have been treated as "at worst a minor assault allegation."

[664] FCO 8/238 Shackleton to Foreign Office, April 22, 1967.

[665] FCO 8/238 Thomsen to Swann, May 12, 1967.

formal interrogation system. Bowen's inquiry never touched issues beyond Fort Morbut and Mansoura, such as whether British forces operated secret, undisclosed detention sites in Ahwar, Perim, Kamaran, and the Kuria Maria islands.[666] One paratrooper recalled how his unit interrogated recalcitrant prisoners by having them "accidentally" fall down stairs.[667] In 1967, the Argyll and Sutherland Highlanders operated according to what has infamously been termed "Argyll Law." The battalion ran an independent, "unofficial" interrogation center in the basement of its headquarters building. Soldiers from the reconnaissance platoon conducted raids to capture suspected insurgents and delivered them to the battalion's "interrogators," who often beat information out of their captives.[668] Colonial authorities were not monitoring the Argylls' "unofficial" interrogations, but neither was the organization most responsible for pressuring the British government into changing interrogation and detention procedures—Amnesty International. By the summer of 1967, when "Argyll Law" was rampant, AI had disengaged from Aden.

AI felt vindicated by the results of the Bowen report and triumphantly proclaimed the subsequent changes to British interrogation and detention policies. In December 1966, Eric Baker wrote to the group's British members that "it is clear now that it was only Amnesty's consistent pressure that finally exposed these facts to the public." Having prodded the government into an investigation, however, Baker declared that "so long as action is in fact taken to change procedures, we have no wish to pursue the matter indefinitely."[669] In February 1967, the Amnesty International Bulletin ran a story entitled "Aden: Rastgeldi

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[666] Cobain, *Cruel Britannia: A Secret History of Torture*; Aaron Edwards, *Mad Mitch's Tribal Law: Aden and the End of Empire* (Edinburgh: Mainstream Publishing, 2014), 130.

[667] Joe Starling, *Soldier On! The Testament of a Tom* (Staplehurst: Spellmount, 1992), 50-52.

[668] "Aden—Mad Mitch and his Tribal Law," *Empire Warriors*. BBC. London, UK. 2004.

[669] AI-1294 Baker letter "The Bowen Report on Aden," December 1966.

Report Vindicated." The article explained that after the publication of Rastgeldi's report, Foreign Secretary George Brown dispatched Roderic Bowen to investigate the allegations. When Brown released the text of the Bowen report, the report became a "subject of intensive publicity both in the British press and on television" that was "overwhelmingly favourable to us." An editorial in *The Guardian* applauded Amnesty's efforts and the results of the Bowen report, claiming "the detention and 'extremely grim' interrogation centres have been opened up for a time to public scrutiny, and nothing is so strong a deterrent of torture." Triumphantly, Amnesty leaders proclaimed that "almost all the recommendations in the Bowen Report to change existing procedures have been accepted." Amnesty had prevailed, or so it seemed.[670]

AI's declaration of victory in the struggle for Aden prisoners' rights masked a severe internal crisis—a crisis that reinforced Eric Baker's December 1966 pronouncement that Amnesty had no interest in monitoring the treatment of Aden detainees "indefinitely."[671] After reading the Rastgeldi report, Benenson felt compelled to visit Aden and see the situation for himself. He returned extremely distressed with what he saw and went on "sabbatical" to a Trappist Monastery in France "to think things out."[672] He worried that British intelligence services—MI5 and MI6—were meddling in Amnesty's affairs. He accused the intelligence services of tapping Amnesty's telephones and alleged that the Foreign Office had censored reports of British troops massacring 50 unarmed Adenis during a recent demonstration.[673] News reports suggesting that the International Commission of

[670] AI-1295 Amnesty International Bulletin, Number 18, February 1967.

[671] On this topic, see Buchanan, "Amnesty International in Crisis, 1966-7."

[672] AI-1295 Benenson to Baker, January 9, 1967.

[673] "50 Aden deaths kept secret," *The London Times*, February 27, 1967; "Amnesty head accuses the FO," *The Guardian*, February 27, 1967.

Jurists, headed by Amnesty board member Sean MacBride, received funds from the American Central Intelligence Agency further aroused Benenson's suspicions. Benenson began to doubt MacBride's independence from government manipulation.[674] MacBride rejected Benenson's claims and complained of Benenson's "erratic conduct."[675] Convinced that Robert Swann was somehow involved in a government conspiracy, Benenson labelled him "a secret British intelligence agent." To Benenson, Swann's past record of employment with the Foreign Office contributed to Swann's "conflict of loyalty" that jeopardized "the whole of Amnesty's future."[676] Benenson himself was later implicated in a scandal for accepting government funds to support political prisoners in Rhodesia.[677]

Despite Benenson's accusations, throughout early 1967 Robert Swann advocated on behalf of Aden detainees more vigorously than any other Amnesty representative. In January, Swann reached out to his Foreign Office contacts, Walter Padley and George Thomson. Swann informed them of a complaint he had received from a detainee named Mohammad Ali Shamsher. The complaint consisted of a signed affidavit sent to Amnesty's London office in which Shamsher claimed that British soldiers tortured him while in custody. Swann asked Padley and Thomson to investigate the allegations and inform him of the investigation's results.[678] The investigation concluded several weeks later when the

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[674] For MacBride's discussion of CIA funding see AI-1295 Comment by the Secretary-General of the International Commission of Jurists, February 20, 1967.

[675] AI-1295 MacBride to Benenson, February 26, 1967. AI-1295 Benenson to Baker, January 9, 1967. Amnesty's fractured leadership eventually agreed that an independent third party, Peter Calvocoressi, would investigate Benenson's contention that Swann and MacBride had secretly colluded with intelligence services. See AI-1295 Statement by the Chairman of the International Executive of Amnesty, Sean MacBride, February 26, 1967.

[676] AI-1295 Benenson to Chairman, Hoare's Bank, January 9, 1967.

[677] Polly Toynbee, a student working as an Amnesty volunteer in Rhodesia, found that Benenson had assisted the British government in clandestinely funding Rhodesian prisoners' legal costs and providing for their families. See Sellars, *The Rise and Rise of Human Rights*, 108-109.

[678] See FCO 8/165 Swann to Padley, January 6, 1967; FCO 8/165 Swann to Thomson, January 23, 1967.

investigating officer determined that the detainee's allegations were unsubstantiated.[679] Swann complimented Thomson for "the speed with which these incidents have been investigated" and assured him that "your prompt action" allowed Amnesty to "avoid giving publicity to the allegations."[680] But Swann also insisted that "enquiries into allegations of ill-treatment should not be made by those who have been accused, justly or unjustly, of responsibility for ill-treatment."[681] After Benenson's attacks, however, Swann could not continue as Secretary General of the International Secretariat. Swann resigned, and with his departure AI's defense of Aden detainees ended as well.

Besides the internecine conflict aroused by Benenson's suspicions, AI faced financial problems. While AI's International Secretariat leaders celebrated the organization's triumph in Aden, the Swedish section conducted an internal investigation of International Secretariat finances. On February 28, 1967, the Swedish section's investigator, Göran Claesson, concluded that "the financing and, consequently, the functioning of the International Secretariat have met considerable difficulties." Claesson believed that the difficulties "are—or easily may become—detrimental" to the organization's success. He identified several problems such as the lack of defined processes for determining the organization's spending priorities, no rules to guide the administration of finances for the organization's various activities, and the shocking revelation that the Secretariat's work "is carried on without a budget." The lack of clearly defined administrative procedures and organizational responsibilities contributed to poorly managed finances. In addition, disorganized

[679] FCO 8/165 Report by Major T.H. Perkins, January 26, 1967, including Annexes.

[680] FCO 8/165 Swann to Thomson, January 30, 1967.

[681] FCO 8/165 Swann to Thomson, March 30, 1967.

management created problems with coordinating new projects. Claesson determined that the primary problem was a "lack of goals, standards, instructions and control measures."[682]

AI's International Executive Committee, which included representatives from 11 national sections and the International Secretariat, met from March 11-12 in Copenhagen, Denmark, to solve the organization's internal crisis. The meeting marked the end of Peter Benenson's service as AI's President. Committee members voted to create the new position of Director-General, which would supersede that of President. The Director-General would serve as a chief executive and make decisions affecting the organization as a whole. The committee chose Eric Baker, chairman of the British section, as the first Director-General. As a result of Göran Claesson's investigation of the International Secretariat's finances, the Executive Committee also established a series of smaller committees designed to recommend administrative and financial reforms. Lastly, the International Executive Committee voted to initiate a discussion with several leading public affairs experts designed to "consider the relations between voluntary organisations such as Amnesty and government departments." In a letter to AI supporters, Eric Baker wrote that the Elsinore meeting "might have ended in disaster." Instead, the meeting produced "a unanimous determination" to set Amnesty on a path of reform so that it could become "more effective."[683] Amnesty emerged from the crisis intact, but had abandoned Aden human rights activism in the process.

Unlike AI, the ICRC remained involved in Aden. Before the Bowen inquiry, Rochat had difficulty gathering information due to the efforts of Aden's new head of intelligence, John Prendergast. Prendergast was a veteran of the conflicts in Palestine, Kenya, and Cyprus. He was the top Special Branch intelligence officer in the empire and was called out of semi-retirement to take the helm in Aden. When he first interviewed Prendergast in September

[682] AI-1295 An Investigation into the Operations of the International Secretariat, February 28, 1967.

[683] AI-1296, "Private and Confidential Letter to All Members" by Eric Baker, March 20, 1967.

1966, shortly after Prendergast's arrival and before the Bowen inquiry began, Rochat found Prendergast impenetrable. When Rochat asked Prendergast to discuss prisoners' humanitarian concerns, Prendergast replied that "I do not think we have problems of this kind" and denied that interrogators obtained confessions through violence. Based on Prendergast's answers, Rochat concluded, Prendergast was either "absolutely not aware of any detail concerning F.M. [Fort Morbut]," or he "could not answer us" truthfully. Rochat was convinced that "'reasons of state' barred us from the way to the truth."[684] Prendergast's expert obstructionism protected the interrogation apparatus from in-depth ICRC scrutiny, but this shield cracked once the government implemented the Bowen reforms.

The Bowen reforms generated a sense of optimism within the ICRC. The ICRC determined that Bowen's recommendations aligned closely with Rochat's desire to improve detainees' conditions by providing better oversight for interrogation operations. Rochat saw Britain's acquiescence to periodic ICRC visits to both detention and interrogation facilities as an important positive step. When he visited Fort Morbut in February 1967, Rochat noted that abuses seemed to have declined. He reported that "despite some negative aspects, Fort Morbut is no longer a state within a state, fully autonomous. On the contrary, we feel that the situation is normalizing little by little."[685] It seemed that British forces were committed to improving detainee treatment, but Rochat's rosy view soon proved illusory.

In May 1967, as the Bowen inquiry faded from public view, Rochat discovered that torture had resumed at Fort Morbut. Rochat found that "incontestably, the scandalous practices of some interrogators are starting over again." He described three categories of abuse: "Violence beyond what is acceptable" during interrogation, "using soldiers to increase detainee suffering outside of interrogation," and sheer cruelty. This third category included

[684] ICRC B AG 225-001-004 Rochat Report No.4, September 1966, pp.10-18.

[685] ICRC B AG 225-001-002 Gaillard to Rochat, January 13, 1967, p.3.

behaviors such as breaking a detainee's nose and then spitting in the prisoner's mouth; forcing them to stand naked; alternating between making detainees take cold showers and ordering them to stand in front of air conditioners; exposing prisoners to the sun for long hours; forcing detainees to stand on hot sand causing foot burns; prohibiting detainees from using the bathroom; and beating prisoners in the genitals. Although he did not believe that the detainees' stories represented 100% of the truth, Rochat was convinced that the detainees had not entirely manufactured allegations either. Of 37 Fort Morbut detainees who had complained of their treatment, Rochat assessed that 30 had been tortured. Finally, Rochat believed that British medical officers were complicit in the torture regime. He blamed the doctors for failing to effectively treat detainees' injuries. Medical personnel preferred to believe that detainees had simply faked their injuries. In one case, two doctors had disagreed over how to treat a detainee's injuries. When they finally operated on the prisoner, it was too late—the man remained disabled for life. Rochat concluded that Fort Morbut remained "the center of the problem."[686]

As Rochat's reports grew increasingly negative, British officials tried to undermine his assessments by discrediting him personally. One official, E.F.G. Maynard, called Rochat "neither impartial nor intellectually honest" and opined that "there seems to me clear evidence of bias on Rochat's part in that each time he comes back to Aden he finds things a little worse." Maynard seems to have discounted the possibility that things had, in fact, gotten worse. He charged that Rochat was "quite unable to bring a logical mind to bear on the relative credibility of terrorist detainees and British officials with a tradition of regard for human rights." The detainees, Maynard insisted, "are briefed beforehand what to say to Rochat" which meant that "when he sees a continuing theme in the stories presented to him

[686] ICRC B AG 225-001-005 Rochat Report No.7, Apr-May 67, pp.6-7.

by detainees this becomes to him evidence of a continuing pattern in our maltreatment."[687] Humphrey Trevelyan, who succeeded Turnbull as High Commissioner, was more direct than Maynard. He told the Foreign Office that "we should dearly like to get rid of M. Rochat and find it difficult to believe that anyone could be worse." Trevelyan asked if the Foreign Office could "insert a little poison into the ears" of Lady Limerick or Dame Ann Bryans—two senior figures in the British national Red Cross society—to convince the International Committee of the Red Cross that Rochat was "bringing their organization into disrepute."[688] Despite British officials' efforts, Rochat retained his position, which was more than could be said about Britain's presence in Aden.

Britain's Labour government had committed to withdrawing from Aden before the Bowen inquiry, but the pace of withdrawal accelerated as violence intensified through the spring and summer of 1967. In February 1966, the government released a Defence White Paper which outlined Britain's desire to remove its forces in Aden by January 1968, at which time the South Arabian Federation would achieve full independence. Britain's goal was to avoid large-scale defense commitments while simultaneously preventing pro-Nasser groups such as the NLF and FLOSY from taking over the country. Britain was willing to commit to the Federation's defense by providing military equipment to the Federal armed forces and stationing a bomber force at Masirah airbase—a pledge which the anxious Federal leaders viewed as unsatisfactory to protect the country from the insurgency within. Meanwhile, a power struggle broke out between the NLF and FLOSY. Committed to pan-Arabism, FLOSY wanted to incorporate the Marxist NLF into its ranks, but their opposing goals escalated into violence. Both sides continued to attack British forces as well. British troops responded with

[687] FO 8/494 Maynard to McCarthy, June 10, 1967.

[688] FO 8/494 Trevelyan to Allen, June 10, 1967.

curfews, large-scale security sweeps, and arbitrary searches. These measures further alienated many Aden residents.[689]

The June 1967 Arab-Israeli war provoked additional anti-British violence because many in Aden perceived Britain as pro-Israel. On June 20, South Arabian Federation soldiers and police mutinied. They seized several neighborhoods across the city, including the large, heavily nationalist Crater district, where the mutineers killed 22 British soldiers after ambushing a patrol. With the relationship between Britain and the Aden populace deteriorating, the British government moved the date for South Arabian independence from January 1968 to November 1967. The Federal government collapsed in the wake of the mutiny, leaving the British High Commissioner to negotiate a transfer of power to their NLF adversaries. British troops evacuated Aden on November 29th. On the following day, the NLF proclaimed independence for the newly christened People's Republic of South Yemen.[690]

Conclusion

In addition to the ICRC's attempts to protect detainee rights in Aden while privately reporting abuses to the British government, anti-torture activism came from British-based NGO Amnesty International and from dissenting voices within the High Commission. Even so, Hugh Hickling lamented in his unpublished memoirs, "the truth of this unhappy affair . . . was not, in spite of all our efforts, discovered." Senior officials such as Turnbull, Oates, and Willoughby proved willing and able to cover up evidence of torture when suspicions surfaced from within the colonial bureaucracy, but they had to submit to an external inquiry once Amnesty International turned the torture allegations into a public issue in the UK. AI used a combination of private lobbying and public reproach to convince the Foreign Secretary to

[689] Mawby, *British Policy in Aden and the Protectorates*, 146–165; Walker, *Aden Insurgency*, 219–235.

[690] Ibid., 167–176.

order an investigation. The subsequent Bowen inquiry was not a whitewash, but its limited scope ensured that the danger of interrogation and detention reform remained low. Although it resulted in reforms to some aspects of the detention and interrogation system, the Bowen inquiry did not stop abuses. None of the servicemen suspected of having tortured detainees faced prosecution. Only P.J. Hurr, the Foreign Office diplomat who was under civilian jurisdiction, was tried and punished. Neither of the senior civil servants who Bowen criticized—Turnbull and Oates—faced sanction.

Amnesty International's efforts proved only partially effective. Caught in the midst of internal upheaval, AI disengaged from Aden as officials began to implement the Bowen reforms. Amnesty's withdrawal meant that subsequent problems—such as the failure to censure soldiers for "minor" violations of detainee treatment protocols, the failure to prosecute the "three men," and the failure to prevent abusive interrogation practices from continuing—remained unresolved without an activist group to maintain pressure on the government. AI forced recalcitrant colonial officials onto the defensive, but did not eliminate torture in Aden.[691] Amnesty's leaders had declared a premature victory to focus on the organization's internal crisis. After the Bowen inquiry, officials such as Turnbull, Willoughby, and Special Branch's John Prendergast simply put the use of torture into hibernation until AI's oversight—and therefore the likelihood of public censure—waned. Again, Hickling said it best: "neglect, delay, and an unwillingness to seem to act in a manner detrimental to those members of Her Majesty's forces" meant that torture continued.[692] As in Cyprus, a colonial intelligence apparatus which relied heavily on coercive interrogation practices had weathered the storm of public criticism by effectively obstructing rights

[691] Huw Bennett, "'Detainees are always one's Achilles heel,'" 34.

[692] Hickling Papers 2, p.119.

activists' efforts. Brutal interrogations, however, became harder to hide during Britain's next counterinsurgency campaign—the "Troubles" in Northern Ireland.

CHAPTER 6:
"A MORE TALKATIVE PLACE": NORTHERN IRELAND

Introduction

As the Union Jack came down over Aden for the final time in November 1967, Britain's departure from the "last post" of empire seemed to mark an end to two decades of counterinsurgency warfare. The British Army faced other challenges, notably Cold War commitments in West Germany.[693] But by August 1969, the army was again operating against insurgents. This time, the conflict occurred within the United Kingdom—in Northern Ireland.[694]

In examining the early period of the Troubles—from the army's initial deployment in 1969 to the implementation of a new strategy in 1976—this chapter advances three arguments. First, although military officers and civilian officials believed that the context of the Northern Ireland conflict differed from previous colonial wars, they reacted to the escalation of violence by implementing tactics similar to those used in Cyprus and Aden. This response can best be seen through the use of internment without trial and "interrogation in depth."

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[693] See, for example, David French, *Army, Empire, and Cold War: The British Army and Military Policy, 1945-1971* (Oxford; New York: Oxford University Press, 2012).

[694] For general historiography on the Troubles and the primary belligerents, see Tim Pat Coogan, *The Troubles: Ireland's Ordeal and the Search for Peace* (Basingstoke: Palgrave Macmillan, 2002); Paul Dixon, *Northern Ireland: The Politics of War and Peace*, 2nd edition (Basingstoke: Palgrave Macmillan, 2008); Marc Mulholland, *The Longest War: Northern Ireland's Troubled History* (Oxford, UK: Oxford University Press, 2002); Richard English, *Armed Struggle: The History of the IRA* (New York, NY: Oxford University Press, 2003); Ed Moloney, *A Secret History of the IRA* (New York, NY: W. W. Norton & Company, 2003); Ian Wood, *Crimes of Loyalty: A History of the UDA* (Edinburgh: Edinburgh University Press, 2006); Steve Bruce, *The Red Hand: Protestant Paramilitaries in Northern Ireland* (Oxford, UK: Oxford University Press, 1992); Andrew Sanders and Ian S. Wood, *Times of Troubles: Britain's War in Northern Ireland* (Edinburgh: Edinburgh University Press, 2012); Ken Wharton, *A Long Long War: Voices from the British Army in Northern Ireland, 1969-98* (Solihull: Helion & Company, 2008); Brendan O'Leary and John McGarry, *The Politics of Antagonism : Understanding Northern Ireland* (London: Athlone Press, 1993); Brendan, McGarry, John O'Leary, *Understanding Northern Ireland: Colonialism, Control and Consociation* (London: Routledge, 2005).

Secondly, the use of harsh methods in Northern Ireland generated different public consequences than during the Cyprus and Aden wars. These measures stimulated the first sustained public debate on counterinsurgency practices in Britain since the end of the Second World War. Public controversy had a greater effect on the Northern Ireland conflict than the wars in Cyprus and Aden. During the Cyprus and Aden campaigns, British officials were able to contain the relatively limited efforts of small groups of activists. But during the Troubles, rights activism and legal proceedings challenging British conduct were pervasive and persistent as the war in Northern Ireland generated a host of government inquiries in addition to investigations conducted by advocacy groups.[695]

Finally, this persistent public debate occurred because of Northern Ireland's unique position within the British state and the specific historical moment in which the war began. As one officer said of the intense public scrutiny surrounding the use of brutal interrogation methods, "the world has become a more talkative place than it was when we used these techniques in colonial situations."[696] The world did change during the Troubles, but it is more important to note that these changes created the specific circumstances in which military leaders' and civilian officials' attempts to deflect public criticism—that is, by denigrating their accusers, shielding controversial practices from scrutiny, and protecting soldiers from judicial punishment—proved less successful than during the Cyprus and Aden conflicts. This confluence of circumstances included Northern Ireland's constitutional positon as part of the UK; the growing influence of international human rights ideas and civil society organizations; the significant media presence in television, radio, and newspapers; as well as the capability of Northern Irish paramilitaries to strike England itself. These particular

[695] For a chronology including many of the inquiries, investigations, and reports conducted during the Troubles, see CAIN Web Service. "A Chronology of the Conflict—1968 to the Present." http://cain.ulst.ac.uk/othelem/chron.htm. Accessed January 24, 2016.

[696] As quoted in Hamill, *Pig in the Middle*, 67.

conditions ensured that the Troubles remained a sensitive public issue in the UK and internationally.

From Civil Rights to Civil War: The Army's Deployment to Northern Ireland

After the 1919-1921 Anglo-Irish War, in which the predominantly Catholic southern counties of Ireland obtained Dominion status, the six Protestant-majority counties of Northern Ireland remained a province within the United Kingdom in which Catholics faced systematic discrimination. The 1920 Government of Ireland Act established a devolved Parliament seated at Belfast's Stormont Castle. Catholics tended to oppose the Stormont regime. The terms "Catholic," "nationalist," and "republican" were often used synonymously to describe their political positions. Protestants—also called "unionists" or "loyalists"—tended to favor the existing arrangement. Unionists dominated Stormont and wished to remain part of the UK. Gerrymandering of electoral districts ensured that Protestants received greater per capita political representation than Catholics. Discrimination also occurred in the allocation of socialized council housing. Catholics often received smaller houses for larger families, whereas smaller Protestant families generally received larger or newer homes. Discriminatory employment practices meant that the civil service and police were overwhelmingly Protestant and large industrial employers tended to hire Protestants.[697] According to Brice Dickson, a prominent Northern Irish human rights lawyer and co-founder of the Committee on the Administration of Justice, such discrimination fueled a sense of disaffection among Catholics in which the denial of their political rights consequently

[697] Paul Bew, *Ireland: The Politics of Enmity 1789-2006* (Oxford, UK: Oxford University Press, 2007), 488–495; Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 10–11; Christine Kinealy, *War and Peace: Ireland since the 1960s* (London: Reaktion Books, 2010), 33–40. For additional general studies of Irish history, see Richard Bourke and Ian McBride, *The Princeton History of Modern Ireland* (Princeton: Princeton University Press, 2016), Terence Brown, *Ireland: A Social and Cultural History, 1922-2002* (London: HarperCollins, 2004); Roy Foster, *Modern Ireland: 1600-1972* (New York: Penguin, 1990), Howe, *Ireland and Empire,* John A. Murphy, *Ireland in the Twentieth Century* (Dublin: Gill and MacMillan, 1975).

inhibited the Catholic minority from exercising their cultural, religious, and linguistic rights.[698]

It was in this context of legalized political, social, and economic alienation that the Northern Irish civil rights movement emerged. During the 1960s, opposition to the Stormont regime coalesced among the political left. The primary organization formed to advance civil rights for Catholics was the Northern Ireland Civil Rights Association (NICRA). NICRA activists had close ties to a variety of left-wing organizations such as the Northern Ireland Labour Party, Communist Party of Northern Ireland, National Council for Civil Liberties, and the Campaign for Social Justice.[699] Inspired by the civil rights movement in the United States and the protest movements that swept across Europe and the world in the summer of 1968, these activists saw themselves as part of a global struggle against capitalism and imperialism. They eschewed the "bureaucratic socialism" of the Old Left as well as entrenched republican and unionist groups that controlled state institutions. Radicalized by the politics of the 1960s, NICRA and its allies believed that the best way to initiate change was to provoke a reaction from the security forces. To these activists, any overreaction from security forces would expose what Daniel Cohn-Bendit, one of the leaders of the May 1968 protests in France, called the "latent authoritarianism" of the existing political systems of Western Europe and "open the eyes" of the people. Northern Ireland's "1968 moment" began with an October 5

[698] Brice Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland* (Oxford, UK: Oxford University Press, 2010), 7.

[699] Simon Prince, *Northern Ireland's '68: Civil Rights, Global Revolt and the Origins of the Troubles* (Dublin: Irish Academic Press, 2007), 69.

civil rights march in Londonderry.[700] The Royal Ulster Constabulary (RUC), Northern Ireland's Protestant-dominated police force, violently dispersed the marchers.[701]

In August 1969, a confrontation over the Apprentice Boys march in Derry triggered the deployment of the British Army. During the summer of 1969, local officials decreed that unionist groups were allowed to march, but Catholic marches were banned. Adding further insult to the Catholic community, authorities approved the Apprentice Boys march route, which would take 15,000 Protestant marchers through part of the Catholic Bogside neighborhood. But as the march began, Catholics barricaded the entrances to the Bogside. Catholic and Protestant factions clashed as the RUC stood in the middle trying to maintain order. Several RUC armored cars were set on fire with petrol bombs. Both sides threw stones and bricks at each other and the police as RUC constables repeatedly charged with batons and shields to disperse the rioters. Catholic neighborhoods set up barricades, creating "no-go" areas for the police. Stormont's laws no longer applied in these areas as republican paramilitaries such as the Irish Republican Army enforced law and order. On the morning of August 14, RUC Inspector General Anthony Peacocke officially requested that the army deploy to Londonderry. On the night of August 14, six people died as Protestants went on a rampage, burning entire streets in some Catholic areas. Attacks in Belfast increased as well, resulting in the August 15 decision to deploy troops to both Londonderry and Belfast.[702]

British officials were reluctant to get involved in Northern Ireland because many perceived the province as a backwater with a complex web of local problems that could

[700] Sectarian symbolism was so prevalent in Northern Ireland that even the names of cities reveal political sentiments. Derry/Londonderry provides the best example—nationalists preferred to call the city Derry, whereas unionists favored Londonderry. I use the terms interchangeably without seeking to privilege one political persuasion over another.

[701] Prince, *Northern Ireland's '68*, 1–5.

[702] Hamill, *Pig in the Middle*, 3–7.

easily turn into a quagmire. The Northern Ireland conflict posed a unique challenge for Britain. According to historian Stephen Howe, the British presence in Ireland resulted in "a strange constitutional hybrid" that was neither a colony nor entirely integrated into the United Kingdom.[703] Formally, Northern Ireland was a constituent member of the United Kingdom, but this arrangement did not necessarily produce a shared identity. Republicans compared the province to a colony, perceiving themselves as freedom fighters struggling against imperial oppression. Unionists were emotionally attached to the idea of being British, but other Britons did not necessarily share their sympathies. For many in Westminster, the idea of being British involved the demonstration of perceived British culture values such as tolerance, respect for the rule of law, and moderation. To many in Britain, Northern Irish unionists appeared to have merely appropriated the symbols of this "Britishness." Unionists could therefore fall into the cultural category of "Irishness," which many Britons viewed as uncivilized, irrational, and dominated by emotions and passions. To their British countrymen, Ulster Protestants were therefore often regarded as backward and foreign.[704] Direct involvement was not desirable. As then-Home Secretary James Callaghan described it, the government's goal was to avoid being "sucked into the Irish bog."[705] Despite their preference of non-intervention, Westminster became increasingly involved in Northern Irish affairs once the decision was made to deploy the army.[706]

When the army was first ordered to intervene in August 1969, military leaders recognized the conflict's distinct circumstances and ensured that the army did not

[703] Stephen Howe, *Ireland and Empire: Colonial Legacies in Irish History and Culture* (Oxford: Oxford University Press, 2002), 69.

[704] Neumann, *Britain's Long War*, 17–21.

[705] As quoted in Ibid., 16.

[706] McKittrick and McVea, *Making Sense of the Troubles*, 57–59.

immediately and unthinkingly deploy its full repertoire of repressive "colonial" counterinsurgency methods.[707] As violence persisted into the summer of 1970, the army's approach toward the local population hardened.[708] The army's presence initially appeared to have calmed the situation, but officials at Stormont and Westminster had different expectations for what the army was supposed to achieve. Relations between the troops and civilians of both sides entered a "honeymoon" period. For Protestants, the army's presence indicated protection and security against Catholics. For Catholics, it meant that the overwhelmingly Protestant, and therefore biased, RUC was no longer patrolling the streets. Within government circles, however, the situation was more acrimonious as the army's deployment exposed Stormont's and Westminster's divergent objectives. Stormont officials wanted the army on the streets so that they could "beat the Micks," as journalist Desmond Hamill described it, whereas Westminster wished to restore law and order rather than keeping the "Micks" down. Different goals contributed to confusion in terms of what the troops were supposed to accomplish. Soldiers were deployed to "aid the civil power," but military

[707] On the army transplanting colonial methods into Northern Ireland, see David Benest, "Aden to Northern Ireland, 1966-1976," in *Big Wars and Small Wars: The British Army and the Lessons of War in the 20th Century* (New York, NY: Routledge, 2006), 115–44; Aaron Edwards, "Misapplying Lessons Learned? Analysing the Utility of British Counterinsurgency Strategy in Northern Ireland, 1971-76," *Small Wars & Insurgencies* 21, no. 2 (June 2010): 303–30; Keith Jeffery, "Security Policy in Northern Ireland: Some Reflections on the Management of Violent Conflict," *Terrorism and Political Violence* 2, no. 1 (Spring 1990): 21–35; John Newsinger, "From Counter-Insurgency to Internal Security: Northern Ireland 1969-1992," *Small Wars & Insurgencies* 6, no. 1 (March 1995): 88–111; Michael Cunningham, *British Government Policy in Northern Ireland, 1969-2000* (Manchester, UK: Manchester University Press, 2001); Christopher Tuck, "Northern Ireland and the British Approach to Counter-Insurgency," *Defense & Security Analysis* 23, no. 2 (June 2007): 165–83; Paul Dixon, "'Hearts and Minds'? British Counter-Insurgency Strategy in Northern Ireland," *Journal of Strategic Studies* 32, no. 3 (June 2009): 445–74.

[708] This "get tough" attitude did not permeate all British operations and did not mark a linear progression of constantly increasing state violence against insurgents and civilians. British strategy and tactics remained flexible throughout the war. See Huw Bennett, "From Direct Rule to Motorman: Adjusting British Military Strategy for Northern Ireland in 1972," *Studies in Conflict and Terrorism* 33, no. 6 (June 2010): 511–32; Peter Neumann, *Britain's Long War: British Strategy in the Northern Ireland Conflict, 1969-98* (Basingstoke: Palgrave Macmillan, 2003); M.L.R. Smith and Peter Neumann, "Motorman's Long Journey: Changing the Strategic Setting in Northern Ireland," *Contemporary British History* 19, no. 4 (December 2005): 413–35; Hamill, *Pig in the Middle: The Army in Northern Ireland 1969-1984*.

commanders soon came to see their mission as far more than simply restoring order. To many commanders, the army appeared to have walked into the middle of a civil war.[709]

The violence of 1969 created new enemies while rousing old ones. During the summer, the nationalist paramilitary Irish Republican Army (IRA) advocated political change but stopped short of ordering armed resistance. For many nationalists, this apparent failure to defend Catholic communities undermined the IRA's credibility. The IRA's shift toward political action bothered some of the organization's members. Tensions between these dissidents and existing commanders persisted into the winter, when the IRA Army Council voted to increase the organization's involvement in politics by allying with left-wing nationalist groups. This decision infuriated the dissident faction. On December 18, dissidents established a new Provisional wing. The Provisionals believed that political action was meaningless without military force to back it up. In the future, the Provisionals would not back down as the Official IRA had.[710]

Nationalist violence resumed after a March 1970 commemoration of the 1916 Easter Rising triggered three days of riots in Ballymurphy—the first major confrontation between soldiers and Catholics. On June 27, an Orange Order parade passed near Belfast's Catholic Short Strand neighborhood. A Loyalist mob threw petrol bombs at a Catholic church, but PIRA responded with a vigorous defense.[711] The ensuing five-hour gun battle, in which four Protestants were killed, achieved legendary status in republican circles. Many people fled the fighting. Working class areas of both religions were hit hardest. In Belfast alone 30,000-

[709] Hamill, *Pig in the Middle*, 13.

[710] English, *Armed Struggle*, 88–108; Moloney, *A Secret History of the IRA*, 198.

[711] English, *Armed Struggle*, 134–135.

40,000 people left their homes to live in areas filled with their co-religionists. Areas of mixed religion declined, creating sharp divisions between Catholic and Protestant zones.[712]

Confrontation in the Short Strand soon led to an operation that transformed the conflict and ended the army's Northern Ireland "honeymoon"—the Falls Road curfew. After the Short Strand gun battle, British forces moved to intercept a shipment of weapons believed to have been delivered to an Official IRA safe house in the Lower Falls. On July 3, soldiers moved into the area to seize the weapons. But as troops left the neighborhood, an incensed crowd gathered and began throwing stones. PIRA initiated gun battles in the Falls Road and Ardoyne while the army deployed 3,000 soldiers to the area and imposed a three-day curfew. During the curfew, troops searched house-by-house with little regard for civilian property. Homes and businesses were damaged and, in the rioting that followed, four Catholics were killed. Although PIRA had done the fighting in areas around the Lower Falls, the arms dump seized by the British Army actually belonged to the Official IRA.[713] In total, 5 people were killed, 15 soldiers and 60 civilians injured. The curfew proved militarily successful in that the army found over a hundred guns and home-made bombs, 250 pounds of explosives, and 21,000 rounds of ammunition, but the operation failed politically. Journalist Desmond Hamill noted that after the curfew, relations between the Catholic community and the army changed from "sullen acceptance to open hostility."[714] PIRA recruitment soared and the Officials were galvanized into action.[715]

The army adopted harsher methods as violence escalated, including measures reminiscent of past colonial campaigns. By the end of June, the General Officer Commanding

[712] Hamill, *Pig in the Middle*, 35–36.

[713] Moloney, *A Secret History of the IRA*, 89–92.

[714] Hamill, *Pig in the Middle*, 36–39.

[715] Thomas Hennessey, *The Evolution of the Troubles 1970-72* (Dublin: Irish Academic Press, 2007), 37–46.

in Northern Ireland (GOC NI) relaxed restrictions on rules of engagement concerning the use of lethal force.[716] The 1970 Conservative Party electoral victory also influenced army attitudes. Catholics, *The Guardian* reported, insisted that "the Army attitude has toughened since the Conservatives came to power at Westminster" in July and that "soldiers are now going out of their way to provoke Catholic anger, and then responding harshly to it."[717] Efforts to improve security proved counterproductive as cordon-and-search operations, checkpoints and roadblocks, fortified army garrisons placed in disputed neighborhoods, and aggressive responses to riots further alienated many Catholics.[718]

The army's response to weekend riots in November 1970 was indicative of this "get tough" approach. After rioters wounded 41 soldiers and marines with petrol and nail bombs, commanders declared that in future confrontations where petrol or nail bombs were used, "soldiers will not wait to see what is thrown at them before responding with rifle fire." Journalist Simon Winchester, sitting in the audience at the press conference where the announcement was made, noted that "all the army's public relations staff at the conference were nodding in agreement with the CO's phrasing and it must be assumed that this is the army's latest attitude and one important aspect of its uncompromisingly tough policy."[719]

In March 1971, Northern Ireland Prime Minister James Chichester-Clark further emphasized the new approach by insisting that he would station army units in all "riotous and subversive enclaves." The use of any lethal weapons by rioters—including guns, explosives, and petrol bombs—would result in what *The Guardian* described as "rigorously conducted

[716] Ibid., 36.

[717] "The Army and the mob," *The Guardian*, August 5, 1970.

[718] Douglas Porch, *Counterinsurgency: Exposing the Myths of the New Way of War* (Cambridge, UK: Cambridge University Press, 2013), 274–275.

[719] Simon Winchester, "Army told to open fire on nail-bombers," *The Guardian*, November 2, 1970.

house-to-house searches." Reporter Simon Winchester concluded that "the new tactics, which finally confirm that the army's role in Northern Ireland has changed, probably irreversibly, from its initial 'peace-keeping duties' to the more familiar colonial role of 'internal security.'" Inevitably, Winchester concluded, "massive security operations similar to the controversial Lower Falls 'curfew' of last July will follow any more disturbances."[720]

The army's adoption of stronger security measures reflected the growing radicalization of political opinions in late 1970 and early 1971. Army commanders were well aware that the IRA was intent on provoking soldiers to respond to riots and protests with excessive force. The intent behind the IRA's actions was to generate conflict between the security forces and the Catholic population, which would alienate Catholics from the army. The civil rights movement had faded into the background, eclipsed by the dictates of armed struggle. Despite knowledge of the IRA's intentions, the army's "get tough" policies played into the IRA's hands. As troops implemented tougher policies, Catholics grew increasingly suspicious of the army and therefore provided less intelligence and support to the army than they had before. Many Catholics viewed the army's actions as repressive and turned against it as republican paramilitaries increased their hold on Catholic neighborhoods through intimidation campaigns of their own. The result was what scholar Aaron Edwards termed "a negative equity" in which each side's actions reinforced antagonism.[721] Loyalist opinions hardened as well. In the July 1970 UK general election, outspoken and controversial unionist Reverend Ian Paisley was elected to Westminster. On March 18, 1971, 3,000 loyalists marched on Stormont demanding that Stormont leaders deal more effectively and vigorously

[720] Simon Winchester, "Tough new measures for Ulster riot areas," *The Guardian*, March 3, 1971.

[721] Edwards, "Misapplying Lessons Learned?," 308–312.

with IRA terrorism. On March 31, Chichester-Clark resigned as Northern Ireland's Prime Minister.[722] A stronger crackdown was coming.

Internment and Interrogation

The violence convinced many unionist politicians that stronger security measures were necessary—particularly the authorization of internment without trial. On July 8, 1971, Stormont PM Brian Faulkner's tenuous attempt to compromise collapsed after British troops killed two rioters in Derry. Republican sympathizers demanded a public inquiry into the deaths, arguing that the men were unarmed when they were shot, but the government refused. In response, Stormont MPs from the moderate nationalist Social Democratic and Labour Party (SDLP) walked out of the assembly.[723] Faulkner faced severe political pressure from unionists, including many within his own Cabinet, to order internment without trial.[724]

Military leaders were skeptical about the use of internment. Chief of the General Staff General Sir Michael Carver and GOC NI Lieutenant General Sir Harry Tuzo believed that internment would prove counterproductive. They thought that internment would merely antagonize nationalists. Faulkner also did not like the idea of internment for similar reasons, but felt that he would lose unionist support if he did not adopt a tougher stance on security policy. Tuzo suggested that a large-scale, but limited, arrest operation of around 100 key suspects would provide a useful alternative to internment. Such an operation would strike a strong blow against the IRA without appearing overly aggressive toward the Catholic community.[725]

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[722] Hennessey, *The Evolution of the Troubles 1970-72*, 76–77.

[723] BBC. "1971: British troops shoot Londonderry rioters," *On This Day* http://news.bbc.co.uk/onthisday/hi/dates/stories/july/8/newsid_2496000/2496479.stm. Accessed May 6, 2015.

[724] Hamill, *Pig in the Middle*, 53–55.

[725] Ibid., 55–57; Hennessey, *The Evolution of the Troubles 1970-72*, 120.

On August 5, despite misgivings from army leaders, Faulkner asked Prime Minister Edward Heath for authorization to implement internment beginning on August 9. Heath acquiesced. Code-named Operation Demetrius, the internment plan involved large-scale battalion-sized sweeps of Catholic neighborhoods and targeted 464 IRA suspects. Troops searched houses with little regard for the occupants. Michael Farrell, a People's Democracy activist, recalled how soldiers beat up almost everyone who had been arrested. During the sweeps, the army captured 304 of the 464 individuals on their target list.[726]

The order to begin internment without trial was enough to antagonize the Catholic community, but the army's use of bellicose tactics exacerbated the situation. On August 17, nationalist MP John Hume complained of soldiers' brutal treatment of civilians during searches of the Bogside in which three men were hospitalized with head injuries suffered during their arrest. One journalist concluded that "the army has tended to avoid confrontations, but it now appears to be adopting more aggressive tactics, charging and firing rubber bullets into the bystanders."[727] The army began dispatching larger patrols, but larger patrols led to more frequent and intrusive house searches, which created more confrontations with Catholics, therefore enflaming Catholic resentment. The IRA, particularly the Provisionals, also contributed to the army's increased "toughness."[728] As they entered Catholic neighborhoods in Londonderry, soldiers faced petrol bomb attacks, stoning, and gunfire. On the day that Operation Demetrius began, five soldiers were shot and seven injured by stones or petrol bombs. One soldier was partially blinded after being hit in the face with a petrol bomb.[729] Over the next four months, 30 soldiers, 11 police, and 73 civilians died

[726] Hennessey, *The Evolution of the Troubles 1970-72*, 120–132.

[727] Peter Hildrew, "MP alleges brutality by army in Bogside," *The Guardian*, August 18, 1971.

[728] Hamill, *Pig in the Middle*, 61.

[729] Harold Jackson, "Troops wounded in Derry gunfire," *The Guardian*, August 10, 1971.

in gun battles, riots, or bombings.[730] The army reacted by interning more suspects. Some were guilty, but many of those arrested were innocent—a fact which fueled the perception that, as one Catholic activist put it, the army was adopting "tougher and tougher methods of repression."[731]

Internment without trial alienated the vast majority of Catholics because it appeared to herald a return to past discriminatory practices. The army did not target any Protestant areas, and no Protestant paramilitary suspects were interned until February 1972. On August 12, Oliver Napier of the cross-community Alliance Party told the Irish News that "every Northern Ireland Catholic sees the introduction of internment as the abandonment of the reform programme and the end of the principle of equal citizenship."[732] On August 16, the SDLP launched a civil disobedience campaign which linked protests against internment with the housing problems that had originally motivated the civil rights movement. The campaign's purpose, Stormont MP and SLDP member John Hume explained, was to demonstrate that Stormont no longer governed with Catholic consent. Organizers planned to hold rent and rate strikes in which occupants of publicly owned homes and tenants who paid rates to local authorities would refuse to pay. Denying revenue to the government in this way was meant to demonstrate the Catholic community's rejection of Stormont's authority. In Derry, activists claimed that 90 percent of Catholic households participated in the strike. In Dungiven, only two of 850 tenants paid their August rent. The chant of "no freedom, no rent" became the strikers' rallying cry.[733]

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[730] Hamill, *Pig in the Middle*, 65.

[731] As quoted in Ibid., 77.

[732] As quoted in Hennessey, *The Evolution of the Troubles 1970-72*, 144.

[733] Ibid., 146–147.

Although internment stirred Catholic ire, the treatment of prisoners during interrogation aroused the nationalist community's deepest anger.[734] Although many of the 464 men on the army's initial arrest list were exposed to what journalist Ian Cobain described as "systematic rough-handling," several internees had been identified for what MOD called "interrogation in depth." Security officials believed that those pre-selected for interrogation in depth possessed vital information about the IRA's organization and methods. Ultimately, RUC Special Branch, with military assistance, carried out these interrogations on 14 people through a special program code-named Operation Calaba.[735]

Operation Calaba was built on the edifice of previous interrogation programs such as those implemented in Cyprus and Aden. In 1956, the military reorganized interrogation with the creation of the Interrogation Branch—a Joint Service organization with direct access to the War Office's Director of Military Intelligence. Interrogation Branch primarily existed to conduct training courses. Due to operational experiences in colonial conflicts such as Kenya and Cyprus, Interrogation Branch began to incorporate interrogation methods designed for antiterrorism and counterinsurgency operations. In 1965, Interrogation Branch was renamed the Joint Services Interrogation Wing (JSIW). In addition, the Joint Intelligence Committee codified a set of interrogation principles—but not specific practices or procedures—in a Joint Directive on Military Interrogation in Internal Security Operations Overseas, dated February 17, 1965. These principles included the imperative of undermining a prisoner's confidence

[734] For scholarly, critical analysis of coercive interrogation, see Samantha Newbery, "Intelligence and Controversial British Interrogation Techniques: The Northern Ireland Case, 1971-2," *Irish Studies in International Affairs* 20 (January 2009): 103–19; Samantha Newbery et al., "Interrogation, Intelligence and the Issue of Human Rights," *Intelligence & National Security* 24, no. 5 (October 2009): 631–43; Ian Cobain, *Cruel Britannia: A Secret History of Torture* (London: Portobello Books, 2012); Hennessey, *The Evolution of the Troubles 1970-72*; Peter Taylor, *Beating the Terrorists?: Interrogation at Omagh, Gough, and Castlereagh* (New York, NY: Penguin Books, 1980).

[735] Cobain, *Cruel Britannia*, 140; Newbery et al., "Interrogation, Intelligence and the Issue of Human Rights," 631; Newbery, "Intelligence and Controversial British Interrogation Techniques: The Northern Ireland Case, 1971-2," 103–105.

and resilience through "psychological attack," although the Joint Directive also prohibited "outrage upon personal dignity" and "humiliating and degrading treatment." The Joint Directive was amended in 1967 after the release of the Bowen Report on interrogation in Aden, but the principle of "psychological attack" also remained in effect.[736] Throughout the 1960s, the JSIW was the sole organization capable of conducting interrogation training for internal security operations. After the Bowen Report recommended that civilians conduct interrogation during internal security operations, the JSIW established a training program in which military interrogators taught other military personnel as well as police Special Branch officers.[737]

On March 17, 1971, RUC Special Branch requested interrogation training to improve its poor intelligence capabilities. The army was already aware of Special Branch's limitations. In 1969, General Sir Geoffrey Baker, Chief of the General Staff, visited RUC Special Branch and wrote a report on his findings. He described Special Branch as "badly organised and run, with the result that speculation and guesswork largely replace intelligence."[738] Baker was experienced with the workings of intelligence organizations in colonial counterinsurgency campaigns due to his experience as Chief of Staff to the Director of Operations during the Cyprus Emergency. He was also author of the Baker Report on the Cyprus Emergency, the findings of which had influenced the colonial administration's response to the Aden Emergency of 1963-67. On March 24, 1971, MOD and MI5 representatives decided to send a member of the JSIW to Northern Ireland as an adviser and

[736] Hennessey, *The Evolution of the Troubles 1970-72*, 152–153; Newbery, "Intelligence and Controversial British Interrogation Techniques: The Northern Ireland Case, 1971-2," 106–107. See also PREM 15/485 Trend to Prime Minister, November 10, 1971 and Dunnett to Trend, November 15, 1971.

[737] PREM 15/485 Robertson to Armstrong, Enclosure on Interrogation Training, October 19, 1971.

[738] BBC. "Papers reveal government 'in dark' over IRA," January 1, 2000. http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/585080.stm. Accessed May 9, 2015.

several others to provide training assistance. Between four and six officers as well as six to eight NCOs participated in the training and advisory mission. Under the terms of the arrangement, military personnel were not to participate in interrogations. They were only to advise and provide technical support to the RUC.[739]

To some senior officials, the introduction of internment provided an excellent opportunity to begin using interrogation in depth. The Vice Chief of the General Staff informed Defence Secretary Lord Carrington that internment, and the subsequent interrogation of interned prisoners, would yield vital intelligence. On August 10, Carrington and Home Secretary Maudling approved the military's advise-and-assist role in RUC interrogations. MOD arranged for 12 military interrogators to provide "technical support and advice on all aspects of the operation," in which 20 RUC Special Branch interrogators would conduct interrogations. An additional 26 constables from the RUC Special Patrol Group guarded the facilities.[740] In a prophetic gesture considering the criticism that soon followed, the GOC informed RUC Special Branch that as long as Special Branch conducted interrogation in depth using only techniques taught by the military, the army would try to prevent the RUC from being blamed if interrogations generated negative repercussions. The commander of the military interrogation unit advising Special Branch was informed that humiliating and degrading treatment, violence, and torture were prohibited. In addition, all detainees were to be treated humanely and in accord with the principles of Article 3 of the 1949 Geneva Convention concerning treatment of prisoners of war. These guidelines, however, were open to broad interpretation.[741]

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[739] Hamill, *Pig in the Middle*, 66–67; Hennessey, *The Evolution of the Troubles 1970-72*, 153–154.

[740] PREM 15/485 Robertson to Armstrong, Enclosure: Operation Calaba, October 19, 1971.

[741] Hennessey, *The Evolution of the Troubles 1970-72*, 154–155.

Interrogators used interrogation in depth to impose their will on detainees by controlling every aspect of their existence. The process relied upon five techniques designed to disorient and frighten the prisoner while also heightening his desire to communicate with other humans. The first of the five techniques was wall standing, in which detainees had to stand facing a wall with their arms raised. This method was supposed to reinforce discipline and control over the detainee, while also protecting guards from any violence committed by the detainee. The second technique was hooding—the placement of a black hood over the detainee's head for prolonged periods—and was designed to limit a detainee's ability to interact with other prisoners or identify where he had been taken for questioning. The third technique, subjecting detainees to white noise, made communication between detainees more difficult, kept them psychologically disoriented, and increased their sense of isolation. Fourth, detainees were deprived of sleep to further disorient them. Fifth, interrogators imposed a bread-and-water diet on detainees. Bread and water were offered at six-hour intervals, which contributed to a detainee's disorientation—when fed more than three times a day, it would have been difficult for detainees to keep track of the time of day, therefore obscuring how long they had been in captivity.[742]

In addition to the five techniques, prisoners chosen for participation in Operation Calaba were often subjected to physical violence. Between questioning sessions, RUC officers forced detainees to stand at a wall, often in stressful positions. Those detainees who failed to stand in the desired position were beaten. These sessions often lasted for hours. Documentation suggests that for 11 of the prisoners, time spent standing at the wall varied between 9 and 43 hours. During these standing sessions, detainees were prohibited from sleeping or speaking. When one man, James Auld, asked to use the toilet, he claimed that the

[742] Ibid., 156; Newbery, "Intelligence and Controversial British Interrogation Techniques" 110–112.

guards denied permission and slammed his head against the wall as punishment for speaking. Detainee Patrick McClean said that he was never permitted to use a toilet. Prisoners, he said, simply had to "wet where we lay."[743]

The Interrogation Inquiries

As details of interrogation practices emerged in public, the subsequent uproar caused a government inquiry. Civil society groups such as the Association for Legal Justice spoke out about "new and disturbing elements" in the army's treatment of prisoners and recorded statements from several detainees for possible use in future legal proceedings. On August 12, Catholic clergymen such as Cardinal Conway, Archbishop of Armagh, called for an investigation as well. A series of reports in the *Irish News* and *Irish Press* publicized specific allegations of brutal treatment related to the use of the five techniques. By August 20, press reports had convinced Prime Minister Heath to order an inquiry.[744] The Irish government also pressured Britain to take action. On August 25, the Republic of Ireland's ambassador formally requested a full and impartial inquiry. To the Irish government, no inquiry could qualify as "impartial" unless it included a non-British member. The Irish ambassador informed British officials that his government would also consider formal action at the European Court of Human Rights. On August 31, Home Secretary Maudling appointed a three-person committee of inquiry under Sir Edmund Compton. The committee's terms of reference were to investigate allegations of physical brutality committed by security forces against prisoners arrested after internment, including allegations concerning detainees subjected to the five techniques and prisoners who had been arrested under internment but who had not faced interrogation in depth.[745]

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[743] As quoted in Hennessey, *The Evolution of the Troubles 1970-72*, 159.

[744] PREM 15/485 Woodfield to Gregson, August 20, 1971.

[745] Hennessey, *The Evolution of the Troubles 1970-72*, 157–160. Writing in 2001, journalist Peter Taylor noted that on the subject of interrogation in depth, "even thirty years after the event, it is extraordinarily difficult to pin

To Northern Irish nationalists and many in the Republic of Ireland, the Compton inquiry amounted to nothing more than a whitewash because of the committee's composition, terms of reference, and findings. The Dublin government and nationalists in Northern Ireland opposed the committee on the grounds that the inquiry was not held in public, the committee members did not have full judicial powers, witnesses would not have legal representation, and the committee was comprised solely of British officials. As a result of nationalist dissatisfaction, all but one of the prisoners subjected to interrogation in depth boycotted the committee by refusing to testify. The committee's equivocal findings, finalized on November 3, 1971, made matters worse. Compton did not address the legality of the five techniques, but instead tried to differentiate between "brutality" and "ill-treatment" by casting these terms as different degrees of physical abuse. The committee found no evidence of physical brutality, but determined that physical ill-treatment had occurred in the form of forced wall-standing, white noise, sleep deprivation, and the bread-and-water diet.[746] The committee also found that interrogations had followed the appropriate guidance regarding the treatment of detainees in a humane manner. The Compton report noted, however, that these rules were open to interpretation: "The precise application of these general rules is inevitably to some extent a matter of judgement on the part of those immediately responsible for the operations in question."[747] Ultimately, the report admitted that British forces had conducted physically violent interrogations through the use of the five techniques, but simultaneously denied that these measures constituted brutality or torture.

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down who was responsible for making the decision and then carrying it out. Those I spoke to either said they did not know it was happening, or, if they did, they were not responsible for it. The buck is passed with alacrity." Peter Taylor, *Brits: The War Against the IRA* (London: Bloomsbury, 2001).

[746] Hennessey, *The Evolution of the Troubles 1970-72*, 160–163.

[747] Taylor, *Brits: The War Against the IRA*, 69. See Edmund Compton, *Report of the enquiry into allegations against the security forces of physical brutality in Northern Ireland arising out of events on the 9th August, 1971* (London: HMSO, 1971), 12.

Prime Minister Heath also criticized the report, but from a different perspective—he believed that it went too far in accusing the security forces of ill-treatment. Heath called it "one of the most unbalanced, ill-judged reports I have ever read" and considered the number of ill-treatment cases "trivial" considering that over 300 people had been arrested. He further complained that the report did not put these actions into the "context of the war against the IRA." To Heath, the allegations should have been dismissed because the prisoners had refused to testify before the committee. Finally, he believed that "the consequences of this report" would "infuriate Commanders in the Army, undermine the position of the soldiers and RUC in Northern Ireland, and produce grave international repercussions for us."[748] Heath felt that any admission of culpability would undermine the security effort.

Hostile press coverage at home and abroad, the potential for a European Court of Human Rights case, and Heath's angry reaction to the Compton report resulted in Home Secretary Reginald Maudling's November 16, 1971 announcement of a second inquiry. Criticism of interrogation practices from Irish media—in both north and south—commenced soon after the implementation of internment, but the British press largely ignored the stories. This situation changed in September 1971, when the *Sunday Times* "Insight" team began publishing articles critical of the government's internment and interrogation policies in Northern Ireland. Defending the decision, Maudling told the Commons that "the principles applied in the interrogation of suspects in Northern Ireland and the methods employed are the same as those which have been used in other struggles against armed terrorists in which Britain has been involved in recent years." Even so, he continued, "Her Majesty's Government consider, however, that it would be right now to review them." After Maudling's announcement, Labour MP James Callaghan immediately compared the situation to Aden

[748] PREM 15/485 Letter to Cabinet Secretary, PM Minute No. M66/71, November 8, 1971.

and pressed Maudling on whether the security forces in Northern Ireland had exceeded their authority by employing interrogation techniques that were not permitted under the 1965 Joint Directive on Military Interrogation, which had been amended in 1967 after the Bowen Report. Maudling assured Callaghan that "I am entirely satisfied that the methods used have not gone beyond the rules."[749] Chaired by Lord Parker, the Lord Chief Justice of England, the resulting inquiry was intended to examine the extent to which British forces' conduct in Northern Ireland conformed to established practices, and whether such practices were legal.

As the Parker inquiry commenced, officials in the Ministry of Defence decided that the best way to convince commission members to allow interrogation in depth to remain in use was by casting the techniques as security measures rather than "softening up" procedures.[750] On November 23, Permanent Under-Secretary of Defence Sir James Dunnett convened a meeting with Vice Chief of the General Staff Sir Cecil Blacker—who had commanded British forces in the 1964 Radfan campaign—as well as the Director-General of Intelligence and Intelligence Coordinator Sir Dick White, a former head of MI5. At the meeting, they discussed the extent to which the five techniques formed an integral part of the interrogation process. Each official believed that interrogation in depth was vital to the collection of useful intelligence and had proven valuable in past conflicts such as Cyprus and Aden. They determined that the three primary techniques of wall-standing, hooding, and white noise were essential elements of the interrogation process because the measures served both security functions—so that a detainee could not identify other detainees or harm interrogators—and helped to "soften up" prisoners prior to questioning.[751] White described

[749] Hansard, HC Deb November 16, 1971 vol 826 cc216-18.

[750] This and the following analysis draws heavily from Newbery, "Intelligence and Controversial British Interrogation Techniques: The Northern Ireland Case, 1971-2."

[751] WO 32/21776 Note of a meeting held by PUS on 23 November 1971 to discuss a draft historical paper, November 25, 1971.

how the techniques satisfied the vital "psychological attack" aspect described in the Joint Directive on Military Interrogation. The prisoner, according to White, "must be brought to realise that he is now entirely alone, and above all, completely severed from connections with his former comrades who can neither help him further nor condemn him nor exact reprisals upon him." Despite their effectiveness for "softening up" prisoners prior to interrogation, White believed that techniques such as wall-standing, hooding, and white noise should be portrayed solely as security measures. MOD should not, in his view, present the procedures to the Parker commission as "softening up" measures because using the techniques for reasons other than security could "lay us open to possible charges of physical assault."[752]

When published in March 1972, the Parker inquiry's results exposed a division within the committee over whether the five techniques were justifiable. In addition to Lord Parker, the commission also included Privy Counsellors John Boyd-Carpenter, a Conservative MP, and Lord Gardiner of the Labour Party. They were appointed to consider whether to amend interrogation procedures for terrorism suspects. After reviewing 25 written representations from the public, 10 from organizations, and hearing oral testimony from 33 witnesses, the committee members could not reach a consensus on their final recommendations. Instead, they submitted two reports—a majority report written by Parker and Boyd-Carpenter as well as a minority report authored by Lord Gardiner.[753]

In the majority report, Parker and Boyd-Carpenter asserted the legality of the five techniques and claimed them to be morally justified because they proved effective. Parker and Boyd-Carpenter concluded that interrogation was legally limited to the procedures authorized by the Joint Directive on Military Interrogation. They insisted that the Joint Directive "fairly set out the obligations under the Geneva Convention and those to whom it is

[752] DEFE 13 /918 Privy Councillor's Enquiry: Note by the Intelligence Co-ordinator, undated.

[753] WO 296/25 Report of the Committee on Interrogation Procedures (Parker Report), January 31, 1972, p.2.

addressed are enjoined to comply with them." In addition, the majority report excused the use of the five techniques because "there is no doubt that when used in the past these techniques have produced very valuable results in revealing rebel organisation, training and 'Battle Orders'." The authors of the majority report claimed "we do not subscribe to the principle that the end justifies the means," yet that was the position they adopted. Parker and Boyd-Carpenter implied that the techniques themselves were not the problem. Instead, the techniques were only morally questionable if used improperly. According to the report, "There is of course a danger that, if the techniques are applied to an undue degree, the detainee will, either consciously or unconsciously, give false information." But, the authors argued, "subject to proper safeguards limiting the occasion on which and the degree to which they can be applied, would be in conformity with the Directive." The morality of the issue lay in the "intensity with which these techniques are applied and on the provision of effective safeguards against excessive use." According to the majority report, as long as the techniques were effective in extracting information and used safely, their use was justifiable.[754]

Lord Gardiner's minority report highlighted the interrogation methods' illegality. Gardiner agreed with Parker and Boyd-Carpenter that the Joint Directive was the key document requiring interpretation, but Gardiner argued that "if any document or Minister had purported to authorise them [the interrogation procedures], it would have been invalid because the procedures were and are illegal by the domestic law and may also have been illegal by international law." Gardiner noted that the Joint Directive instructed interrogators "to follow the principles laid down in Article 3 of the Geneva Convention" of 1949, which prohibited "outrages upon personal dignity, in particular, humiliating and degrading treatment." Under domestic law, Gardiner continued, "where a man is in lawful custody it is

[754] WO 296/25 Parker Report, 3-11.

lawful to do anything which is reasonably necessary to keep him in custody but it does not further or otherwise make lawful an assault." Wall-standing and forced hooding amounted to assault and were therefore "both a tort and a crime." Deprivation of sleep and food restrictions fell into the same category, unless authorized as a punishment under prison rules. Gardiner surmised that "no Army Directive and no Minister could lawfully or validly have authorised the use of the procedures. Only Parliament can alter the law. The procedures were and are illegal."[755]

Besides legal considerations, Gardiner rejected the five techniques because of their effects on detainees' health and well-being. Regardless of the information obtained through the five techniques, Gardiner argued, these methods created enduring, traumatic health problems. Eleven of the 14 detainees subjected to the five techniques reported physical injuries. Medical evidence indicated that at the noise level used during interrogation—85 decibels—a temporary 8% loss of hearing was possible, as well as some permanent hearing loss. Mentally, medical research suggested that sensory isolation could induce artificial psychosis or episodes of insanity. Such psychological distress could last for months or years after interrogation. In addition, Gardiner noted, some of the men subjected to the five techniques had appeared cooperative from the beginning, suggesting that interrogation in depth was unnecessary. Information could have been obtained without resort to such harsh measures.[756]

Because the five techniques were illegal, Gardiner concluded that the most pressing question was whether to recommend that Parliament pass legislation authorizing the techniques. His answer was a resounding "no" because of the moral dilemma inherent in the authorization of a degree of physical violence against suspects who may or may not be guilty

[755] Ibid., 17-19.

[756] Ibid., 21-23.

of a crime and because medical evidence indicated that the threshold at which physical or mental trauma could cause lasting harm varied tremendously from person to person. In essence, the techniques could not be used "safely," as the majority report suggested.[757]

The Parker inquiry majority report and the Compton report revealed the persistence in government of a tendency to disguise brutality by denying wrongdoing, protecting members of the Security Forces from legal censure, and manipulating public perceptions. The Compton report called interrogation methods "ill-treatment," but fell short of labeling them as brutality or torture. The Parker majority report justified inflicting physical harm in the course of interrogation on the basis of doing it "safely" and within limits. This interpretation placed the onus of authority on lower levels of leadership, such as local commanders at the interrogation facility. By doing so, the majority report interpretation removed superior officers' responsibility for subordinates' actions. It absolved senior military and civilian leadership from accountability for possible "mistakes" that could result in serious injury to a prisoner or death. Similar attempts to justify British actions in Cyprus, in response to the Greek government's applications under the European Convention on Human Rights and the Famagusta and Geunyeli incidents, as well as the decision to deny Red Cross access to the Radfan and the Bowen report in Aden, demonstrated a distinct continuity in the way in which successive governments—from Whitehall to the colonies—responded to public criticism over rights violations during counterinsurgencies.

Despite the Compton and Parker inquiries' limitations, the subsequent reports signaled a significant difference between how interrogation matters were dealt with during colonial wars of the 1950s and 1960s and the campaign in Northern Ireland. These inquiries resulted from and further stimulated public discussion of state violence. For the first time

[757] Ibid., 26-27.

since the Second World War, soldiers, bureaucrats, elected officials, and informed members of the public engaged in a substantive and persistent public debate over counterinsurgency violence such as coercing civilians and torturing prisoners. When compared with past colonial campaigns, holding two Parliamentary inquiries within six months on the same issue—especially one as sensitive as interrogation—was unprecedented. Nor did these reports end public debate. Instead, Lord Gardiner's minority report emboldened the government's critics. Lord Parker and Boyd-Carpenter argued in their majority report that as long as the techniques were used safely, they could continue. Lord Gardiner's minority report challenged the validity of those rules and the majority report's assumption of safety so vociferously that opponents of the government's interrogation practices launched renewed criticisms. In Northern Ireland, Gerry Fitt, of the nationalist SDLP, called the minority report a "damning indictment" and suggested that many of those interrogated would pursue legal action against the British government. In Ireland, "the Parker proposals were rather coldly received by members of all three parliamentary parties, who felt that condemnation of the in-depth interrogation techniques should be complete and unequivocal."[758]

Criticism from the Irish government and Northern Irish Catholics left far-reaching repercussions. Irish government officials believed that public opinion in the Republic was such that people would not accept government inaction over internment and interrogation. Catholics in the north also wanted the Irish government to do something. The Compton and Parker reports had not improved this perception. On November 30, 1971, after the Compton report's release, the Irish Cabinet resolved to take action against Britain for violating the European Convention on Human Rights. Such action, said Hugh McCann of the Irish Ministry of External Affairs, "would inevitably make the British much more careful in their

[758] Simon Hoggart, "Gardiner Report 'an indictment,'" *The Guardian*, March 3, 1972.

handling of detainees" and "would make it more difficult for them to make progress in the direction of a military solution." If the British believed that a military solution was obtainable, McCann warned, "there would be less incentive for them to take unpalatable political action."[759] In December 1971, the Irish government lodged an inter-state application against the UK with the European Commission for Human Rights. Application 5155/71, as the Irish complaint was known, alleged that by ordering internment, Britain had violated Articles 5, 6, and 14 of the Convention, which protected an individual's rights to liberty, a fair trial, and right to be free from discrimination.[760]

Faced with the prospect of proceedings before the European Commission for Human Rights and the deteriorating political situation in Northern Ireland, Heath spied the opportunity to make a political concession on the use of the five techniques while retaining the option of employing harsh methods in the future. He believed that the situation in Northern Ireland was desperate and required drastic action to alleviate nationalist resentment over the internment and interrogation controversies.[761] With the publication of the Parker reports, Heath admitted that the five techniques had been officially approved. Furthermore, he stated that the techniques would no longer be used. The Joint Directive on Military Interrogation was also updated, with a new version approved by the Joint Intelligence Committee in June 1972. Yet despite these admissions, Heath insisted that the five techniques had saved innocent lives. He refused to concede that the techniques were illegal or inappropriate.[762] In doing so, Heath had done what his forebears in Cyprus and Aden had not—placed specific legal restrictions on the use of force during interrogation operations.

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[759] As quoted in Hennessey, *The Evolution of the Troubles 1970-72*, 163–164. Original from NAI D/T 2002/8/495 NcCann Note, Samhain 18, 1971.

[760] Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 61–68.

[761] McKittrick and McVea, *Making Sense of the Troubles*, 74–79.

[762] Newbery, "Intelligence and Controversial British Interrogation Techniques," 118.

Heath had multiple reasons for banning the five techniques.[763] One reason was the desire to prevent interrogators from facing domestic prosecution. The Parker Committee concluded that at least some of the five techniques amounted to common assault under English law. But in Northern Ireland—which was a separate jurisdiction—the five techniques were the subject of a pending court case. Since they did not wish to prejudice the decision of a court, the Parker Committee did not offer a judgment on the five techniques' legality in Northern Ireland.[764] Although the Parker Committee managed to side-step the question of legality in Northern Ireland, Heath's government had to consider the potential consequences if the court case ended unfavorably. Sir Burke Trend summarized the government's available options: "If the recommendation [of the majority report] is not accepted, those taking part in the [interrogation] operation would be legally at risk." Interrogators could therefore face civil claims and, possibly, criminal charges. If the government did not accept the majority report, ministers who wished to legally protect members of the Security Forces implicated in the interrogation controversy would have to justify their actions by overcoming Lord Gardiner's powerful moral objections. "The implication of this dilemma," Trend continued, "is that Ministers might well feel that they could not for some time . . . authorise the use of techniques of this kind in support of interrogation."[765] MOD and Home Office officials also sought to protect servicemen who could face civil or criminal charges. MOD and the Home

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[763] Commentators are divided over the implications of Heath's ban on the five techniques. Samantha Newbery argues that "the decision to issue new interrogation guidelines, decisions on their form and the pressure caused by the case before the European Commission of Human Rights were between them some of the most tangible effects" on the British government. In contrast, Ian Cobain calls Heath's ban a bureaucratic "sleight of hand" because the Joint Directive was split into two parts. Part I was published and included the ban on the five techniques. Part II, however, existed in draft form so that it could permit the five techniques unofficially. Part II was concealed from the public and from the European Commission for Human Rights when the Commission heard evidence on the Irish government's application. Cobain insists that Heath knew of these omissions. Cobain, *Cruel Britannia: A Secret History of Torture*, 163–164.

[764] PREM 15/1035 Private Secretary to Prime Minister, February 17, 1972.

[765] PREM 15/1035 Private Secretary to Prime Minister, February 8, 1972.

Office agreed that in civil actions, the government would "continue to protect the identities of the individuals concerned and their costs and any damages would be paid by the Crown." In terms of criminal cases, "if the possibility of a more serious penalty such as imprisonment was involved we should resort to an Act of Indemnity on an individual basis."[766] Interrogation could continue, but to prevent potential legal action against individual interrogators, the five techniques would have to go.

A public repudiation of the five techniques would undermine allegations at the European Commission of Human Rights that the British government had officially tolerated torture. By disassociating itself from the five techniques, Britain could better defend its position at Strasbourg. According to the Attorney General, "the risk that the Commission would, at the end of the day, make a finding, on the complaint of ill-treatment, which would seriously affect the reputation of Ministers or the Army would accordingly be substantially reduced." Disclosing sections of the Joint Directive, newly revised based on the Parker report, to the European Commission would provide "substantial evidence of practical steps taken by the United Kingdom administration to prevent ill-treatment, which would rebut the allegation of official toleration."[767] When the Irish government's case was finally heard in 1976, British lawyers argued that the application should be terminated because Britain had already conducted an inquiry and Heath had already ordered an end to the five techniques.[768]

There was also the practical consideration that much useful intelligence had already been collected. Internment and interrogation in depth led to an intelligence boon as interrogators could now use the information they received from questioning captured IRA operatives to identify Provisional and Official IRA organizational structures, operational

[766] PREM 15/1035 Jeffs to Roberts, March 1, 1972.

[767] PREM 15/1709 Attorney General to Prime Minister, February 23, 1973.

[768] Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 150.

plans, possible targets, and capabilities. One MOD assessment determined that approximately 75% of weapons found since the introduction of internment came from information gathered directly or indirectly through interrogation in depth and that "ten of these men provided large quantities of information of great value to the security forces."[769] In short, Operation Calaba was a massive military success. By the time the five techniques were abandoned, the security forces had developed a much stronger understanding of the threat they faced and could act against both the Provisional and Official IRA much more effectively than previously.[770] The government had realized by December 1971 that a military solution was not sufficient—a political arrangement was necessary to end the violence. Heath had to accept the sectarian divide as a fact of life and find a political solution that incorporated sectarian politics into a mutually agreeable framework.[771] By acquiescing to nationalist sentiments on the issue of interrogation in depth, Heath could appear willing to compromise on political initiatives.

Heath's search for a political solution suffered a tragic setback when, on January 30, 1972, soldiers from the Parachute Regiment killed 14 people during a Londonderry protest march in one of the most significant incidents of the Troubles—Bloody Sunday. After the introduction of internment, NICRA planned a protest march in Derry. The march attracted thousands of participants. British troops expected that the march would descend into violence because IRA attacks had recently increased. Between January 28-30 alone, soldiers encountered 13 shooting incidents in Londonderry.[772] Early in the day, some protesters initiated violent confrontations with soldiers, including stone-throwing and rifle fire. By late

[769] DEFE 23/110, Interrogation in Northern Ireland: An Assessment of Local Factors Affecting its Operation and a Record of its Value in Security Force Activities.

[770] Hennessey, *The Evolution of the Troubles 1970-72*, 214–219.

[771] Neumann, *Britain's Long War*, 58–63.

[772] BSI Report, Vol. I, 9.27.

afternoon, the senior British commander, Brigadier MacLellan, authorized Lieutenant Colonel Derek Wilford of 1st Battalion, The Parachute Regiment, to mount an arrest operation targeting violent protestors. Wilford dispatched his Support Company to conduct the arrests, but Support Company went beyond the area in which MacLellan had authorized Wilford to make arrests. Upon entering Rossville Street, soldiers from Support Company opened fire on several unarmed civilians who had not been involved in the earlier confrontations.[773]

Coming in close succession after internment and the interrogation controversies, Bloody Sunday further alienated Northern Irish nationalists, infuriated many in the south, and provoked paramilitary attacks from both factions of the IRA. Father Edward Daly, a Catholic priest in Derry, recalled that many Catholic youths grew increasingly militant as a result of Bloody Sunday.[774] To Sean Collins, a 10-year-old boy who witnessed the events, "Bloody Sunday changed a lot of things for me. Up to that day I always believed that the British Army were the good guys. All my innocence in that regard was lost. I had no illusions about what the Brits were like and I had no sympathy when I heard subsequently about British soldiers being shot."[775] Another witness, Pauline Ferry, described her recollection of the events as "just the shock of it all—the shock that live gunfire was used at such a big crowd."[776] Shock and alienation could also describe the reactions of many in the Republic. Jack Lynch, Taoiseach of the Republic of Ireland, declared a national day of mourning.[777] On February 2, nearly 20,000 people gathered around the British Embassy in Dublin. Some within the crowd

[773] BSI Report, Vol. I, 3.1-3.42.

[774] McKittrick and McVea, *Making Sense of the Troubles*, 77.

[775] BSI, AC74 Sean Collins statement.

[776] BSI, AF15 Pauline Ferry statement.

[777] "Taoiseach" is the Republic of Ireland's head of government.

petrol bombed the embassy.[778] In addition, both the Provisional and Official IRA launched offensives against British forces. An Official IRA attack on The Parachute Regiment's headquarters in Aldershot killed 7 people.[779] Meanwhile, the Provisionals planted a car bomb on Donegall Street, in Belfast's city center, that killed six and wounded 150.[780]

In March 1972, Heath imposed Direct Rule on Northern Ireland because Stormont leaders proved unwilling to make the reforms necessary to stop the fighting. In the aftermath of Bloody Sunday, Stormont Prime Minister Brian Faulkner told Heath that internment should continue as a means of promoting security. Faulkner also opposed political moves such as guaranteeing Catholic inclusion in government and did not want to pursue the option of a coalition unionist-nationalist government. When the SDLP refused to participate in any cross-party conference toward a political agreement, Heath lost confidence in the Stormont system. Stormont now lacked legitimacy not only in the eyes of the Catholic minority, but also from the perspective of the British Cabinet.[781] On March 22, the Cabinet voted to suspend Stormont's authority and placed a Secretary of State for Northern Ireland in charge. Heath appointed William Whitelaw as the first Northern Ireland Secretary. Whitelaw had a seat in the UK cabinet and ruled through the Northern Ireland Office.[782]

Violent clashes throughout the months following Bloody Sunday, which culminated in the Provisional IRA's July 21 "Bloody Friday" bombings in central Belfast, elicited a large-scale military response from the British Army. The following day, 2,000 soldiers raided

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[778] Hamill, *Pig in the Middle*, 93–94. Simon Hoggart, "Rioters and police clash after embassy burns," *The Guardian*, February 3, 1972.

[779] McKittrick and McVea, *Making Sense of the Troubles*, 78.

[780] Tony Geraghty, *The Irish War: The Hidden Conflict between the IRA and British Intelligence* (Baltimore, MD: The Johns Hopkins University Press, 2000), 66–68.

[781] Hennessey, *The Evolution of the Troubles 1970-72*, 320–334; McKittrick and McVea, *Making Sense of the Troubles*, 82.

[782] Mulholland, *The Longest War*, 104–105.

Catholic neighborhoods throughout Belfast. Two days after the bombing, General Sir Michael Carver, Chief of the General Staff, decided that the Bloody Friday attacks amounted to a significant escalation. He decided to mount Operation Motorman—the reopening of "no-go" areas in nationalist neighborhoods. Motorman was the largest military operation since the 1956 Suez Canal intervention. It involved 22,000 regular army troops and 5,300 from the UDR.[783] The goal was to tear down barricades erected in Catholic "no-go" areas as well as Protestant neighborhoods, opening those areas to increased army patrolling and government control. Paramilitary resistance from both nationalist and unionist groups was minimal, although British troops had anticipated fierce firefights. Within days, Motorman had succeeded in its objective of reestablishing control over the "no-go" areas.[784]

Security operations throughout 1971-72 severely strained both factions of the IRA. Internment without trial provided British forces with the ability to arrest anyone they suspected of paramilitary sympathies. As in Cyprus and Aden, brutal interrogation methods in Northern Ireland generated a windfall of intelligence that security forces used against republican paramilitaries to good effect during Operation Motorman. Driven out of no-go areas in the cities, the IRA increased operations along the border with the Republic of Ireland.[785] But these British military gains came with significant political costs. Internment without trial, interrogation in depth, and the break-up of "no-go" areas during Operation Motorman contributed to the near-total alienation of nationalists and unleashed an unrelenting flood of public scrutiny—scrutiny which would grow throughout the 1970s.[786]

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[783] Smith and Neumann, "Motorman's Long Journey: Changing the Strategic Setting in Northern Ireland," 414.

[784] Andrew Sanders, "Operation Motorman (1972) and the Search for a Coherent British Counterinsurgency Strategy in Northern Ireland," *Small Wars & Insurgencies* 24, no. 3 (July 2013): 479–482.

[785] Hennessey, *The Evolution of the Troubles 1970-72*, 345–347.

[786] Sanders, "Operation Motorman (1972) and the Search for a Coherent British Counterinsurgency Strategy in Northern Ireland," 482.

Debating the Troubles

Public debate over military methods in Northern Ireland endured because the war's context differed from colonial conflicts such as Cyprus and Aden in four key ways. The first was constitutional. Northern Ireland's status as part of the United Kingdom meant that residents had political representation at Westminster. Unlike Cyprus, Aden, or other colonies, Northern Ireland was a political constituency with a direct influence on British electoral politics. This distinction bore significant consequences for public debate over the conflict because both Northern Irish nationalists and unionists could wield influence in Parliament in a way that Greek Cypriots or Arabs in Aden never could—they could get elected.

Northern Irish nationalist members of the House of Commons used Westminster as a forum for promoting political reforms in Northern Ireland. Gerry Fitt, the MP representing West Belfast, attended an October 5, 1968 civil rights rally in Derry and was famously beaten by the RUC in front of several television cameras. Images of blood streaming down his head were broadcast across Britain and Ireland.[787] Bernadette Devlin, Catholic civil rights activist and leading member of the radical student group People's Democracy, routinely and energetically attacked British security policy in Northern Ireland. Elected to the House of Commons in a 1969 Westminster by-election, at age 21 Devlin was the youngest woman ever elected to Parliament. Devlin attracted significant media attention when she used her maiden speech to attack the Stormont regime. In doing so, she defied the tradition of MPs delivering uncontroversial maiden speeches.[788] The pressing need for political reform highlighted by Opposition MPs contributed to the government's 1973 white paper initiative entitled *Northern Ireland Constitutional Proposals*. The white paper advocated a system of

[787] Coogan, *The Troubles*, 73.

[788] Hansard, HC Deb April 22, 1969 vol 782 cc281-288.

proportional representation, devolved government, and formal relationships between Northern Ireland and the south. This path toward reform eventually came to fruition during the 1973 Sunningdale conference, although the resulting power-sharing executive collapsed due to unionist resistance.[789]

Unionists also exerted influence at Westminster. Most MPs from Northern Irish constituencies came from the majority unionist community. After the February 1974 election, for instance, unionists won 11 of Northern Ireland's 12 Westminster seats. Unionists, too, used Westminster as a platform to pursue their agendas. Ulster Unionist Party MPs often aligned with the Conservative Party in Westminster politics. MPs such as Robin Chichester-Clark played an important role in facilitating cooperation between Westminster unionists and Britain-based Tories. This close relationship was strained in Mach 1972, when the Conservative government imposed Direct Rule. But unionist MPs kept close relations with hardline Tories such as Julian Amery and sympathetic backbenchers. Unionists at Westminster were therefore able to maintain pressure on the Heath government throughout the early 1970s. Some unionist political figures, such as the firebrand Reverend Ian Paisley, were more willing to accept Direct Rule.[790] Perhaps best known for militant, anti-Catholic sermons, Paisley used his seat to campaign against the Sunningdale power-sharing agreement as an unwanted step toward a united Ireland and objected to UK membership in the European Economic Community. He advocated for a strong security apparatus in Northern Ireland and a return to devolved government by majority rule. Dissention within unionist ranks over the

[789] McKittrick and McVea, *Making Sense of the Troubles*, 87–114.

[790] Alvin Jackson, "Tame Tory Hacks? The Ulster Party at Westminster, 1922-72," *The Historical Journal* 54, no. 2 (2011): 453–75.

future of political devolution meant that Ulster unionists' influence at Westminster declined during the 1970s.[791]

A second difference between colonial contexts and the war in Northern Ireland was that the beginning of the Troubles coincided with international transformations in the field of civil society and human rights. Populist and radical politics were at the forefront of the waves of global protests in 1968.[792] Human rights concepts also experienced a resurgence which began in the late 1960s and accelerated throughout the 1970s. Historian Samuel Moyn described this process in Eastern Europe as a "moralization of dissent."[793] In Western Europe and the United States, left-wing activists and political parties embraced the moral language of human rights and used it to serve domestic or foreign policy purposes. Human rights issues achieved a particularly high profile in the United States during the second half of the 1970s under President Jimmy Carter.[794] For British politicians, the question over whether the UK should incorporate the European Convention on Human Rights emerged as a political issue after the UK's accession to the European Communities in 1973.[795] Human rights law also gained prominence in British and European politics. The European Commission on Human Rights and the European Court of Human Rights had delivered few jurisprudential decisions during the 1950s and 1960s. These decisions, however, established important precedents for European human rights law and outlined the scope and responsibilities of the European

[791] Graham Walker, *A History of the Ulster Unionist Party: Protest, Pragmatism, and Pessimism* (Manchester, UK: Manchester University Press, 2004), 212–285.

[792] See, for example, Martin Klimke, *The Other Alliance: Student Protest in West Germany and the United States in the Global Sixties* (Princeton, N.J.: Princeton University Press, 2010); Jeremi Suri, *Power and Protest: Global Revolution in the Age of Detente* (Cambridge, MA: Harvard University Press, 2003).

[793] Samuel Moyn, *The Last Utopia: Human Rights in History* (Harvard University Press, 2010), 166.

[794] Barbara Keys, *Reclaiming American Virtue: The Human Rights Revolution of the 1970s* (Cambridge: Harvard University Press, 2014), 214-268.

[795] James E. Cronin, Global Rules: America, Britain and a Disordered World (Yale University Press, 2014), 65-69.

Commission and European Court of Human Rights. By the 1970s, these institutions were established and began to expand their purview.[796] This global revival and re-appropriation of human rights ideas had a profound, transformative effect on international politics and inspired greater support for ideas of justice and universal individual rights..

The war in Northern Ireland proved to be one of the British government's most pressing human rights concerns, but British politicians often found themselves on the receiving end of rights criticisms. During and after the internment and interrogation controversies of 1971-72, activists in Northern Ireland continued to denounce British security measures through pamphlets and reports documenting perceived abuses. NICRA complained about the army's persistent patrolling, claiming that "massive British Army presence in anti unionist areas is a harassment in itself" because "constant foot patrols and speeding army vehicles" conveyed the impression that soldiers behaved "like an army of occupation." The army was "not accepted as a peacekeeping force, and in the people's eyes they have taken the place of the hated Royal Ulster Constabulary."[797] One report recorded the events of a series of army searches from January 12 to 14, 1972 in the New Lodge Road community. According to NICRA, "everyone, men, women and children were searched without exception, many so frequently over the three days that they had forgotten how often houses were searched." Search operations enraged the New Lodge Road residents because "men were arrested in an area where almost every young male has at one time been arrested and interrogated by the Army or Police. Some of these men were subject to the most cruel torture." The document included a statement from Gerrard McAttamney, who complained that he had been beaten by being "made to run a gauntlet of soldiers who pushed and hit as I

[796] Mikael Rask Madsen, "'Legal Diplomacy' - Law, Politics and the Genesis of Postwar European Human Rights," in Stefan-Ludwig Hoffmann, ed. *Human Rights in the Twentieth Century* (Cambridge, UK: Cambridge University Press, 2011), 75–79.

[797] NIPC P1076-NICRA, Dossier on harassment and brutality by the British army, 1972.

ran." He was later handed over from army to RUC custody, where constables asked him whether he had any complaints against the army for his treatment. "I was so terrified," McAttamney said, "I said no and signed a document saying so."[798]

Other NGOs also contributed to the chorus of critics attacking British security practices. The Association for Legal Justice joined with NICRA to submit a report entitled *British Government Violations of Human Rights in N. Ireland.* The report was intended to present evidence indicating that British forces had committed a "consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms." The authors argued that internment without trial violated right to liberty and security of the person, unlawful killings routinely occurred in Catholic working class neighborhoods, and prisoners were subjected to physical and psychological brutality during interrogation. The Association for Legal Justice insisted that the British government was applying a "military solution to a political problem" through persistent intimidation of the local population, the use of excessive force, discriminatory treatment of Catholics, and the absence of effective domestic legal remedies.[799] Judicial proceedings mattered little, as security forces would often re-arrest individuals outside the courtroom after they had been acquitted. Under internment without trial, those arrested could be held indefinitely.[800]

In October 1973, Amnesty International's Irish Section organized a conference on the abolition of torture. One speaker at the conference, Professor D. Russell Davis of the Department of Mental Health, Bristol University School of Medicine, criticized the Joint Directive on Military Interrogation. *The Irish Times* reported Davis as saying that "the

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[798] NIPC P2116-NICRA, Behaviour of the British Army in North Belfast, January 1972.

[799] CJ 4/605 NICRA, "British Government Violations of Human Rights in N. Ireland," 1973, p.3 and CJ 4/605 NICRA and Association for Legal Justice, "Communication Concerning Violations of Human Rights in Northern Ireland," July 25, 1973.

[800] CJ 4/605 McCann to Farrington, February 11, 1974.

official comments were confused, even if not contradictory." Davis described how the Joint Directive stated that "successful interrogation . . . calls for a psychological attack" yet simultaneously prohibited "outrage upon personal dignity, in particular, humiliating and degrading treatment." Such statements, Davis said, reflected "serious naivety and obtuseness in psychological matters on the part of the authors of the joint directive." More troubling, he noted, was that none of the Joint Directive's guidelines specified precise limits on the methods available to interrogators. The permissibility and appropriateness of one procedure or another would, by this standard, come down to a matter of opinion. Other critics of interrogation methods in Northern Ireland used the conference to voice their arguments against brutality and torture. Catholic priests Denis Faul and Brian Brady argued that the Compton report was particularly flawed because it did not include testimony from detainees subjected to the five techniques—although those detainees had refused to cooperate with Compton.[801]

Amnesty's interest in torture allegations from Northern Ireland formed part of a broad initiative. On December 3, 1973, Amnesty published a 224-page *Report on Torture* addressing torture as a government-sponsored phenomenon around the world. The document was part of Amnesty's global Campaign for the Abolition of Torture and preceded the organization's international Conference for the Abolition of Torture, held in Paris in December 1973. The *Report on Torture* exposed a lack of legal remedies for torture victims in several countries including Northern Ireland. Examining allegations made against over 60 countries, the *Report* amounted to a "world survey of torture" and an indictment of communist regimes, right-wing dictatorships, and democratic states alike.[802] In February 1974, building on its anti-torture campaign, Amnesty announced its intention to adopt several

[801] Dick Grogan, "Damage Caused by Torture Studied by Amnesty Group," *The Irish Times*, October 8, 1973.

[802] CJ 4/603 Amnesty International News Release, December 3, 1973.

prisoners held in Northern Ireland. Amnesty asked for the Association for legal Justice and NICRA to submit a list of names for potential sponsorees. *The Guardian* reported that Amnesty would continue to support adopted prisoners until "the weight of public opinion forces the British Government to free the prisoner."[803]

In Britain, activist groups critical of government policies included the left-wing Troops Out Movement (TOM) and the British Society for Social Responsibility in Science (BSSRS). TOM campaigned for a British withdrawal from Northern Ireland and self-determination for Ireland as a whole. TOM was formed in September 1973 by left-wing student activists, trades unionists, and Irish expatriates living in Britain. British military intelligence believed that the organization had close ties with various Marxist groups such as the International Marxist Group and Socialist Workers' Party.[804] The group's first major event was a public meeting in Fulham Town Hall, after which the movement spread throughout England, Scotland, and Wales over the next several years.[805] BSSRS was an organization of left-wing scientists, scholars, and engineers. Active in causes such as the Campaign for Nuclear Disarmament and maintaining close links with TOM's leadership, BSSRS published a 1974 report which criticized the Compton report as "a blatant cover up" and described the psychological aspects of interrogation. According to BSSRS, the security forces' interrogation methods led to "long-lasting traumatic neuroses comparable with shell-shock caused by over-long intense combat in war-time." Moreover, BSSRS claimed, "the Army must have known that this was the likely effect of their methods—certainly this was

[803] "Ulster prisoners adopted," *The Guardian*, February 4, 1974 and "Amnesty to adopt N.I. prisoners," *The Irish Times*, February 4, 1974.

[804] Michael Dewar, *The British Army in Northern Ireland* (London: Arms and Armour Press, 1985), 241.

[805] For TOM's official history, see http://www.troopsoutmovement.com/.

predicted by a number of non-Army psychologists and psychiatrists as soon as the interrogation methods became public knowledge.[806]

Although NGOs actively promoted human rights in Northern Ireland, prominent government figures supported human rights through legal reform. Labour peer Lord Brockway developed close relationships with Northern Irish civic organizations such as NICRA and the Campaign for Social Justice.[807] In 1971, Brockway chastised the government for adopting internment, demanded public trials for the internees, and called for "a constructive political plan for civil rights, no religious discrimination, proportional representation, and an urgent economic plan to end the appalling unemployment and housing difficulties."[808] Throughout the Northern Ireland conflict Brockway advocated the creation of a Bill of Rights for Northern Ireland to end discrimination. His Bill of Rights received support from the National Council for Civil Liberties and NICRA, among others.[809] Another advocate of law reform and author of the Parker inquiry's minority report, Lord Gardiner, chaired the 1975 Gardiner Committee, which found that detention without trial was necessary for reducing violence but deemed the way these procedures operated in practice as "totally alien to ordinary trial procedures." Gardiner believed that too much evidence depended on hearsay, *in camera* sessions, and the use of screens and voice scramblers to cloak witnesses' identities. This system, according to Gardiner, had tarnished the judicial process in Northern

[806] NIPC P1097a-British Society for Social Responsibility in Science, "The New Technology of Repression: Lessons from Ireland," 1974, pp.3, 30.

[807] CAIN Web Service. NICRA, *"We Shall Overcome" .... The History of the Struggle for Civil Rights in Northern Ireland 1968 - 1978* (1978). Accessed 1 May 2015. http://cain.ulst.ac.uk/events/crights/nicra/nicra781.htm.For Brockway's 1970s correspondence with many groups regarding Northern Ireland, see FEBR 47-220a-g.

[808] Hansard HL Deb October 11, 1971 vol 324 cc197-200.

[809] For Brockway's correspondence, see FEBR 47-220a-b.

Ireland and needed to be replaced. His findings led to the government's decision to eliminate internment.[810]

Unlike the Cyprus and Aden conflicts, human rights activism resulted in the establishment of government institutions designed to promote human rights. Created under the Sunningdale Agreement, Northern Ireland's Standing Advisory Commission on Human Rights (SACHR) was the first government-appointed human rights body established in the United Kingdom. It survived the collapse of the Sunningdale power-sharing executive and released its first annual report in 1975. Although nationalist activist groups such as NICRA initially responded skeptically to the creation of SACHR and many right-wing politicians reacted with outright hostility, rights activists' opinions shifted as SACHR adopted political positions in line with their aspirations.[811] SACHR's 1977 annual report insisted that legislation was the best way to protect rights in Northern Ireland. Entitled, "The Protection of Human Rights by Law in Northern Ireland," the report suggested that the European Convention on Human Rights could form the basis of a domestic Bill of Rights. Advocacy for a Bill of Rights remained a core element of SACHR's platform for the next two decades. The European Convention later formed the basis for the 2000 UK Human Rights Act.[812]

Internationally, British policymakers faced pressure from Irish-Americans in the United States. The Northern Ireland conflict generated significant sympathy among working class Irish-Americans, many of whom were first- or second-generation immigrants. Support for republican groups took the form of monetary donations which sometimes funded paramilitary activities, particularly through the Irish Northern Aid Committee (NORAID).

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[810] Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 57–58.

[811] For NICRA's initial objections, see LHL NIPC P1051 "The Feather Commission . . . Obstruction to Justice?" NICRA, 1975. For Conservative MPs' opposition, see John Biggs-Davison and Enoch Powell's statements in Hansard HC Deb June 20 1973 vol 858 cc800-1.

[812] CJ 4/3572 "SACHR Proposal for a Bill of Rights in NI," Background Note, 1980.

But Irish-American interest in the conflict also resulted in the 1974 establishment of the Irish National Caucus by Catholic priest Father Sean MacManus. MacManus was born in Northern Ireland and left the island in 1972 before settling in Washington, D.C., where he began his career as a lobbyist. Irish-American lobbyists became increasingly active during the late 1970s and early 1980s on issues of justice and human rights. They gained influence in both houses of Congress through the advocacy of Congressman Tip O'Neill and Senator Ted Kennedy. In 1977, joined by Senator Daniel Moynihan and New York Governor Hugh Carey, these politicians issued a "Saint Patrick's Day declaration" which denounced violence in Northern Ireland and called for a new political initiative to bring peace. Many Irish-American groups lobbied for the release of the Birmingham Six—Irishmen arrested, falsely accused, and convicted of having committed the 1974 Birmingham pub bombings. Sixteen years after their conviction, the Birmingham Six were released after human rights lawyers discovered that police had fabricated evidence.[813]

Allegations of British human rights violations routinely surfaced at the United Nations and the increasingly active European Commission for Human Rights. UN Economic and Social Council Resolution 1503 of 1970 authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a working group on issues which "appear to reveal a consistent pattern of gross and reliably attested violations of human rights." As the Northern Ireland conflict escalated through the early 1970s, human rights petitions began to arrive. In July 1973, NICRA and the Association for Legal Justice submitted information concerning security force violations of civil and political rights. These two documents went before the working group in September 1973, creating a potentially

[813] Jack Holland, *The American Connection: U. S. Guns, Money and Influence in Northern Ireland* (New York: Viking, 1987); Andrew Wilson, *Irish America and the Ulster Conflict, 1968-1995* (Washington, DC: Catholic University of America Press, 1995); James Byrne, Philip Coleman, and Jason King, *Ireland and America: Culture, Politics, and History* (Santa Barbara, CA: ABC-CLIO, 2008), 651.

embarrassing situation for the British government. Diplomats at the Foreign and Commonwealth Office (FCO) noted that "these two communications, and the way in which the UN deals with them, are of very considerable importance to HMG." For Britain, the Sub-Commission's reaction to the NICRA submission was of primary importance because it was "a potentially more embarrassing document" than the Amnesty report.[814]

At the UN, British policy attempted to reconcile the competing interests of promoting human rights internationally while simultaneously mitigating criticism of domestic British actions in Northern Ireland. Officials at the FCO believed that British policy should promote Cold War aims by encouraging UN human rights bodies to more effectively investigate human rights violations in communist countries. According to the FCO, "such procedures are valuable in helping to ensure respect for the norms laid down in conventions and declarations in the human rights field." By strengthening UN human rights machinery over the long-term, Britain could strike a blow at communist states. But Britain's short-term objective "to secure a satisfactory outcome" on discussions of human rights violations in Northern Ireland encouraged a different response. The FCO report concluded that "HMG is already under very considerable pressure at the European Commission on Human Rights as a result of the Irish State Case and many individual petitions, and adverse decisions in these cases would be to the detriment of HMG's overall policies in Northern Ireland." In this context, "discussion of human rights in Northern Ireland, particularly on 'torture', at the UN can only act as encouragement to those elements opposed to peaceful change in Northern Ireland to attempt to embarrass HMG further through international institutions." FCO officials concluded that on human rights issues in Northern Ireland, "the short-term objective must outweigh the

[814] CJ 4/605 "Violations of Human Rights: Agenda Item No. 12(b)," UN Documents Section, FCO, February 14, 1974.

longer term considerations." British officials should therefore do their utmost to ensure that discussions of Northern Ireland at the UN were kept to "a bare minimum."[815]

The British government proved highly uncooperative when called before the European Commission for Human Rights. When the Irish government's 1971 application concerning the five techniques came before the European Commission, Britain refused to identify the locations where the techniques were used—the Commission and the public believed that Palace Barracks was the site of interrogation, but it was actually Ballykelly airfield. As the inquiry continued into 1974, Britain prohibited the Commission from interviewing army and police witnesses in Strasbourg, citing security reasons. Instead, Commission representatives had to interview British witnesses at a secure airfield in Norway. British witnesses testified from behind a screen, where only the Commission delegates and lawyers could see them. To complicate matters further, the British government introduced its witnesses using alphanumeric ciphers rather than names. None of the witnesses admitted that any wrongdoing had occurred.[816] Furthermore, the government instructed witnesses not to answer questions about methods of interrogation despite the fact that detailed accounts of the five techniques had been published in many newspapers and books.[817] As legal scholar Brian Simpson concluded, "plainly, there was something deeply embarrassing to conceal."[818] Concealing embarrassing details, however, was more difficult given the media context in which the war was fought.

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[815] Ibid.

[816] Cobain, *Cruel Britannia*, 159–160; Taylor, *Beating the Terrorists?*, 23–26.

[817] See, for example, John McGuffin, *The Guineapigs*, London: Penguin, 1974.

[818] As quoted in Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 150; A. W. B. Simpson, "Round Up the Usual Suspects: The Legacy of British Colonialism and the European Convention on Human Rights," *Loyola Law Review* 41, no. 4 (1996): 707–708.

A third difference between Northern Ireland and colonial wars was that media coverage of the Troubles in the UK and abroad was more pervasive—and critical—than previous colonial conflicts because of the widespread availability of television, radio, and newspapers. According to Lord Carrington, Heath's Defence Secretary, "every action was carried out in the glare of television publicity."[819] In addition to regular news broadcasts, between August 1969 and December 1972 British television shows such as Granada's *World in Action*, Thames' *This Week,* as well as BBC1's *Panorama, Talkback*, and *24 Hours* broadcast over 30 programs on specific aspects of the Troubles. Programs explored the civil rights struggle, investigated the army's role in the conflict, profiled key public figures such as loyalist Reverend Ian Paisley and nationalist MP Bernadette Devlin, described the various social tensions and political factions in the north, and analyzed the radicalization of politics. London Weekend Television aired several episodes of *The Frost Programme* in which host David Frost—best known for his high-profile interviews of U.S. President Richard Nixon and Rhodesian leader Ian Smith—discussed significant events such as the imposition of Direct Rule with Catholic and Protestant audiences in Belfast. Many British journalists, such as David Beresford and Peter Taylor, were unafraid of critiquing paramilitaries and politicians of all parties to the conflict. The BBC also developed an often contentious relationship with government officials who sought to shape the war's public narrative.[820]

Violence in Northern Ireland also spurred greater interest in the origins of the conflict. From October to December 1972, BBC2 aired a ten-part series on Irish history. Other programs examined the partition of Ireland in comparison with partitions elsewhere in the

[819] Peter Carrington, *Reflecting on Things Past: The Memoirs of Peter Lord Carrington* (New York, NY: Harper & Row, 1988), 247.

[820] Robert J. Savage, *The BBC's "Irish Troubles": Television, Conflict and Northern Ireland* (Manchester, UK: Manchester University Press, 2015).

world.[821] In Ireland, national broadcaster RTE aired news, documentaries, and investigative reports on the conflict. BBC and RTE also operated nationwide radio programs. In addition to television and radio, Northern Ireland could boast 30 newspapers, two of which had province-wide circulation. Every major political party also had a newspaper or newsletter of some kind, such as Sinn Fein's *An Phoblacht*. The Republic of Ireland had six national newspapers and over 20 regional newspapers, all of which placed a strong emphasis on reporting Northern Irish affairs during the conflict. In the UK, national newspapers and tabloids regularly carried stories on Northern Ireland.[822] According to one scholar of the conflict, such intense media attention meant that the "Northern Ireland conflict received more domestic and international press coverage than any of the emergencies in remote parts of the world."[823]

Northern Irish representation in Westminster, the emergence of a broad global human rights consciousness, and media saturation meant that controversial counterinsurgency policies and practices remained susceptible to criticism. A fourth difference between the Cyprus and Aden campaigns and the war in Northern Ireland ensured that proponents of tough security measures also found a receptive audience: Unlike armed groups in all previous post-1945 counterinsurgencies, Northern Irish paramilitaries attacked the British homeland. These attacks began with the October 1971 IRA bombing of the London Post Office Tower. The most notorious of these attacks, such as the 1975 Birmingham pub bombing and the 1986 attack on the Conservative Party conference at the Brighton Grand Hotel, were committed by republican paramilitaries, but unionists also contributed to the violence. Loyalist

[821] CAIN Web Service, "A List of British Television Programmes About the Conflict (1968 to 1978)," http://cain.ulst.ac.uk/othelem/media/tv10yrs.htm. Accessed May 12, 2015.

[822] CAIN Web Service, "Media Organisations in Northern Ireland and the Republic of Ireland," http://cain.ulst.ac.uk/othelem/media/mediaorg.htm. Accessed May 12, 2015.

[823] Neumann, *Britain's Long War*, 22.

paramilitaries bombed pubs in predominantly Irish neighborhoods, such as the December 1975 pub bombing in Kilburn, London, and the 1979 bombing of an Irish pub in Glasgow.

Irish paramilitary violence in Britain often inspired politicians who sought to implement harsh security policies. The 1973 Diplock Commission resulted in new legislation establishing "scheduled offences" in which suspects could be tried without juries. The idea was to prevent paramilitary groups from intimidating jurors, but juryless trials also deviated from UK legal norms.[824] In the wake of PIRA's November 1974 Birmingham pub bombings which killed 21 and injured 184, many within the British public worried about future violence or screamed for vengeance. *The Times* called the bombings an "Act of War." In this climate of fear and anger, then-Secretary of State Roy Jenkins introduced legislation for a Prevention of Terrorism Act which would grant security officials broad authorities to counter republican paramilitary activities in the UK.[825] One MP justified the legislation on the grounds that "the nation as a whole is facing the gravest threat that it has faced since the end of the Second World War."[826]

In addition to the Prevention of Terrorism Act, some politicians and members of the public clamored for the reintroduction of capital punishment for terrorist offences. The death penalty was suspended in Britain in 1965 and eliminated for Northern Ireland in 1973. But in June and July 1974, bombings at the Houses of Parliament and Tower of London led to an impassioned debate in the Commons. Conservative MP Michael Ancram said that although he had supported abolishing the death penalty, "I have since been convinced . . . that while abolition was right for the crime dealt with then, we are now faced with a totally different sort

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[824] Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 55–60; Neumann, *Britain's Long War*, 109.

[825] Clive Walker, *The Prevention of Terrorism in British Law*, 2nd ed. (Manchester, UK: Manchester University Press, 1992), 31.

[826] Hansard HC Deb November 28, 1974 vol 882 c743.

of situation." Terrorism, Ancram continued, "is not a crime just against the person but a crime against humanity." Fellow Tory Sir Patrick Cormack argued that recent events have made many Britons wonder "whether the time has come for a change." The Attorney General for Northern Ireland, Peter Rawlinson, also supported reintroducing the death penalty. In contrast, Liberal MP Christopher Mayhew insisted that "there is no evidence that the execution of terrorists lessens terrorism or prevents it growing. On the contrary, we have many examples in history of precisely the opposite." Mayhew cited the executions of Irish nationalist James Connolly after the 1916 Easter Rising and American abolitionist John Brown on the eve of the American Civil War as evidence that capital punishment could create martyrs and "did nothing to stop the killing."[827]

The 1974 Birmingham pub bombings sparked further debate. On November 21, the day of the bombings, Conservative MPs Jill Knight and Hal Miller pressed their party to again consider introducing capital punishment. To another Tory, William Rees-Davis, "whatever view one takes of a death penalty, those who are enemies of the realm deserve to be dealt with swiftly and executed."[828] In December, both Houses of Parliament debated the death penalty. The Conservative Lord Bourne announced that "I have always backed the death penalty for war against the State" and categorized the IRA's activities as exactly that.[829] The government held firm and did not reinstate capital punishment during the 1974 death penalty debate. But the fact that the debate occurred at all revealed that republican terrorism at home had convinced some within British society to consider extraordinary measures.

Debates over counterinsurgency methods in Northern Ireland were therefore not a straightforward assertion of emerging human rights norms as a means of restraining the

[827] Hansard HC Deb July 25, 1974, vol 877, cc1844-1871.

[828] Hansard HC Deb November 28, 1974 vol 882 c692-3.

[829] Hansard HL Deb December 12, 1974 vol 355, c843.

conduct of the war, but a give-and-take over the extent to which the protection of human rights and the imperative of preserving the state's ability to maintain order overlapped or conflicted. Many within government sought to strike a balance between ensuring security and preserving human rights. Lawmakers gave wide-ranging powers to security forces through measures such as the Prevention of Terrorism Act. Even staunch opponents of brutality, such as Lord Gardiner, believed that detention without trial, which contradicted the basic goals of the judicial system, was a necessary practice for limiting violence. It was the military, however, that lay at the heart of this struggle to balance security with rights.

Responding to Scrutiny

The army's response to the specific circumstances of the Troubles combined an aversion to scrutiny with a desire to adopt rights-sensitive methods as a means of mitigating further criticism and gaining operational advantages. Army leaders responded to public criticism in much the same way as they had reacted to scrutiny during the Cyprus and Aden conflicts: Officials often portrayed those making accusations as republican propagandists and denied legal liability. But military commanders also recognized many of the differences between Northern Ireland and past colonial wars. Northern Ireland's constitutional status as a formal part of the United Kingdom and the rising global human rights consciousness of the late 1960s and 1970s meant that legal issues and rights considerations played a larger part in shaping operations in Northern Ireland than Cyprus or Aden. Pervasive media coverage and paramilitary groups' capabilities for launching attacks beyond Northern Ireland ensured that the war was fought in front of a broad international and domestic audience. These circumstances contributed to the assignment of Civil Representatives to each brigade, tactical changes, and public relations training programs.

Many complaints of harassment or brutality were false or sensationalized, but regardless of truth, members of the security forces often perceived allegations against them as

part of a propaganda campaign designed to undermine nationalist support for the government. In 1972, GOC NI Lieutenant General Sir Harry Tuzo described complaints against the British Army as "smoke without fire."[830] A later GOC NI, Lieutenant General Frank King, described allegations of army repression as "stories spread by propagandists." From the army's perspective, military success seemed to breed complaints against army conduct. For example, when deployed to the Ardoyne neighborhood of Belfast in 1973, 3rd Battalion, The Parachute Regiment adopted an aggressive approach to security. The Paras increased patrols and searches, which generated a greater number of arrests. Residents made frequent complaints of harassment and brutality at the hands of the soldiers, but none of the allegations were proven. Meanwhile, the Paras' efforts resulted in a significant decline in shooting incidents and bombings. The Grenadier Guards encountered a similar pattern during their tour of duty in 1974—propaganda appeared to increase as stone-throwing and shootings declined.[831] In the aftermath of Bloody Sunday, Colonel Maurice Tugwell, the head of public relations in Northern Ireland, denigrated journalists who condemned the army's response to the protest. Tugwell told the BBC that "it is absolute rubbish for anybody to suggest that there were no gunmen or that the gunmen had not fired first."[832] Tugwell later described the *Sunday Times*' critical reports on army conduct as "building castles on sand."[833]

As in the Cyprus and Aden campaigns, officials often shielded soldiers from accountability before the law. When faced with criminal or civil claims filed against security forces, RUC investigators limited the number of cases that went to court. Few of these cases

[830] As quoted in Huw Bennett, "'Smoke Without Fire'? Allegations Against the British Army in Northern Ireland, 1972-5," *Twentieth Century British History* 24, no. 2 (June 2013): 276.

[831] Ibid., 277–281.

[832] BSI, B1316 Brigadier Maurice Tugwell statement, HO 219/58 Colonel Maurice Tugwell interview by Mr. Chris Drake of BBC radio, January 31, 1972.

[833] BSI, B1316 Brigadier Maurice Tugwell statement, "Hindsight on Insight: A Soldier's View."

resulted in convictions. From March 1972-September 1974, the RUC initiated 502 investigations into criminal allegations against the army and UDR. Prosecution occurred in 56 cases, but only 17 resulted in convictions.[834] Sometimes claims would not even reach the Director of Public Prosecutions, who was responsible for prosecuting soldiers and police charged with breaking the law. Police officers conducting criminal investigations into fellow members of the security forces did not forward the results of all investigations to the DPP. The DPP quickly notified the Chief of the General Staff that investigators had been "using their own discretion . . . very liberally." Most allegations concerned assault charges. In cases where soldiers were found guilty, the courts usually imposed fines and suspended sentences rather than prison time. Soldiers convicted for common assault usually paid fines in the range of £25-100.[835]

Judges' decisions could also protect security forces by establishing lenient legal precedents. Regarding murder and manslaughter charges, the House of Lords' verdict in the 1976 McElhone case legitimized the "shot trying to escape" defense. To Northern Irish human rights lawyers, this case established a precedent that permitted soldiers and police to use lethal force with little fear of judicial consequences. A soldier shot and killed a man who ran away from the soldier's patrol as the patrol approached. The soldier believed that he could either allow the man to escape, or he could shoot the man to prevent his escape. The soldier decided to open fire and killed the man. At trial, the court found that the soldier had acted with "reasonable" force. After referral to the Court of Criminal Appeals, the case came before the House of Lords. Law Lords agreed that the use of force was reasonable, and clarified the point of law that "if a plea of self-defence is put forward in answer to a charge of murder and fails because excessive force was used though some force was justifiable, as the

[834] Bennett, "'Smoke Without Fire'?," 287.

[835] As quoted in Ibid., 287–288.

law now stands the accused cannot be convicted of manslaughter."[836] Prominent Northern Irish defense attorney Tony Jennings wrote that the decision gave security forces "a licence to kill."[837] Northern Irish lawyer Brice Dickson assessed that this decision allowed security forces "to operate with virtual impunity when applying lethal force against suspected terrorists." The high standard necessary to obtain a murder conviction and the lack of any intermediate punishments for crimes such as manslaughter meant that few soldiers and police officers were convicted of the excessive use of lethal force.[838]

In civil cases, Ministry of Defence lawyers refused to admit that the government bore legal liability for injuries or deaths caused by the security forces. MOD attorneys contested cases that they were likely to win while settling out of court in cases the government would most likely lose. Between 1971 and 1974, aggrieved civilians filed an average of between 108 and-155 claims per month against the army. By January 1975, MOD had faced 6,000 claims, settling 410 out of court. Family members of those killed on Bloody Sunday submitted a total of 13 civil complaints. The Attorney General assessed that of those 13 cases the government had "no prospect" of successfully defending four of them, were unlikely to succeed in defending three more, and had a "reasonable chance" of winning four. The Attorney General and Secretary of State for Northern Ireland concurred that the best course of action was "to pay sums of money into Court, without admission of legal liability, in respect of the first seven cases, and to fight the remainder."[839] Out-of-court settlements

[836] Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 250–252. As quoted on 251.

[837] Anthony Jennings, *Justice Under Fire: The Abuse of Civil Liberties in Northern Ireland* (London: Pluto Press, 1988), 109.

[838] The first conviction of a soldier for murder did not come until 1984. The soldier in question—Private Lee Clegg—was released under orders from the Home Secretary after serving less than two years of his life sentence. He was later acquitted of murder and returned to the army. See Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 252–253.

[839] CJ 4/969 Cox to Prime Minister, March 23, 1973.

minimized publicity by avoiding press coverage of drawn-out legal proceedings. The disadvantage of settlements, however, was that such payments implied that British forces were guilty of violations even though in point of law the government did not admit legal liability.[840]

The frequency with which soldiers had to appear in court led to several changes in tactics and training programs. One initiative sought to improve troops' courtroom performances. The army recognized that when testifying in court, "some soldiers, particularly amongst the junior ranks, give a poor impression" which "is attributed to lack of confidence and clarity of speech." As a result, HQ Northern Ireland requested that soldiers undergo a short course in "oral development" before appearing in court. The army's Director of Personal Services asked the UK Land Forces and British Army of the Rhine headquarters to arrange such courses, but with the caveat that "there should be no discussion of the evidence relating to the particular case" although "general instruction on court procedure could be worthwhile."[841] In September 1972, the army launched a two-day pilot course in "oral development for potential military witnesses at civil courts in Northern Ireland" designed to "to improve the confidence and clarity of speech" for soldiers "called upon to give evidence in civil courts." The course involved situational exercises in which soldiers practiced giving testimony and responding to cross-examination. Instructors videotaped these sessions to play before the class so that they could discuss individual performances. In addition, students heard lectures on "the technique of speaking up in court" and "hints on observation." Instructors noted happily that "there was a visible and marked improvement by all the

[840] Bennett, "'Smoke Without Fire'?," 290–294.

[841] DEFE 24/838 Director of Personal Services (Army), Performance of Military Witnesses at Court Appearances in Northern Ireland, July 10, 1972.

students" and "the course was also regarded as being particularly effective by the students themselves."[842]

Problems with the military's public image were not limited to junior soldiers in the courtroom, as staff officers at HQ Northern Ireland realized that many officers also lacked public relations skills. During the early 1970s, officers posted to HQ Northern Ireland did not receive the same public relations-oriented training as line battalions deploying for four-month rotational tours. The headquarters therefore lacked officers capable of serving as spokesmen. In September 1973, HQ Northern Ireland identified a need for 20 officers to complete "TV training." The RUC similarly lacked trained spokespersons and requested to send 20 officers of their own to army short courses.[843] By 1975, mandatory pre-deployment training for unit commanders at company and battalion level included "TV interview technique" courses, while all unit press officers and those serving as second-in-command at company level and above received public relations training.[844]

The army developed new measures designed to minimize lawsuits over property damage resulting from house searches. Hundreds of house searches were conducted on a weekly basis. The numbers varied during the first half of the 1970s, but in 1974 the number of house searches conducted by the army in Northern Ireland averaged 600-800 per week.[845] The average in Belfast alone surpassed 500 searches per week. British forces realized that slow, overly-bureaucratic processes for compensating individuals who suffered property damage during the course of security operations engendered resentment from civilians. The

[842] DEFE 24/838 Abstract of a Report on a Pilot Oral Development Course for Potential Military Witnesses in Civil Courts, held on September 25-26, 1972.

[843] DEFE 24/838 W.H. Sillitoe, Television Training, September 13, 1973.

[844] DEFE 24/838 Summary of Pre-Northern Ireland Specialist Training, 3rd Revise, April 1975.

[845] CJ 4/1169 Webster to England, October 3, 1975.

army wanted to deploy "repair squads" to quickly fix any damage caused by army searches and empower local units to authorize small-claim settlement payments of up to £25.[846] To liaise with local communities and coordinate quick compensation schemes, Northern Ireland civil servants were seconded to the army. The first of these "Civil Representatives" was appointed in summer 1971. By 1973, every brigade in the province had a principal adviser and several deputies.[847] Through the Civil Representative program, by January 1976 civilians' wait time for receipt of settlement payments dropped from an average of 10-13 days to 5 days.[848] Military tactics also changed. Some units, such as the oft-criticized Paras, began filming searches with video cameras. Video footage could be used as evidence in court to counter false or exaggerated allegations. But the technique of filming house searches was also likely to prevent soldiers from smashing furniture or harassing locals because soldiers knew that their actions were on film, too.[849]

Despite these adaptations, some senior leaders resisted what they saw as legal intrusions into military operations by advocating practices that had been used during colonial campaigns but had not been employed in Northern Ireland. In 1974, GOC NI Lieutenant General Frank King described to the Attorney General how many commanders objected to what they saw as legal impediments to military operations. King complained that "the domino effect of one prosecution following on after another in close succession, all given full press coverage, with perhaps several soldiers receiving jail sentences, I believe would be little short of disastrous" for soldiers' morale. King suggested three solutions which reflected his desire to wage the Northern Ireland war in a manner more consistent with past campaigns.

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[846] CJ 4/1169 Hill to Webster, October 3, 1975.

[847] CJ 4/1169 Staff in Confidence Memorandum, Civil Representatives, n.d.

[848] CJ 4/1169 Morrison to England, January 28, 1976.

[849] Bennett, "'Smoke Without Fire'?," 284–285.

First, he advocated placing soldiers under military jurisdiction "in cases arising out of strictly operational assignments." He noted that "in the context of operations overseas, this has long been accepted." King's second solution was to reconsider the criteria for determining whether to prosecute a soldier. He wished to terminate cases arising out of operational situations prior to court proceedings "except where there is the clearest indication of gross misbehavior." King's third and final point was to reconsider the principle of law that allows a person to use force in self-defense. Legally, soldiers who used force did so under the same restrictions as a private citizen using force for self-defense.[850] To King, this approach was flawed because "it implies an unwillingness to act aggressively" and "implies conceding much of the initiative to the other side." Failure to seize the initiative was "anathema to basic military tactics and operational planning." Soldiers, he believed, should be asked to take the fight to the enemy—a task which required fewer legal restraints.[851]

According to King, military influence over legal proceedings provided the only certain solution for maintaining morale and seizing the initiative. He continued to advocate legal leniency during his tenure as GOC. In November 1974, he asked the Attorney General to reduce the charge against one soldier from murder to manslaughter because he believed that a murder charge would have greater adverse effects on morale. The Attorney General refused, but the soldier was acquitted at trial. King also objected to payments of civil compensation claims. He insisted that out-of-court settlements demoralized soldiers because such payments rewarded individuals involved in terrorism.[852] But King's views contrasted

[850] This was a well-established feature in common law. See Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (University of Michigan Press, 2003), 105; W. Nippel, "'Reading the Riot Act': The Discourse of Law-enforcement in 18th Century England," *History and Anthropology* 1, no. 2 (1985): 409–413. Charles Townshend, *Making the Peace: Public Order and Public Security in Modern Britain* (Oxford University Press, Incorporated, 1993), 19–20.

[851] WO 296/76 Visit of Attorney General-GOC's Speaking Notes, March 27, 1974.

[852] Bennett, "'Smoke Without Fire'?," 301–302.

with those of the new Labour government which came to power after the 1974 general election.

The new government asked Lord Gardiner to lead a study of how to wage the Northern Ireland conflict with respect for civil liberties and human rights. The Gardiner Committee's subsequent report continued the argument Gardiner put forth in the Parker minority report. He called for reinstating trial by jury, criticized the prison system's "appalling" conditions, and asserted that "detention cannot remain as a long-term policy." Gardiner also noted that "the prolonged effects of the use of detention are ultimately inimical to community life, fan a widespread sense of grievance and injustice, and obstruct those elements in Northern Ireland society which could lead to reconciliation." Yet Gardiner concluded that the degree of violence in the province meant that he could not recommend the immediate elimination of detention without trial. Gardiner held human rights in high esteem, but he was not blind to the grave threat that Northern Irish paramilitaries posed. After the Gardiner Committee report, the Labour government developed a new strategy for Northern Ireland.[853]

Convinced of the need to abandon many of the counterinsurgency methods employed since 1969, incoming Secretary of State for Northern Ireland Merlyn Rees adopted a strategy of "Ulsterization." Based on the 1976 report of a Home Office working group, Rees abandoned practices which had alienated the Catholic community, such as internment without trial and high-profile patrolling, in favor of an approach which placed the RUC in the lead. The plan was to maintain law and order through policing and the legal system. Rather than drawing on colonial counterinsurgency experiences, this strategy was based on the West German and Italian governments' experiences countering European terrorist groups such as

[853] 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*. London: HMSO, 1975.

the Baader-Meinhof gang and Red Brigades.[854] Under Ulsterization, the army largely redeployed to secure rural border areas, support the clandestine collection of intelligence, and conduct special operations against specific, known IRA targets. High-visibility daily patrols would fall to the RUC and Ulster Defence Regiment. Through Ulsterization, Rees hoped to reduce Catholic alienation and achieve a political settlement.[855]

Conclusion

From 1969-76—the period before Labour's strategic shift— many within the British Army responded to rights advocacy in much the same way as they had during colonial campaigns such as Cyprus and Aden. But the specific historical moment in which the Troubles erupted meant that Northern Ireland was, indeed, a "more talkative place" than the colonies. Policies such as internment without trial and interrogation in depth drew particularly strong condemnation from rights groups, legal advocates, republican sympathizers, international organizations, foreign governments, and domestic political critics. To an unprecedented extent, rights activism in Northern Ireland generated substantive, persistent public discussions in Britain over counterinsurgency methods that continued throughout the Troubles. These discussions, however, proved polarizing as the threat of paramilitary violence spilled over from Northern Ireland into the rest of the UK.

The prevalence of human rights debates from the late 1960s onward placed the security forces under greater public pressure than they had faced during the Cyprus and Aden wars. The Heath government proved willing to order a series of formal inquiries into rights abuses, but these inquiries were flawed. The Compton committee on interrogation produced an equivocal finding that relied on legal semantics. The committee insisted that while

[854] John Newsinger, *British Counterinsurgency: From Palestine to Northern Ireland*, 2nd ed. (Palgrave Macmillan, 2015), 185.

[855] Porch, *Counterinsurgency*, 280. The UDR was a locally recruited army regiment which replaced the all-Protestant police reserve, the "B-Specials," in 1969.

physical "ill-treatment" of detainees was illegal in Britain, the success of these methods in support of counterinsurgency objectives meant that such treatment was not immoral. The subsequent Parker committee majority report also failed to address the legality of the five techniques. Only Lord Gardiner's minority report asserted that British actions were illegal and immoral under all circumstances. On the use of excessive force during Bloody Sunday, the Widgery report amounted to a whitewash.

The army response to public scrutiny during the Troubles reflected past experiences in post-1945 colonial wars. Court decisions and police investigations served to protect soldiers accused of violating the law. In the realm of civil claims, MOD provided compensation payments to end court proceedings quickly, therefore reducing the potential for long, drawn-out bouts of negative publicity. Attitudes of senior leaders such as Lieutenant General King—who wanted to loosen the legal restraints on his soldiers—mirrored British approaches in Cyprus and Aden. As historian Huw Bennett concluded, the authorities in Northern Ireland "were willing to cooperate and bend the rules in a manner hardly consistent with the demands of an impartial justice system."[856] Those who supported tough security measures, such as interrogation in depth or the removal of legal restrictions on soldiers' conduct, asserted the primacy of military considerations over law and rights at a time in which domestic and international publics grew increasingly aware of and interested in protecting human rights. Tension between human rights and security policies remained central to public debate throughout the Troubles.

[856] Bennett, "'Smoke Without Fire'?," 302.

CHAPTER 7: CONCLUSION

Introduction

Human rights activism played a critical role in shaping the conduct of British counterinsurgency in Cyprus, Aden, and Northern Ireland, but not necessarily by "restraining" coercive practices. During the Cyprus and Aden conflicts, British forces established legal regimes which permitted a wide range of violence against the civilian population and detained combatants alike. When rights activists tried to expose these brutalities, the standard response from senior colonial officials and military officers was to deny wrongdoing, hide or manipulate evidence, and undermine their accusers' credibility. This trend continued into Northern Ireland, but resistance to rights abuses reached a new level of intensity during the Troubles. Increasingly pervasive rights activism contributed to an enduring public debate over counterinsurgency policy. The fact that a variety of rights actors shaped counterinsurgency policies and operational decisions demonstrates that the diverse, global rights milieu of the 1950s-1970s was closely related not only to intellectual, social, cultural, and political developments, but also to changes in warfare. Human rights activists therefore added another dimension to the counterinsurgency battlefield, challenging British officials with moral and legal arguments.

Human Rights on the Battlefield

Human rights activism was an important factor in each of these conflicts, but not always because of international law. Common Article 3 of the 1949 Geneva Conventions included a provision that protections for non-combatants applied during "non-international armed conflict" as well as international wars. But British legal officers simply insisted that agreements such as the Geneva Conventions—the cornerstone of international humanitarian

law—did not apply to colonial emergencies.[857] The European regional human rights regime likewise remained weak during the 1950s and 1960s. According to some historians, the emergence of human rights as a key element of post-1945 international legal regimes actually weakened international law because documents such as the Universal Declaration of Human Rights and the Geneva Conventions were unenforceable.[858] In the three conflicts examined here, the notable absence of international legal sanctions against Britain seems to suggest that this assessment is accurate.

Although few means of enforcing international law existed during the 1950s and 1960s, activism based on human rights norms shaped British counterinsurgency practices. During the Cyprus Emergency, the Greek government's applications under the European Convention failed to produce formal legal sanctions against Britain, but colonial officials were conscious of operating in the "Shadow of Strasbourg" and acted to protect security forces from scrutiny. Colonial administrators established the Special Investigation Group not to provide accountability, but to prevent allegations from gaining credibility. Other measures such as the manipulation of judicial inquiries revealed the extent to which colonial authorities could easily shield abuses and excesses. Yet officials could not act with complete impunity because they knew that Greek Cypriot lawyers would challenge their actions.

In the Radfan, British officials again knew that their actions would come under scrutiny, but they were able to keep the International Committee of the Red Cross' prying eyes away from the devastation caused by Britain's scorched earth campaign. When detainee abuse allegations arose in Aden, the ICRC and Amnesty International recognized that the

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[857] ICRC, *1949 Conventions and Additional Protocols, and their Commentaries.* https://www.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp. Accessed November 22, 2015. See also Fabian Klose, "Human Rights for and against Empire: Legal and Public Discourses in the Age of Decolonization," *Journal of the History of International Law* 18, no. 1 (2016): 1-19.

[858] Hoffmann, *Human Rights in the Twentieth Century*, 20–21.

allegations bore at least a kernel of truth. Perhaps motivated by his experiences in Cyprus, Amnesty co-founder Peter Benenson pushed to ensure that an official investigation occurred. Amnesty's efforts succeeded in convincing the British government to order an inquiry. Headed by Sir Roderic Bowen, the resulting inquiry admitted, in a very circumspect manner, that *some* abuses had *probably* occurred.[859] Colonial officials introduced reforms to the interrogation center at Fort Morbut, but torture resumed after the Bowen Inquiry and Amnesty's disengagement from Aden. Activists had succeeded in raising the issue of detainee abuse and had also succeeded in obtaining regular Red Cross access to Fort Morbut, but activists' efforts inadvertently inspired colonial authorities to hide their abuses more effectively.

The Cyprus and Aden experiences also suggest that official attitudes toward rights-based criticism shifted between the end of the Cyprus conflict in 1959 and 1963, when the war in Aden began. In Cyprus, a division emerged between officials in Cyprus and in London over whether organizations from outside the British government would be permitted to investigate British actions. London officials were willing to allow the European Commission inquiry, whereas colonial authorities in Cyprus adamantly resisted. But in Aden, some colonial officials seemed more willing to investigate abuses in an attempt to eliminate them. Questions emerged from within the High Commission and Middle East Command. Hugh Hickling and Don McCarthy, for instance, grew suspicious over the treatment of detainees. The willingness of some British officials to question the actions of others and accept scrutiny in the form of a formal inquiry ordered by the Foreign Secretary suggests that rights activists had managed to gradually chip away at protections which the colonial state had erected around interrogators.[860]

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[859] DEFE 13/529 Bowen Report, November 14, 1966.

[860] Kate Kennedy, "Dissidents and Dissonance: Colonial Violence in Kenya and Cyprus and the Emergence of a Human Rights 'Conscious' Britain, 1945-65" (D.Phil., Oxford University, 2015).

Activists' efforts likewise met with mixed success in Northern Ireland. The use of coercive interrogation methods such as the "five techniques" and internment without trial outraged Northern Irish nationalists, a broad swath of the public in the Republic of Ireland, and many within the UK. Rights-based challenges to the government's conduct of the Northern Ireland war also came from Britain's radical Left, European statesmen, and the Irish-American lobby in the United States. As a result, the Troubles ignited a substantive public conversation about counterinsurgency practices that convinced British officials to abandon the five techniques and, eventually, internment. Interrogation and detention policies, however, continued to generate controversy and remained politically sensitive as the war continued.

Public discussion and debate moved the government to take action in response to human rights complaints more frequently than in Cyprus or Aden, but officials largely avoided punishing rights violators. A 1978 Amnesty International investigation discovered evidence that from 1976-79, members of the RUC had severely and systematically beaten prisoners at three prisons while police doctors covered up medical evidence of the abuse. Amnesty recommended a full public inquiry. Under pressure from human rights activists, Members of Parliament, as well as British and Irish journalists, then-Secretary of State for Northern Ireland Roy Mason ordered a private inquiry headed by Crown Court judge Harry Bennett.[861] The Bennett committee proposed several interrogation and detention reforms, but none of the interrogators or doctors faced criminal charges.[862] The Bennett report did not explicitly state that RUC constables had abused prisoners, which allowed Mason to simultaneously implement interrogation reforms while claiming that the abuse allegations had

[861] Taylor, *Beating the Terrorists?: Interrogation at Omagh, Gough, and Castlereagh*, 270–302.

[862] Ibid., 324–342.

not been proven. Some within the RUC, such as Deputy Chief Constable Jack Hermon, supported initiatives to increase police accountability, but these initiatives had limited effect. The RUC was dominated by a Janus-faced culture in which police commanders publicly upheld official rules and regulations while privately accepting routine minor deviations from those regulations.[863]

Whereas activists' appeals to human rights *norms* formed the basis of most complaints during the Cyprus and Aden conflicts, the strengthening of European human rights *law* during the 1970s bore significant consequences for the conduct of the war in Northern Ireland. Early cases such as the Commission's decisions on the two Cyprus applications of the 1950s suggested that European human rights institutions would allow member states wide latitude in emergency situations. This situation changed beginning in the 1970s. The European human rights system gained prestige as many prominent legal figures served on the Commission or the European Court of Human Rights. Once legitimized in this way, the Commission and Court began asserting their newfound status. The result was a proliferation of European case law regarding human rights and internal conflict. Once the Commission and Court began acting more aggressively on individuals' claims in the 1970s, the government faced a flood of Troubles-related legal actions outside of British courts.[864] Between 1971 and 1998, the Commission dealt with over 65 cases concerning the application of the European Convention on Human Rights to court proceedings, detention practices, police investigations, and the use of force in Northern Ireland.[865]

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[863] Aogan Mulcahy, *Policing Northern Ireland: Conflict, Legitimacy and Reform* (Cullompton, UK: Willan, 2005), 61–63.

[864] Madsen, "'Legal Diplomacy' - Law, Politics and the Genesis of Postwar European Human Rights," 75-79.

[865] Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 377–395.

The entrenchment of human rights law during the 1970s did not automatically result in an effective legal regime capable of restraining wartime violence. In a cautious 1978 decision, the European Court of Human Rights ruled that the "five techniques" of Britain's 1971-72 interrogation program constituted inhuman and degrading treatment but fell short of "torture."[866] In the same case, the Court also supported the right of the state to impose order during times of unrest by ruling that a public emergency threatening the life of the nation existed in Northern Ireland and that the British government had not exceeded its powers by implementing special security measures. According to legal scholar Brice Dickson, the Court's decision "sent a subliminal message to the UK government that it could continue to tolerate heavy-handed interrogation tactics without having to worry too much about international opprobrium."[867] Dickson lamented that such rulings did not do more to reduce rights violations. For lawyers, courtroom verdicts are the benchmarks of success. But from a military perspective, activists' efforts could shape the conduct of these wars even when formal legal judgments went against them. The adoption of Ulsterization provides one such example.

From 1976 onward, Britain's strategic shift toward Ulsterization marked a conscious effort to bolster popular perceptions of the state's legitimacy through the rule of law. Under Ulsterization, police forces took the lead in security operations, with the army serving a supporting role. The complementary policy of "criminalization" was intended to treat paramilitary violence as a criminal, rather than a political, problem and punish offenders through the court system. This change reflected ministers' realization that internment had

[866] A 2014 documentary asserted that recently released evidence indicated that Britain purposely misrepresented its interrogation activities in its representations before the European Court. See *The Torture Files*, RTÉ Investigations Unit. Dublin, Ireland: RTÉ One, June 4, 2014.

[867] Dickson, *The European Convention on Human Rights and the Conflict in Northern Ireland*, 150–152. As quoted on 167.

popularized the republican cause and boosted paramilitary recruitment.[868] Successive British governments sought a negotiated settlement to the Northern Ireland conflict and did not want the Troubles to be a major political issue in the UK. Maintaining a certain degree of sensitivity to rights activism was one way to promote a peaceful, negotiated political solution to the conflict. As the desire for a negotiated settlement grew among London policymakers, the army implemented increasingly strict restraints such as the tightening of restrictions on the circumstances in which troops were legally permitted to use lethal force.[869]

The problem with this rule-of-law approach was that British actions often proved inconsistent. Adopting the notion of "police primacy" in security operations and reducing the military presence proved problematic because these measures placed the Protestant-dominated RUC and UDR in the forefront of security operations often oriented toward the Catholic minority. Attempts to use the court system to prosecute paramilitaries also failed to assuage republican resentment. The implementation of non-jury Diplock Courts to try terrorism cases and the use of anonymous informants—"supergrasses"—to achieve convictions in court undermined British claims to political legitimacy by subverting democratic practices.[870] When the courts proved too cumbersome, some officials skirted the justice system entirely. Allegations of a "shoot-to-kill" policy and questions over security force collusion with loyalist paramilitaries soon surfaced during the 1970s and 1980s.[871]

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[868] Neumann, *Britain's Long War*, 97.

[869] Frank Ledwidge, *Losing Small Wars: British Military Failure in Iraq and Afghanistan* (New Haven, CT: Yale University Press, 2011), 184.

[870] Steven Greer, *Supergrasses: A Study in Anti-Terrorist Law Enforcement in Northern Ireland* (Oxford: Clarendon Press, 1995); John Jackson, "Vicious and Virtuous Cylces in Prosecuting Terrorism: The Diplock Court Experience," in *Guantanamo Bay and Beyond: Exceptional Courts and Military Commissions in Comparative Perspective* (New York, NY: Cambridge University Press, 2013), 225–44; and John D. Jackson and Seán Doran, *Judge Without Jury: Diplock Trials in the Adversary System* (Oxford, UK: Clarendon Press, 1995).

[871] Anne Cadwallader, *Lethal Allies: British Collusion in Ireland* (Cork, Ireland: Mercier Press, 2013) and Geraghty, *The Irish War: The Hidden Conflict between the IRA and British Intelligence*, 116–132.

"Shoot-to-kill" seemed to provide a way for security forces to avoid the judicial process by ensuring that paramilitaries never make it to trial.[872] The army and police were also accused of colluding with loyalist paramilitary groups to commit illegal murders. The most infamous collusion case was that of Pat Finucane, a Catholic Belfast human rights lawyer murdered by loyalist paramilitaries in 1989. Military personnel provided intelligence that loyalist paramilitaries used to plan Finucane's murder. When a police informant tried to warn his handlers of the impending murder, constables took no action to stop it.[873]

Since the end of the Troubles, the British government has struggled to seriously examine the conflict's checkered human rights legacy. In 2002, the British and Irish governments appointed former Canadian Supreme Court Judge Peter Cory to investigate four murder cases concerning collusion between British security forces and loyalist armed groups. Cory recommended that the British government conduct public inquiries into each case.[874] But following Cory's recommendations, Parliament quickly passed the 2005 Inquiries Act, which limited the scope of any potential inquiry. According to Amnesty International UK Director Kate Allen, "the government will be able to control what the public founds out, and what it doesn't." Therefore, "the government has placed itself beyond public scrutiny."[875] In other instances, public inquiries have produced highly critical assessments of security forces' conduct. The extensive 12-year Bloody Sunday Inquiry chaired by Lord Saville, which lasted

[872] Bill Rolston, "'An Effective Mask for Terror': Democracy, Death Squads and Northern Ireland," *Crime, Law & Social Change* 44, no. 2 (2005): 192.

[873] Ibid., 181–182. For an extensive treatment of collusion allegations, see Cadwallader, *Lethal Allies: British Collusion in Ireland* and Maurice Punch, *State Violence, Collusion and the Troubles: Counter Insurgency, Government Deviance and Northern Ireland* (London: Pluto Press, 2012).

[874] CAIN Web Service. "Collusion – Details of Source Material," University of Ulster. http://cain.ulst.ac.uk/issues/ collusion/source.htm. Accessed September 4, 2015.

[875] "Amnesty launches appeal calling on judges to boycott sham inquiries." Amnesty International UK Press Release. June 2, 2005. http://www.amnesty.org.uk/press-releases/uk-amnesty-launches-appeal-calling-judges-boycott-sham-inquiries. Accessed September 4, 2015.

from 1998-2010, conclusively determined that soldiers had fired on an unarmed, nonviolent crowd.[876] A 2012 government inquiry implicated members of the security forces in Finucane's murder. Prime Minister David Cameron subsequently described the degree of state collusion in Finucane's death as "shocking."[877]

Human rights issues remain central to the legacy of the Troubles. Rights activism has become entrenched in Northern Irish society and politics. According to one scholar, both unionists and nationalists have embraced human rights activism as a kind of "war by other means."[878] In the realm of law, the legacy of the Troubles has resulted in several legal actions. In the wake of the 2010 Bloody Sunday Inquiry, the government opened a new investigation into soldiers' conduct. In 2015, police arrested a former Paratrooper for his role in the Bloody Sunday shootings.[879] In December 2014, the Irish government requested that the European Court of Human Rights revise its 1978 judgment on Britain's use of the "five techniques" during interrogation. This move occurred after an Irish television documentary aired in June 2014 which alleged that the British government purposely misled the European Court and that UK Cabinet officials authorized use of the five techniques.[880] The first step in this process began on June 4, 2015, when the Belfast High Court granted permission for the

[876] Lord Saville, Report of the Bloody Sunday Inquiry. London: HMSO, 2010. Available online at http://webarchive. nationalarchives.gov.uk/20101103103930/http:/report.bloody-sunday-inquiry.org/. Accessed November 22, 2015.

[877] "Pat Finucane murder: 'Shocking state collusion', says PM" BBC News. December 12, 2012. http://www.bbc.com/ news/uk-northern-ireland-20662412. Accessed September 4, 2015.

[878] Jennifer Curtis, *Human Rights as War by Other Means: Peace Politics in Northern Ireland* (Philadelphia: University of Pennsylvania Press, 2014), 4.

[879] "Bloody Sunday: Ex-soldier arrested over Londonderry shootings." BBC News. November 10, 2015. http://www.bbc.com/news/uk-northern-ireland-34775466. Accessed November 21, 2015.

[880] Evidence came to light in the RTÉ television documentary *The Torture Files.* See "Hooded Men: Irish Government Bid to Reopen 'Torture' Case," BBC News. December 2, 2014. http://www.bbc.com/news/uk-northern-ireland-30296397. Accessed November 21, 2015; and Susan McKay, "The Torture Centre: Northern Ireland's 'Hooded Men,'" *Irish Times*, July 25, 2015.

claimants in the original case to seek judicial review.[881] These recent public inquiries and legal actions demonstrate that the brutality of colonial counterinsurgency practices was not simply locked away at the Hanslope Park archive as Britain withdrew from its empire—it persisted into the Northern Ireland conflict and beyond.

Contemporary Conflict and the Moral Challenge of Human Rights

The role of human rights on the battlefield has changed significantly since the 1970s as formal legal mechanisms grew increasingly influential. Legal scholars have observed an "increasing acceptance that the rules of international law are the foundation upon which the rights of states rest, and no longer merely limitations upon states' rights which, in the absence of a rule of law to the contrary, are unlimited."[882] Attempts to restrict state powers have contributed to the emergence of "a general trend towards the application of the rules and principles regarding international armed conflict to non-international armed conflict."[883]

This process began as human rights law overlapped with international humanitarian law through a series of post-Second World War revisions to the Geneva Conventions. The 1949 Geneva Conventions protected individuals' right to a fair trial and humane treatment while stipulating that the Conventions' protections applied during non-international armed conflict—such as civil war—as well as international wars.[884] European colonial powers and the Cold War superpowers largely ignored this measure. As a result, in 1968 the UN General Assembly passed Resolution 2444 calling for the revision of international humanitarian law

[881] Alan Erwin, "'Hooded Men' Granted Judicial Review as They Clear First Stage in Legal Battle," *Belfast Telegraph*, June 4, 2015.

[882] Robert Jennings and Arthur Watts, *Oppenheim's International Law*, 9th ed. (London: Longman's, 1992), 12.

[883] Emily Crawford, *The Treatment of Combatants and Insurgents Under the Law of Armed Conflict* (Oxford: Oxford University Press, 2010), 37.

[884] William Hitchcock, "Human Rights and the Laws of War: The Geneva Conventions of 1949," in Iriye, et al, eds., Iriye, Goedde, and Hitchcock, *The Human Rights Revolution*, 93–109.

to ensure "respect for human rights in armed conflicts."[885] Protracted discussions between state parties to the Geneva Conventions and the International Committee of the Red Cross eventually produced the 1977 Additional Protocols to the Geneva Conventions. Reflecting the experience of anticolonial wars, the first protocol applied international humanitarian law to "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of the right of self-determination."[886] The second protocol expanded protections for combatants and civilians in non-international armed conflicts, but states refused to include language in the protocol which would have extended the same protections for international armed conflict to all forms of non-international armed conflict.[887]

In Britain, the passage of the UK Human Rights Act strengthened the judiciary's power to enforce human rights law. Passed in 1998, the Act came into force two years later. It was in part the product of lobbying by civil society organizations such as Charter 88, which believed that the British government held too many unchecked powers and that limiting the government's power required a formal enumeration of basic rights.[888] But the Act's origins can also be found in the Northern Ireland peace process.[889] Both nationalist and unionist communities perceived comprehensive protections of fundamental rights as a means of protecting their interests. In 1995, the British government committed to establishing a legal

[885] UN GAOR Res. A/RES/2444 (XXIII) "Declaration on Respect for Human Rights in Armed Conflict," December 19, 1968. As quoted in Klose, "Human Rights for and against Empire," 18.

[886] ICRC, Protocols Additional to the Geneva Conventions of 12 August 1949. June 8, 1977. https://www.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=D9E6B6264D7723C3C12563CD002D6CE4&action=openDocument. Accessed November 22, 2015.

[887] Klose, "Human Rights for and against Empire," 18-19.

[888] C88 Box 1, "Add your name to ours" and "Twenty-one questions answered by Charter 88," not dated.

[889] C88 Box 13, Executive Meeting Minutes, February 27, 1996.

guarantee to protect each community's civil, social, and cultural rights. As part of the 1998 Belfast Agreement that ended the Troubles, the British government pledged to incorporate the European Convention into UK domestic law. The passage of the Human Rights Act meant that the European Convention would apply to army and police conduct throughout the UK, including Northern Ireland.[890]

After the 9/11 terrorist attacks on the United States, Britain's involvement in the Iraq and Afghanistan wars further transformed the landscape of human rights law by raising the question of whether human rights legislation applied outside of the UK. The case of *Al-Skeini v. MOD*, which was eventually appealed to the European Court of Human Rights as *Al-Skeini v. UK*, generated one of the most significant jurisprudential decisions arising out of post-9/11 wars. In this case, relatives of six deceased Iraqi civilians initiated civil proceedings against the Ministry of Defence. Five of the deceased had been killed by British soldiers while on patrol in 2003. The claimants alleged that British soldiers had detained and tortured the sixth civilian, a man named Baha Mousa, who subsequently died in British custody. According to a post-mortem examination, Mousa suffered 93 separate injuries including a broken nose and four fractured ribs. In January 2004—in a manner reminiscent of the way that MOD handled civil cases in Northern Ireland—the MOD announced that it had paid compensation to Mousa's family but did not admit legal liability for his death. An inquiry which ran from 2008-2011 later confirmed that soldiers had beaten Mousa, placed him in stress positions, deprived him of sleep, and kept him hooded for 24 of the 36 hours during which he was in custody—all methods which had been used previously in Northern Ireland. Soldiers had also

[890] CAIN Web Service. "The Framework Documents 22 Feb 1995." University of Ulster. http://cain.ulst.ac.uk/ events/ peace/docs/fd22295.htm. Accessed November 21, 2015 and "The Agreement: The Agreement Reached in the Multi-Party Negotiations, 10 April 1998." http://cain.ulst.ac.uk/events/peace/ docs/agreement.htm. Accessed November 21, 2015.

used these practices on several other detainees at the prison.[891] The victims' family members also asked for the court to review the MOD's failure to investigate the deaths.[892]

The legal point at issue in the *Al-Skeini* case concerned the extraterritoriality of the 1998 UK Human Rights Act and, by extension, the European Convention on Human Rights—that is, whether this legislation applied to the conduct of British soldiers outside of British territory. According to Article 1 of the European Convention, member states must respect the rights and freedoms described in the Convention and apply those rights "to everyone within their jurisdiction."[893] In December 2004, the High Court ruled that neither the 1998 Act nor the European Convention applied to the first five deaths because those individuals were killed while British soldiers were on patrol and therefore the deaths did not occur within the UK's jurisdiction. But in the Mousa case, the High Court ruled that the 1998 Act and, by extension, the European Convention, applied because Mousa died in British custody. The case was appealed twice, reaching the Supreme Court in the House of Lords for decision. In June 2007, the House of Lords concluded that the five individuals killed during the patrol were not under UK jurisdiction, but that Baha Mousa was within the UK's jurisdiction. The Lords ruled that as a legally recognized space under British control, UK law applied to British military prisons no matter where in the world they were located.[894]

The House of Lords determined that the European Convention applied to the actions of British soldiers on military bases in Iraq, but a 2011 European Court of Human Rights ruling on the *Al-Skeini* case pushed the concept of extraterritoriality further. In what one

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[891] Sir William Gage. *The Report of the Baha Mousa Inquiry*. London: TSO, 2011, 263-409.

[892] See *R (Al-Skeini) v Secretary of State for Defence* [2008] 1 AC 153 and Andrew Williams, *A Very British Killing: The Death of Baha Mousa* (London: Jonathan Cape, 2012).

[893] Article 1. *European Convention for the Protection of Human Rights and Fundamental Freedoms.* Council of Europe. http://www.echr.coe.int/Documents/Convention_ENG.pdf. Accessed November 22, 2015.

[894] See *Al-Skeini v. UK* (2011) 53 EHRR 18 and Marko Milanovic, "*Al-Skeini* and *Al-Jedda* in Strasbourg," *European Journal of International Law* 23, no. 1 (2012): 121–39.

commentator called "a landmark judgment," the Court ruled that the European Convention applied not only to the actions of British soldiers at the detention center, but also to the soldiers' conduct while on patrol.[895] This decision was based on the understanding that the Convention applied if the state exercised "effective control of an area outside that national territory." Furthermore, the Court noted that "the obligation to secure, in such an area, the rights and freedoms set out in the Convention, derives from the fact of such control." Because British forces controlled many of the powers normally associated with a sovereign government in Iraq, the Court concluded that the Convention applied to soldiers' conduct in Iraq wherever they were—not solely on British military installations. Based on this judgment, the jurisdiction of European human rights law could extend to battlefields beyond Europe.[896]

The European Court's ruling in *Al-Skeini v. UK* contrasted sharply with arguments put forth in the early 2000s by Bush administration lawyers in the United States. Administration lawyers insisted that American laws applied only within the physical boundaries of the United States, therefore detainees could be held indefinitely outside of the U.S. at sites such as Guantanamo Bay, Cuba. This interpretation extended to the treatment of detainees beyond U.S. borders and was used to justify the operations of Central Intelligence Agency (CIA) "Black Sites" in which detainees were subjected to torture. Although the U.S Supreme Court's 2006 ruling in *Hamdan v. Rumsfeld* prohibited the use of military commissions to prosecute detainees, the Bush administration's refusal to apply the Geneva Conventions to captured enemy combatants after 9/11, the use of indefinite detention at Guantanamo Bay, and the approval of so-called "enhanced interrogation" techniques contributed to the

[895] Melina Padron, "*Al-Skeini* may open door to more war claims," UK Human Rights Blog. http://ukhumanrightsblog.com/2011/08/15/al-skeini-may-open-door-to-more-war-claims. Accessed November 19, 2015.

[896] *Al-Skeini v. UK* (2011) 53 EHRR 18, Section H8(c), p.3. On the Baha Mousa case, see Rachel Stevenson and Matthew Weaver, "Timeline: Baha Mousa case," *The Guardian*, September 8, 2011, http://www.theguardian.com /uk/2008/may/14/mousa.timeline. Accessed November 19, 2015.

emergence of an interrogation and detention system which legalized methods now widely regarded as torture.[897] When CIA health professionals criticized the interrogation program on medical grounds, psychologists from the American Psychological Association's ethics committee coordinated with CIA and Defense Department officials to ensure that the APA's code of ethics did not preclude psychologists from participating in "enhanced interrogation" programs. Such attempts to distort professional ethical guidelines are reminiscent of colonial officers' efforts to manipulate emergency regulations to their advantage.[898]

Beyond detention and interrogation, human rights issues emerged during the Iraq and Afghanistan wars over problems such as the excessive use of force and "collateral damage" to civilians. Senior British commanders did not provide as much oversight on the use of lethal violence in Iraq and Afghanistan as they had in Northern Ireland.[899] Employing guided missiles capable of precision strikes, American drone attacks increased dramatically during the first years of the Obama administration. In 2008, President Obama's first year in office, an estimated 298 people were killed by drone strikes—more than the total killed during the last four years of the George W. Bush administration combined. The number of deaths from U.S. drone attacks peaked in 2010, when 849 were estimated to have been killed.[900]

Drone strikes may have degraded the operational capabilities of violent extremist groups like Al Qaeda, but American reliance on airstrikes has generated a moral backlash.

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[897] National Security Archive. "The Interrogation Documents: Debating U.S. Policy and Methods." George Washington University. July 13, 2004. http://nsarchive.gwu.edu/NSAEBB/NSAEBB127/index.htm. Accessed November 22, 2015.

[898] James Risen, "Outside Psychologists Shielded U.S. Torture Program, Report Finds," *The New York Times*, July 10, 2015 and David Hoffman, et al., "Report to the Special Committee of the Board of Directors of the American Psychological Association: Independent Review Relating to APA Ethics Guidelines, National Security Interrogations, and Torture," Sidley Austin LLP, July 2, 2015.

[899] Ledwidge, *Losing Small Wars*, 186.

[900] Wayne E. Lee, *Waging War: Conflict, Culture, and Innovation in World History* (New York: Oxford University Press, 2015), 507–515.

According to some scholars, an armed drone's advantages—the ability to loiter for hours above a target, the precision of guided munitions, and low risk due to the lack of a human pilot—present a "moral hazard." The high likelihood of hitting a target and low risk to human operators means that drones have lowered the threshold at which policymakers in the United States will sanction the use of lethal force.[901] A result of this temptation is that strikes have been authorized against targets that were not always positively identified. Because of these difficulties, the CIA initiated a program of "signature strikes" in which drone operators launch an attack based largely on circumstantial evidence such as suspicious activity in known terrorist sanctuaries or communications intercepts which suggest that insurgent activity is taking place. Such attacks have killed many insurgents, but have also resulted in the deaths of civilians and, in some cases, American hostages.[902] The apparent injustice of civilian deaths and lack of redress for victims' families has contributed to bitterness and anger toward American security policy in places such as Pakistan, Afghanistan, and Yemen.[903]

Despite the anger and injustice felt by many who live under the drones, some contemporary commentators reject the wartime relevance of legal and moral considerations such as human rights. American journalist Robert Kaplan claims that the greatest morality in international affairs is the cold *amorality* of classical political realism. He argues that "the rare individuals who have recognized the necessity of violating such morality, acted accordingly, and taken responsibility for their actions are among the most necessary leaders

[901] Micah Zenko and Sarah Kreps, "Limiting Armed Drone Proliferation," Council on Foreign Relations, June 2014.

[902] David Rohde, "What the United States Owes Warren Weinstein," *The Atlantic*, April 28, 2015.

[903] Steve Coll, "The Unblinking Stare: The Drone War in Pakistan," *The New Yorker*, November 24, 2014.

for their countries."[904] Former British Army officer Rob Johnson concurs with Kaplan's belief that moral questions concerning human rights and international law are an unnecessary impediment to operations. To Johnson, legal concerns place troops in a straightjacket of restrictions.[905]

But those who view law and rights as nothing more than a hindrance to successful military operations misunderstand the importance of moral appeals in contemporary conflict. Emile Simpson, a strategic studies scholar and former British Army officer, links the tension between physical and moral victories to the production of strategic narratives. Simpson argues that in a world defined by contemporary globalization, in which communication across continents has become easier than ever before, no belligerent wages war without a public explanation of why it is fighting and what it hopes to achieve—this is the strategic narrative. Such narratives must appeal to its intended audience rationally, emotionally, and morally. Wartime objectives must appear logical and the reason for fighting must elicit supporters' passions or neutrals' sympathies. But reason and emotion can sometimes justify extreme measures. Moral concerns act as a check against excessive brutality. In contemporary conflicts, international human rights norms and laws shape moral considerations. An effective strategic narrative therefore requires a moral explanation of the conflict. For Simpson, moral arguments are part of strategy.[906]

Fighting in a morally unacceptable manner can prove counterproductive. Simpson describes this dynamic by examining the Russian Army's actions in Chechnya during the

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[904] Kaplan, "In Defense of Henry Kissinger: He was the 20th Century's Greatest 19th Century Statesman," *The Atlantic*, May 2013.

[905] Robert Johnson, "Predicting Future War," *Parameters: The U.S. Army War College Quarterly* 44, no. 1 (2014): 65–76.

[906] Emile Simpson, *War from the Ground Up: Twenty-First Century Combat as Politics* (New York: Oxford University Press, 2013), 208–213.

1990s and the Sri Lankans Army's 2006-09 campaign against the separatist Tamil Tigers. Both the Russians and Sri Lankans employed brutal methods against their adversaries and largely succeeded in establishing an acceptable level of security. But human rights violations committed in the process of achieving security objectives undermined Russian and Sri Lankan victories in the eyes of much of the international community while also fomenting resentment among defeated populations. According to Simpson, "the moral high ground, once evacuated, is very hard to regain."[907] Moral choices therefore generate military and political consequences on the battlefield and beyond.

Debates over interrogation, detention, and drone strikes highlight the centrality of moral issues in contemporary warfare, but such questions are not solely a twenty-first century phenomenon. This study has demonstrated that moral decisions based on human rights influenced military operations during the end of empire and beyond. From the decolonization era to the post-9/11 "war on terror," such choices have played an important role in the conduct of war. But it is also naïve to think that human rights are simply a set of supposedly "pure" and impartial ideals. The Cyprus, Aden, and Northern Ireland campaigns demonstrated that during the wars of decolonization and after, adversaries and third-party actors have routinely mobilized human rights concepts to serve their own purposes. These objectives may be self-serving, altruistic, or some combination of the two. Regardless of how or why they were mobilized, human rights became part of the topography of war—the terrain of the battlefield. And like terrain, human rights may be used to one's advantage or ignored to one's peril.

[907] Ibid., 209.

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