Chapter 10: Police legitimacy in divided societies: Exploring the interface of Religion and Social Cohesion

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Introduction

This chapter explores the legitimation of policing in diverse contexts, focusing on the challenges and issues raised when attempting to apply policing models and practices in divided societies. Academic research continues to pay significant attention to police legitimacy in divided societies where state authority can often be widely disputed, leading to a series of concerns expressed by those who perceive state power to be disproportionately levelled against them (see, for example, Smith, 2016; Van Damme, 2017; Holland 2021).

Drawing on examples from two jurisdictions, Israel and Northern Ireland, the chapter will explore the difficulties faced in maintaining police legitimacy in 'divided societies'. In this instance, 'divided societies' refers to societies in which overt and covert forms of division exist, and where structural impediments to effective policing based primarily on religious differences. The chapter also highlights the continued importance of police reform in diverse contexts as a means for improving police legitimacy, particularly within divided societies that are historically polarised and lacking social cohesion. Such reforms include the strict application of external police accountability mechanisms, an emphasis on education and training, and ensuring the police are reflective of all the communities that they serve.

Police Legitimacy in contrast

Research has consistently identified that police legitimacy can provide social order and ensure the police enjoy the necessary levels of cooperation and compliance needed to perform their roles (Murphy, 2008; Goodman-Delahunty, 2010; Mazerolle et al., 2012; Jackson et al., 2012). Moreover, it is argued that public belief in a legitimate police force results in a moral obligation to conform and accept directives from that authority (Tyler, 2006; Sunshine and Tyler, 2003). As a legal authority, the legitimacy of a police service therefore depends on its ability to demonstrate to the public why its exercise of powers is rightful (Reisig et al. 2007).

Noteworthy studies conducted in the USA (Sunshine and Tyler, 2003; Tyler, 2006) and UK (Bradford et al., 2009; Bradford, 2011; Martin and Bradford 2021), as illustration, support the argument that perceptions of fair police conduct can improve relations and legitimacy. Fairness is often achieved in two forms: first, procedural fairness, achieved by fair decision-making, using discretion fairly, remaining impartial and being considerate of the views and values of those who are being policed; second, distributive fairness, which is achieved by equal outcomes and treatments for those who are policed (Pehrson et al., 2017; also see Tyler, 2006).

Similarly, procedural justice is often argued to be a central tenet to fair policing, and one of the 'most important antecedents of police legitimacy' (Mazerolle et al., 2012: 344). Procedural justice refers to the fair and respectful treatment of citizens by the police (Mazerolle et al., 2012; Galovic et al., 2016). When citizens feel treated respectfully and fairly, they are more likely to view the police as legitimate. As a result, they are more likely to cooperate with the police and comply with the law (Tyler, 2003; Reisig et al., 2007). Consequently, police come to be viewed as legitimate when they are frequently present in communities managing conflicts, solving problems, and building relationships (also see Birch, 2011; Tyler, 2011; Jackson et al., 2012).

However, in societies where significant social division exists, for example in the context of religious conflict, or though structural factors such as those linked inequality, poverty, and other forms of discrimination, an enhanced set of challenges exist for policing amidst a broader need to bring about social and political integration of disparate groups amidst a climate of structural exclusion and socio-economic deprivation (see, for example, Loader and Mulcahy, 2003; Hearty 2018; Holland 2021). In this context, groups who have traditionally been polarised against the police or even those who feel estranged from policing as it moves through a reform process can experience a perceived legitimacy deficit, further impeding effective policing and deepening associated deficits. By considering the impact of religion on policing and police legitimacy, this chapter reflects on policing in Israel and Northern Ireland, each providing an exploration of some of the issues which characterise this fraught and conflicted relationship and providing the foundation for an examination of police legitimacy in divided societies.

Policing Sectarian Conflict

Religion is a significant catalyst for sectarian conflict, as a consequence, policing in such contexts is typically characterised by a militarised approach in which sectarian bias is present (Weitzer, 1985). It is therefore understandable how police legitimacy is questioned, and social cohesion is jeopardised under such conditions. The experience of both Israel and Northern Ireland are examples that illustrate this vexed context, while also providing insights into ways of mitigating the sectarian conflict.

Israel in focus

The formation of the Israeli state can be traced back to post-World War I, the collapse of the Ottoman empire, and colonial powers taking control of the Middle East (Kamrava, 2005). Under the Mandate for Palestine, Britain formally took control of the Palestinian region in 1920. While there was a single government in place, Arabic (also referred to in the chapter as Palestinians) and Jewish communities and economies developed separately. It was during the period 1920-1948 that the social, political, and economic foundations for an Israeli state were formed through external investment in the Jewish economy and a mass influx of Jewish immigration to the region. During this period the Jewish population grew exponentially from approximately 56,000 to 630,000, with many Zionists moving to the region as they believed the Jews needed their own state to exist freely and peacefully (Halevi, 2008).

After the mandatory period of British control, the State of Israel was formed in 1948 amid protest and conflict; many neighbouring states believed the Jews did not belong in Palestine (Connolly, 2018). The Arab league invaded Israel, and while Israel won the conflict, Egypt captured the Gaza strip and Jordan captured the West Bank – annexing two Palestinian territories within the Israeli state. The conflict displaced over 700,000 Palestinians who became refugees (Hammad and Tribe, 2021). Another period of mass immigration followed between 1948-1951, which saw the Jewish population double in only three years (Shvarts et al., 2016). At the conclusion of the Six Day War (1967), Israel took control of the Gaza Strip and West Bank. In the succeeding years, Jewish settlements were developed in the territories causing continuous hostilities and conflict, particularly as investment in infrastructure and local economies benefitted Jews (Halevi, 2008).

The social and political divisions between the Jews and Arabs continue today (Ben-Porat, 2021). Arabs make up approximately 20 percent of the population (Ramadi et al., 2019), rendering them an ethnic minority. Israel is a Jewish state, the national symbols, such as the flag and national anthem, are founded upon Judaism and protected by a strong political majority and legislature that prevents major changes (Ben-Porat, 2021); leading some

scholars to suggest that "the state privileges the ethnic majority and discriminates against the minority" (Ben-Porat, 2021: 261). Indeed, inequalities are conspicuous, Arabs experience discrimination in housing, employment, and education (Ben-Porat, 2021). Discussions regarding state security and policing of the Arab community are prevalent. The ongoing Israeli-Palestinian conflict positions Arabs in a state of suspicion, regarded by the state as a prospective threat and has resulted in political activists, NGOs, schoolteachers, and principals being placed under the surveillance of the state (Ben-Porat, 2021). Strained relationships between police and Palestinians are a chronic issue. Compared to their Jewish counterparts Arabs are less likely to trust police, less likely to feel safe in police-citizen encounters, and less likely to report crimes to the police (Hasisi and Weitzer, 2007).

In deeply divided societies, it is common for ethnic minorities to have a tempestuous relationship with police (Hasisi and Weitzer, 2007), as the police are tasked with the protection of "a sectarian regime and the maintenance of a social order based on institutionalized inequality between dominant and subordinate communal groups" (Weitzer, 1995: 5). This has led some scholars to suggest that Israel's approach to policing the Palestinian minority constitutes characteristics of "sectarian policing" (Boulos, 2020: 174). In addition to the police perceiving Palestinian's to be a threat to national security discussed above, other characteristics of sectarian policing seen elsewhere that may apply to Israel include the excessive use of force, over-policing of political activities, and the under-policing of ordinary crime (Weitzer, 1995) – each of which will be discussed below.

Incidents of unnecessary or excessive use of force have plagued the Israeli police. In 1956, Israel Border Police shot dead 48 unarmed Arab citizens that were returning from work unaware of the implementation of a new curfew – despite originally being imprisoned, the officers were later pardoned (Robinson, 2003). In 1976, six Palestinians were killed during protests against the planned expansion of Jewish settlements in northern Israel (Hawari, 2018). In 2000, police shot dead 13 unarmed Palestinian protestors and injured hundreds of others (Dalal, 2003). The events prompted a public inquiry, the Investigation Committee headed by Supreme court Justice Theodor Or (The Or Commission) criticized the Israeli government for decades of discrimination, stating that the:

> *Government handling of the Arab sector has been primarily neglectful and discriminatory… The state did not do enough or try hard enough to create equality for its Arab citizens or to uproot discriminatory or unjust phenomenon… serious distress prevailed in the Arab sector in various areas. Evidence of the distress included poverty, unemployment, a shortage of land, serious problems in the education system and substantially defective infrastructure.* (Or Commission 2003, para. 3).

In specific relation to policing, it stated there was a need *"to uproot prejudice, which exists even among officers who are experienced and admired. The police must learn to realize that the Arab sector in Israel is not the enemy and must not be treated as such"* (Or Commission 2003, para. 27). Despite the report's condemnation of the government and police, Arab citizens criticised the Commission for its failure to indict the police officers responsible for the murders (Adalah, 2020). Following the report's recommendations, some of the police's training has been revised, but armed force is still used, and between 2000-2019, 56 Palestinian citizens were murdered by police (Boulos, 2020). Over-policing also remains an issue, evidenced by the joint letter, written by over 40 human rights organisations, sent Chief of Police and Minister of Interior protesting the over-policing of, and institutional bias against, minority groups in Israel (ACRI, 2020).

Arguably in Israel, the focus on state security and policing political activities is prioritised above the rights of citizens, this has resulted in the benign neglect of policing ordinary crime in Arab towns (Hasisi and Weitzer, 2007). A focus on securitization – in combination with institutional discrimination leading to high levels of poverty and unemployment – has resulted in a sharp increase in crime in Arab communities in the last decade (Boulos, 2020). The neglect of policing these ordinary crimes is not attributed to resourcing or incompetence, but discriminatory under-policing i.e. police officers display greater endeavour when Jewish victims are involved (Gurr, 2015). Between 2000-2017, 1,236 Arabs died by violent crimes (Boulos, 2020). The rate of unsolved homicides with Arab victims is disproportionately high (approximately 50 percent), compared to their Jewish counterparts (approximately 33 percent) (Arraf, 2020). Arraf (2020) estimates there are approximately 400,000 illegal weapons dispersed amongst criminal organisations operating in Palestinian communities, including guns, grenades and explosives, the majority of which have been stolen from the Israelian army. In a response to the prevalence of gun crime in Palestinian communities, the State Comptroller (2018) investigated the issue and reported that 95 percent of shootings occur in Palestinian communities, while only a small portion of these are prosecuted. Zoabi (2017) also identified the low prosecution rate in cases with Palestinian victims, reporting that during some investigations police neglected interviewing key witnesses, at times encouraging them not to provide statements, and failed to collect crucial evidence.

The distrust of the Israeli police by Palestinian citizens, a product of over-policing of political activities and the under-policing of ordinary crime, has led to a lack of police legitimacy in Palestinian communities. For Palestinians, the Israeli police force represents the coercive power of a sectarian state to which they feel no allegiance. They are the physical symbolisation of institutional discrimination and the unequal distribution of resources. These issues are exacerbated by Israeli state symbols, legislature, and a strong political majority, which contribute to ensuring the subjugation of the Palestinian identity, and the cultural domination of Judaism. To address issues of police legitimacy in Israel – if this is what the state truly desires – then a wider process of separating policing from the state would likely be required. While this will not solve all the issues of a contested state, it will contribute to the diffusion of identity politics by disassociating policing from wider questions on governance and focusing instead on integrating the police into all the communities it serves. However, shifting policing away from issues of state security, towards an approach based on an adherence to shared values and equality will always be difficult in the absence of wider societal reform. The Israeli experience of sectarian conflict, whilst unique in many ways, therefore, has many similarities to our second case study, the 'troubles'[1] of Northern Ireland, which has experienced a notable drive for peace underpinned by root and branch reform of policing as a fundamental part of a broader process of societal change.

Northern Ireland in focus

For a considerable period, Northern Ireland has occupied a prominent position in global debates on police reform (Mulcahy, 2008; Ellison et al., 2012). This is in part due to the history of policing in NI and its intrinsic link to both the conflict – a protracted period of civil disobedience and paramilitary activity based on political/religious fault lines spanning 1968-98 – and the sustained efforts to resolve it since the later 1990s (Ellison and Smyth, 2000; McGarry and O'Leary, 2004). The transformation of policing from the former Royal Ulster Constabulary (RUC) into the Police Service of Northern Ireland (PSNI) is central to such debates and was premised, in large part, on placing community policing at the core of

[1] The 'Troubles' refer to the sectarian conflict in Northern Ireland between 1968-1998 (see: https://www.britannica.com/event/The-Troubles-Northern-Ireland-history)

efforts to promote peace by developing relations with previously estranged communities (McEvoy et al., 2002; Ellison, 2007; Ellison and O'Rawe, 2010).

The RUC was created following the partition of the island and the disbandment of the Royal Irish Constabulary which had previously policed Ireland as a whole (Brewer, 1991). Policing in Ireland in many ways provided a framework for the development of policing in Britain itself based on its priorities of responding to riots, crime and class control (Brogden, 1987). In addition, the colonial model of policing employed in Ireland was also exported throughout the British Empire. A central element of the Irish and other colonial models of policing, therefore, was the use of the police as a mechanism to suppress agrarian and political unrest (O'Donnell and O'Sullivan, 2001; Kilcommins et al, 2004).

While there was a deliberate and sustained attempt to establish the legitimacy of the police in England by 'depolitizing' the nature of policing (Reiner, 2000, p.9), the police in Ireland were often confronted with explicitly political disputes with certain sections of the population that were essentially hostile to colonial rule. That tradition of suppressing nationalist dissent was accompanied by significant support from Loyalists and Unionist sections of the population (most commonly in the north) who largely (but not universally) approved of British rule. As Smyth (2002) notes, if the minimum requirement for police legitimacy is the full support of the population, then this did not apply to Ireland as a whole prior to 1922 or indeed in Northern Ireland after partition where the police became widely viewed as the 'armed wing of Unionism' (see also Farrell, 1983).

The partition of Ireland between the six North Eastern Counties of Ireland and the rest of the island took place on the third of May 1921 creating two entities on the island. The partition of the northern six counties occurred at a time of severe political violence and was designed to produce a majority in one section of the population over another (Brewer and Magee, 1991). The Northern Irish parliament was established as a miniature version of the Westminster system employed in Great Britain itself. Under this system, the party (or parties) that enjoyed a majority in the legislature had untrammelled executive and legislative power. This policy ensured that the Unionist parties dominated the Northern Ireland Parliament for the next 50 years (McGarry and O'Leary, 2004).

From its establishment, the Northern Ireland government saw the maintenance of security and the protection of the fledgling state as its central responsibility. Initially, there was a plan to simply divide the existing (all Ireland) Royal Irish Constabulary (RIC) between Northern Ireland and the Irish Free State, but continuing negotiations and violence deemed that notion unworkable (McGloin, 2003). Instead, the RIC remained intact until the establishment of the Royal Ulster Constabulary (RUC) on 1 June 1922 when almost 1,000 RIC officers were absorbed into the new force (Ellison and Smyth, 2000). As noted above, a substantial minority of Catholics remained living in the six counties which now comprised Northern Ireland, and periodically their rejection of the legitimacy of partition, and consequently the authority of the RUC, led to eruptions of violence against the British state and its representatives (Brewer and Magee 1991).

Throughout its history the RUC remained a largely protestant police force. Recruitment of Catholics peaked at 21 per cent in 1923 (Ellison and Smyth, 2000), and had decreased to 11 per cent by 1969 (Farrell, 1983). In the period from 1968 to 1969, street demonstrations and riots over sectarian dominance overwhelmed the under resourced RUC (Brogden and Nijhar, 2005).[2] The role of the RUC during this period led to three Royal commissions, Cameron

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[2] The Civil Rights Movement emerged in the 1960's to address the perceived discrimination of the nationalist population. The movement featured an organised and motivated nationalist organisation 'The Northern Ireland Civil Rights Association'

(1969), Hunt (1969), and Scarman (1972), with each criticising the conduct of the RUC. The report of the Hunt committee was particularly influential as it recommended an end to what it saw as the dual role of policing in Northern Ireland, i.e., performing all the normal roles expected of a police force in the United Kingdom while, on the other hand, undertaking security duties of a military nature.

As Gordon (2008) notes, the historical and political context of policing in Northern Ireland became a fundamental obstacle to achieving institutional legitimacy. The tendency to utilise a style of policing that appeared both excessive and intrusive had obvious implications for the relationship between the RUC and the Nationalist community. Writing on this issue, Weitzer (1995) suggested that the counterinsurgency methods employed by the state made the legitimation of the police impossible. He argues that the mechanisms of police accountability were fundamentally weakened by such measures, and attempts to uphold accountability were interpreted by police and their supporters as being weak on terrorism. In this regard, the need to maintain a dual system of policing ensured that the public support that the police required to carry out their normal policing duties became compromised providing the conditions to instil a legacy of fear and distrust (Mulcahy, 2006). This analysis became an important plank in the subsequent reform of policing in Northern Ireland.

In September 1999 the Independent Commission on Policing in Northern Ireland (ICP), chaired by Chris Patten, published its recommendations. The commission was established in the aftermath of the Good Friday agreement that ushered in a road map for the end of the conflict and also offered the potential for a "radical reconceptualization of how policing in Northern Ireland would be conceived and structured" (Mulcahy, 2006, 4).

Throughout the NI peace process, the question of police reform has been a central element of political negotiations. As in other contexts, 'the police' was both an imagined and a material representation of the state (Ellison and Smyth, 2000). For many Protestants and Unionists, the police represented loyalty and service to the British crown. For many Catholics and Nationalists, the police represented the coercive embodiment of a state to which they owed no allegiance, as well as the 'sharp end' of sectarian and politically discriminatory policing tactics (Ruane and Todd, 1995; Mulcahy, 2006). This perceived absence of legitimacy of policing in many parts of the NI jurisdiction created a context in which police reform became a central plank, both real and symbolic, in the constitutional redesign of the state of NI itself (Hillyard and Tomlinson, 2000; Gordon, 2008).

When the ICP, chaired by Chris Patten, published its recommendations, the final report was developed around a golden thread, which he interpreted as comprising two principal strands: 'the importance of local knowledge and capacity and a post-factum view of the appropriate relationship between scrutiny and direction'. More specifically, Kempa and Shearing (2005) identify two distinct, but overlapping, strands of reform that underpin the document: 'conventional' reforms to the 'system of police'; and reforms that sought to shift the emphasis from the 'police' to 'policing'.

The 'conventional' reforms to the 'system of police' in NI have involved the enhancement of oversight structures, training, recruitment and cultural change (Ellison, 2007). The ICP recognised that, to gain legitimacy, the police service needed to be representative of the community it was policing. One outcome from this was the reformation of the controversial recruitment policy, with the aim that the new intake of police officers should comprise 50%

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who presented several demands including an end to electoral gerrymandering, the repeal of emergency legislation and the abolition of the B specials (a part time militia force) (Mulcahy, 2006).

Catholic and 50% Protestant or others. Colloquially known as the '50/50 rule', this ran from 2001–2011, by which stage the proportion of Catholic officers had reached almost 30%.

The Commission also argued that 'every neighbourhood (or rural area) should have a dedicated policing team with lead responsibility for policing in its area' (ICP, 1999: 43), which would be 'empowered to determine their own local priorities and set their own objectives, within the overall Annual Policing Plan and in consultation with community representatives' (ICP, 1999: 45).

In the context of an emphasis shift in emphasis from the 'police' to 'policing', the Commission intended to connect programmatically to the idea that the police should no longer monopolise crime prevention (Bayley, 1994). As Shearing (2000) notes, the ICP envisaged policing as a regulated network of participatory 'nodes', each with the authority, capacity and knowledge to provide for the governance of security. This ethos is particularly relevant to NI, given the involvement of non-state organisations in the governance of security in their local communities throughout the conflict, including paramilitary groups (Kempa and Shearing, 2005). Consequently, the ICP was faced not with the problem of how to construct new justice participants, but rather, how to encourage and involve the diverse networks that were already in existence, and to do so in ways that guaranteed non-violence and the protection of human rights.

The idea that the policing should involve the active participation of community members has been far from straightforward and Northern Ireland continues to face a number of structural impediments to successful police working, such as the continued security threat to police and issues relating to legitimacy and procedural justice (Deglow, 2016). This is exacerbated by the continued involvement of non-state organisations, including paramilitaries, in the governance of security in their local communities (McGarry et al., 2017). Most recently, a series of social media fuelled public protest and rioting have followed incidents where the PSNI were perceived in perceived in some quarters to have operated in a way that appeared to prioritise the policing of one section of the community over the other (Lawther and Hearty, 2021). Each have served to highlight the impact of a continued inability to deal with the legacy of Northern Ireland's past and the subsequent tightrope that the police in Northern Ireland must walk as they navigate an inherently complex political and social environment.

Certainly, the experience of Northern Ireland suggests that 'Policing with the Community' can continue to build impressions of a modern accountable police service that belongs to no one group. However, some commentators have pointed to a move away from this key ambition of the ICP as being a factor in the continued struggles of the PSNI face to cope with the challenges brought by inter-communal tensions (Caparini and Hwang, 2021). Nevertheless, while ideological views of the role and nature of the police present a considerable challenge in scenarios where deep divisions remain, areas of commonality can be found. Reinforced they will help to foster a shared ethno-nationalist ideal of a reformed police service that attracts enduring support as it adapts to and helps to counter the structural impediments of a post conflict society and prevent the appropriation of the symbolic power of the police by groups external to the organisation (Hearty 2018; Holland 2021).

Conclusion

Policing divided societies is a complex issue driven by many facts, with religion being a common catalyst. A fall out of such division is the sectarian bias that typically occurs through police practice, this is illustrated in this chapter through the consideration of both Israel and Northern Ireland as case examples. The impact of such social division through

policing is the question of legitimation of the police in which police practices are scrutinised through a lens of representativeness, prescriptiveness, fairness, inclusiveness and above all accountability to all sections of society. The need for the police to respond in a positive manner to the structural impediments resulting in the lack of social cohesion brought about by both political division and social exclusion is common theme that runs through each of the examples used to explore police legitimacy in divided societies.

Both Israel and Northern Ireland continue to occupy global interest with respect to the police reform debates, in which both the history and perceived legitimacy of policing are intrinsically linked to the conflict and the sustained efforts to maintain peace within the contemporary landscape. This chapter, therefore, has considered the continued and evolving impact of sectarianism on policing set against the police reform process. Focusing on the complex interaction between religion and social cohesion, exploring the impact of religion on key strands of policing reform such as achieving a police service that is representative, instilling effective community policing and partnership structures, and the potential for the transformation of the legitimacy of the police. A central argument put forward in this chapter is that historical challenges to police legitimacy have evolved along religious and sectarian lines to present new and sustained difficulties for policing in police forces within Israel and Northern Ireland contemporaneously. While debates on policing, religion and sectarian conflict are advanced, policing continues to be beset by the challenges of policing inter-communal conflict and division. However, there is scope for optimism, as evidenced in this chapter, by reflecting on how policing might respond to these challenges in order to fully integrate religious differences and ensure community cohesion. Arguably, the common denominator for such integration is through embracing police practices that brings the police closer to the public they serve and that incorporates a series of values designed to increase perceptions of fairness, procedural justice, and most importantly the impression that the police belong to every section of society. Only then can the police achieve that illusive ideal of being perceived as a legitimate entity that has the confidence of all.

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