

Chapter 3

Disavowing Democracy: The Silencing Project in the South

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The invoking of Section 31 was only one of a range of legislative measures enacted to cope with the outbreak of the northern conflict. When looked at holistically, all the legislative measures combined to create a silencing project in the southern state. The term 'silencing project' carries with it the trappings of a conspiracy theory but essentially refers to the canalling of legislation and government policy so as to amplify one interpretation of a situation and demonise any competing interpretations. The articulation of public opinion is effectively a vocalising project by citizens or media professionals to articulate a commonly held view that may produce political consequences. A silencing project reflects the reverse of this whereby legislation or government policy makes citizens or media professionals wary of expressing a contrary opinion for fear of attracting a negative sanction or public odium. The concept is derived from Elizabeth Noelle-Newman's Spiral of Silence theory which postulates that society threatens individuals that deviate from the perceived consensus with isolation and exclusion; that individuals have a largely subconscious fear of isolation; that this fear of isolation causes people to constantly check which opinions are approved or disapproved of in their environment; and that the results of these assessments affect people's willingness to speak out. If people believe that their opinion is part of the consensus they have the confidence to speak out. Conversely if people feel they are in the minority they become more cautious and silent. This process may then become a spiral wherein one opinion is routinely expressed in an over-confident manner while the other opinion declines in public view save for the exception of a hard core of believers.¹ The notion of a 'silencing project' includes all the above but is the result of a process whereby governments amplify one definition of a situation and repress alternative interpretations either via legislation or by demonising those that continue to present alternative viewpoints.

The opinion of the southern population towards the northern conflict is difficult to qualify as opinion changed as the conflict unfolded. In the 1950s, the IRA's border campaign met with indifference in the South. However, the suppression of the civil rights movement and the pogroms of 1969 galvanised sympathy and support for the nationalist community. This reached its peak in the aftermath of Bloody Sunday in 1972 when over 50,000 people marched to the British embassy in Dublin and burned it down. From then on the conflict entered its bloodiest phase and although support for the IRA dwindled, there remained the fear within southern politics that given certain conditions, public opinion could swing back again. The opinions of the southern electorate towards the North were succinctly captured in a 1978 survey carried out by the Economic and Social Research Institute. As regards the IRA, 60% of respondents opposed IRA activities, 21% supported such activities and 19% remained neutral. In contrast, 42% of respondents supported the motives of the IRA, 33% opposed such motives and 25% remained neutral. On the issue of partition, 72% were anti-partition while 13% were pro-partition. Asked whether the Irish Government should put pressure on Britain to withdraw from the North, 64% of respondents agreed while 33% disagreed. Asked if the British Government should announce a future withdrawal at a fixed date 78% agreed and 18% disagreed.² From the above statistics it is safe to surmise two things; one, a clear majority rejected the activities of the IRA, and two, a clear majority supported self-determination for the entire island.

Despite the huge gap between these sentiments and the desultory level of support that Sinn Féin attracted at election time, to some these two clear-cut positions could not be separated because a large section of the population remained neutral on the motives of the IRA. The belief was that so long as people stayed neutral, there remained an ambiguity towards violence that could turn into support given certain circumstances. This was the so-called 'leaky national consensus' – the shaky climate of public opinion that republican spokespeople could supposedly manipulate to win support. The argument was simple: spokespeople would exploit broadcasters' obsession with facts – who, what, when, where, how, why – to win over the neutrals and thus never 'lose' an interview. As long as this 'leaky national consensus' or ambiguity existed, Section 31 was needed to prevent such spokespeople from manipulating public opinion.³ The problem with such a synopsis

is that it is based on the model of direct effects and assumes that audience members are passive dupes rather than critically thinking individuals. It assumes that should a spokesperson 'get the better' of an interviewer then audience members would side with the spokesperson. It also assumes that the interview is the only factor in the formation of opinion. However, audiences interpret media messages through previously formed opinions and prior experiences and there is a huge difference between 'winning' an interview and winning public support. Nonetheless, this 'leaky national consensus' argument formed the basis of the 'provo-scare' – the belief that people exposed to the voices and viewpoints of republican spokespeople would be won over – and thus provided a justification for Section 31. As a consequence, the complicated disintegration of the northern state and the subsequent conflict became so simplified in the realm of public discourse that even the mildest support for self-determination was viewed as tacit support for the IRA. Those who sought to widen the debate to include the actions of either state or their security institutions were at best regarded as gullible or at worst viewed as IRA apologists. The legislation and policy of successive governments contributed significantly to this process – the cumulative effect of which was a silencing project. The central element of this silencing project was its normative aspect. The South's governmental response to the conflict did not emerge from a broad and open public debate about the origins or underlying causes of the conflict or what response the South should adopt. Instead, it emerged as a kind of 'received wisdom' or 'common sense' that obviated the need for debate and strongly questioned the motives of anyone who advocated or engaged in such a discussion. This 'common sense' held that the government had the right to take whatever measures it deemed necessary to ensure the survival of the southern state and that anyone who questioned this doctrine was not fully committed to the maintenance of democracy.

The silencing project was fuelled by the emergence of a siege mentality within the southern body politic that became manifest in four areas. Firstly, within mainstream politics there was a genuinely held but over-estimated belief that the conflict would engulf the southern state. As a result the conflict was principally defined not as a political problem but as a law and order issue that the legal system would resolve. Such a

definition resulted in the introduction of some of the most repressive legislation in western Europe that impacted on those who viewed the conflict in political terms. Secondly, under pressure to discourage dissent, the Garda Síochána was effectively given a free hand. Frequent allegations of Garda misconduct were met with a policy of see no evil, hear no evil and speak no evil on the part of government. Thirdly, the only institution that could challenge this hegemony - the media - was forcibly silenced on the grounds that interviews with republican spokespeople would incite people to support the IRA. While Section 31 successfully gagged the broadcast media, Section 3 of the Criminal Law Bill attempted but failed to silence the print media. Nonetheless newspapers and periodicals were frequently brought before the courts on spurious charges of contempt. Lastly, any party or individual that expressed concern about any of the above or who peacefully questioned the legitimacy of the northern state or Britain's role in the conflict was regarded as having ulterior motives. This demonisation of alternative viewpoints was a major element in the silencing project by virtue of its chilling effect on public debate.

A state under siege

The perception of a state under siege and the consequential belief that the government had the right to take whatever measures it deemed necessary to ensure the survival of the state had its origins in the Arms Crisis of 1969-1970. During this period the Fianna Fáil Government authorised the mobilisation of the army and its deployment along the border, authorised the movement of a consignment of arms to Dundalk to be distributed to northern civilians in the event of a 'doomsday scenario' and authorised the training of Derry nationalists in the use of weaponry. It also authorised £100,000 for the 'relief of stress' in the North - a substantial portion of which was paid to a German arms dealer for guns and munitions that were to be flown to Dublin Airport. The issue of whether or not the latter action was government policy has always been hotly debated. Suffice to say that when the plan became public the government line was that it was a plot hatched by a cabal of renegade ministers that was in cahoots with the IRA. Four ministers subsequently left the Cabinet, rumours of a coup d'état swept the country and the public's attention was gripped by the events at the Arms Trial. What followed was an avalanche

of legislation designed ostensibly to protect the existence of the state but which also had a chilling effect on debate in the South.

In December 1970 the government announced it was considering the introduction of internment, Section 31 was invoked in October 1971 and in May 1972 the Minister for Justice Des O'Malley re-introduced the juryless Special Criminal Court.⁴ The justification for its re-introduction was that the state could no longer rely on jury courts to try those accused of subversive crime because juries were being intimidated. When challenged in the Dáil to cite examples of such intimidation, O'Malley failed to do so. A more likely scenario was that the government feared that in times of high emotion, juries would understand though not necessarily condone the actions of accused individuals and return not guilty verdicts. Much to the government's embarrassment, the jury in the Arms Trial had unanimously returned not guilty verdicts that acquitted the accused and put the spotlight firmly back on the Cabinet.⁵ Whatever the motive, the public was sidelined and silenced in the administration of justice in such cases. In November 1972, the Offences Against the State Amendment Bill allowed for a person to be convicted of IRA membership solely on the opinion of a Garda Chief Superintendent. This shifted the burden of proof from the state to the accused who now had to prove that the Garda's opinion was wrong. In a prophetic attack on the legislation, Labour's Conor Cruise O'Brien criticised the 'drastic powers reversing the onus of proof' and surmised that Irish democracy was being 'eroded and curtailed, trampled, constricted and distorted' to the extent that the powers not 'abused this year or next year may well in future circumstances be abused'.⁶

Despite such opposition, the perception of a state under siege gained momentum during the Fine Gael - Labour coalition of 1973-1977. When, in July 1976, the IRA assassinated the newly appointed British ambassador Christopher Ewart-Biggs, the government responded with more legislation. The Emergency Powers Bill proclaimed a state of emergency and also allowed for the detention of individuals without charge for seven days if Gardai had a 'reasonable suspicion' against the individual.⁷ The thinking of the government was clearly illustrated by the Minister for Justice Patrick Cooney who

dismissed fears for civil liberties by declaring that such fears were ‘not real fears for people unless they are on the side of the enemies of the state’.⁸ One individual with concerns about the bill was President Cearbhall O’Dálaigh. A former Chief Justice, O’Dálaigh exercised his prerogative to send the bill to the Supreme Court to test its constitutionality. At a speech at an army barracks, the Minister for Defence Paddy Donegan told the assembled units that the President (and commander-in-chief of the armed forces) was ‘a thundering disgrace’ and that the army ‘must stand behind the state’. The outburst implied that such an independently minded President could not be trusted and should a difference develop between the government and the President then the army should back the government. The fact that a Minister had attacked the head of state in front of the armed forces was lost on a government obsessed with security. Taoiseach Liam Cosgrave refused to accept Donegan’s resignation and so stating that the presidency had been compromised by the government’s actions, O’Dálaigh resigned. In a state where dealing with the effects rather than the causes of the conflict took precedence, not even the head of state was allowed to express concerns about civil liberties.

Turning a blind eye

The siege mentality also affected the Garda Síochána as it came under pressure to discourage dissent; a result of which was the increased use of Section 30 of the Offences Against the State Act, whereby a person could be arrested and detained solely on the suspicion that he or she was about to or had committed a crime. During the 1970s the increased use of this section to clamp down on dissent is apparent. In 1973, 271 people were arrested and 181 people were subsequently charged. In 1975, 607 people were arrested and 116 charged. The respective figures for 1977 are 1144 and 150 and for 1979 are 1431 and 169. The disparity between those arrested and those charged with an offence illustrates the abuse of the section towards those who attended meetings and protests that the state viewed as undesirable. More seriously perhaps, from 1975 onwards, allegations of systematic ill-treatment of individuals in Garda custody emerged.

The allegations centred on a specific number of Gardai and included allegations of sleep deprivation, repeated physical assault and relentless interrogation. By the late 1970s

approximately 80% of serious crimes were being ‘solved’ by confessions alone – many of which were later retracted in court.⁹ In his autobiography, the then Minister for Posts and Telegraphs, Conor Cruise O’Brien outlined how Garda misconduct helped solve a kidnapping case. In October 1975, Republicans kidnapped a Dutch industrialist Tiede Herrema and demanded the release of republican prisoners. The Gardai traced the gang to a house and after an eighteen-day standoff Herrema was released unharmed. Shortly after, O’Brien asked his Special Branch bodyguards how the Gardai had discovered the hideout. One of the detectives replied that a member of the gang had been arrested and while being transferred to Dublin the car transporting him stopped. ‘The escort started asking him questions and when at first he refused to answer, they beat the shit out of him. Then he told them where Herrema was’. For fear of worrying his Cabinet colleagues, O’Brien kept the information to himself.¹⁰

In January 1977, a detainee jumped from a second floor window of Cahir Garda station; a move allegedly prompted by his desire to escape ill-treatment. Although the incident was mentioned on RTÉ news bulletins, management rejected suggestions by reporters that a film report be compiled or that the man be interviewed, even though he was never charged with any crime.¹¹ The growing unease led to rumours that a ‘Heavy Gang’ of interrogators that specialised in the extraction of confessions was operating within the force. The Cabinet discussed the allegations and concluded that it would ‘be sending very conflicting signals to public opinion if at the same time as enacting {emergency} legislation...we instituted an inquiry into the interrogation of suspects held by the Gardai’.¹² This despite the fact that one Minister knew that Garda misconduct had helped solve the Herrema kidnapping. Instead of holding an inquiry the government stated that the allegations were either IRA propaganda or rumours by rogue Gardai to discredit the government.¹³ In February 1977, two senior Gardai met with the Minister for Foreign Affairs Garret FitzGerald and told him that they believed that ‘confessions had been extracted by improper methods’. According to FitzGerald, he wrote to Taoiseach Liam Cosgrave outlining his concerns but nothing came of it. Shortly after, the *Irish Times* published a series of articles that identified the sections of the Garda Síochána to which

members of the Heavy Gang were attached. It also extensively catalogued the injuries sustained by suspects.¹⁴

The expose held the front page for three days and despite the knowledge within the Cabinet that things were not quite right, it again denied the veracity of the story. The Minister for Justice, Patrick Cooney condemned the ‘gullible and uninformed media’ that had been ‘taken in by people whose interests are served by breaking down public confidence in the police’.¹⁵ For its part, RTÉ felt obliged to help restore such confidence. In April 1977, an RTÉ crew was sent to cover a protest outside Portlaoise prison. Having been instructed not to record sound, the footage turned out to be useless when the protest turned into a serious riot and the station was forced to borrow film from the BBC for its nightly news bulletin. As journalists put the package together, senior executives rang the news desk instructing that the film be edited so as not to give the impression of ‘Garda brutality’. Amnesty International’s investigation into the allegations concluded that ‘maltreatment appears to have been carried out systematically by detectives who appear to specialise in the use of oppressive methods in extracting statements from persons suspected of involvement in serious politically motivated crimes’. The report also criticised the Special Criminal Court for failing or refusing to scrutinise allegations of ill-treatment closely enough.¹⁶

Press censorship

A crucial by-product of this siege mentality was the implementation of state-sponsored censorship that attempted to ensure that only one interpretation of the conflict was reflected in the media. Initially this censorship was restricted to the broadcast media; the origins, justifications, arguments against and consequences of which are examined in other chapters. In July 1976 the Fine Gael - Labour coalition attempted to impose a similar ban on the print media. Section 3 of the Criminal Law Bill consisted of a highly ambiguous definition of incitement that was aimed at curtailing the reporting of the conflict as a political battle. In particular the section was aimed at the *Irish Press* because within the coalition ‘there was a feeling that the *Irish Press* was subversive to the state; that it was justifying and provoking IRA killings’.¹⁷ But Section 3 was so ambiguously

worded that any report, interview, feature, editorial or letter to the editor could be judged to fall within its remit on a trial-by-trial basis.

Any person who, expressly or by implication, directly or through another person or persons, or by advertisement, propaganda or any other means, incites or invites another person (or other persons generally) to join an unlawful organisation or to take part in, support or assist its activities shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding ten years.¹⁸

In an interview with Bernard Nossitor of the *Washington Post*, Conor Cruise O'Brien stated that the South had a 'cultural problem' in relation to the IRA and the North. This consisted of 'a whole framework of teaching, of ballads of popular awe that enabled the IRA to survive, even to flourish and most of all to recruit young and impressionable people'.¹⁹ In the course of the interview O'Brien produced a bunch of readers' letters to the *Irish Press* that he believed represented this 'wrong-headed culture' and indicated his determination to tackle the medium that printed them. The attorney general Declan Costello later confirmed to the paper's political correspondent that 'if the *Irish Press* continued to print such letters then he would charge the editor'.²⁰ This intention to suppress the opinions of ordinary people who had written letters to a newspaper was indicative of how far the government was prepared to go to silence alternative viewpoints. In a subsequent Dáil debate, O'Brien stated that newspapers were the IRA's favourite medium of 'recruitment propaganda' and that once Section 3 became law it would pose no threat to newspapers, as they would be too afraid to publish anything that might be interpreted as breaching the section. This, according to O'Brien, would result in a 'significant diminution in the publication of pro-IRA propaganda'.²¹

The section would also have curtailed the ability of newspapers to interview members of Sinn Féin, to report court cases or editorialise on the conflict and a campaign by the NUJ to have the words that could be interpreted as pertaining to the print media deleted (from 'who' to 'incites') was eventually successful. But despite the coalition's unsuccessful attempt to gag the print media the chilling effect remained and several publications were summoned before the courts. In 1975 the Special Criminal Court declared itself 'scandalised' after the *Irish Press* published claims that Gardai had beaten up suspects.

Its editor, Tim Pat Coogan, was prosecuted but successfully defended the newspaper. In 1976 the editor of the *Irish Times*, Fergus Pyle, was charged with contempt after the paper reproduced terminology from a press release that referred to the Special Criminal Court as a 'sentencing tribunal'. *Hibernia* magazine also fell foul of the Special Criminal Court. Its letters editor, Brian Trench, was summoned for contempt after the magazine published a reader's letter that referred to a trial at the court and put the word 'trial' in quotation marks.²² Such reactions demonstrate how overly sensitive the institutions of the state were to scrutiny and criticism during the 1970s.

Demonisation of alternative viewpoints

All of the foregoing combined to foster the strongly held conviction within the body politic that there was only one way of reading the conflict in the North. That reading was wholly encapsulated in virulent condemnation of the IRA. This emphasis on the actions of one party to the conflict had a de-contextualising effect as it concentrated on the effects rather than the causes of the conflict. Also, as latter day revelations have demonstrated, it allowed another party to the conflict to evade media scrutiny and engage in what is euphuistically termed a 'dirty war'. Adding fuel to this belief was the crossover of revisionism - a form of historical investigation characterised by value free analysis that sought to critically interrogate the nationalist narrative of Ireland's struggle for independence - from the discipline of history to the realm of journalism. While traditional historiography viewed the conflict as the culmination of an historical process, revisionism viewed it as a result of extremism fuelled by nationalist myths about the struggle for liberation. Taken to extremes, revisionism was anti-nationalist and viewed any celebration of nationhood or commemoration of independence in the South as glorifying and encouraging violence perpetrated for political ends. Thus the belief that the celebrations held in Dublin in 1966 to commemorate the fiftieth anniversary of the 1916 Rising and the broadcasting of *Insurrection* by RTÉ that same year acted as catalysts for the conflict that erupted in 1969 (this despite the fact that the vast majority of northern homes could not receive RTÉ's transmission signal). A more realistic analysis would point to the historical discrimination against nationalists, the suppression of the civil rights movement and the events of Bloody Sunday as crystallising points of the conflict.

Nonetheless anti-nationalist revisionism became a dominant force in much of the southern media, advocates of which were as energetic in expressing their own views as they were in dismissing any contrasting views. In particular the Workers Party promoted a pro-Section 31 anti-nationalist analysis of the conflict and members or supporters of the party exerted disproportionate influence in RTÉ and the *Irish Times*. Within RTÉ, members and supporters of the party's line on the North dominated the flagship current affairs programme *Today Tonight* and this resulted in skewed coverage of many aspects of the conflict. In a wider media context, commentators or journalists who advocated a more critical analysis of the conflict or who campaigned for the repeal of Section 31 were viewed with suspicion or accused of harbouring IRA sympathies. The volume of abusive labels devised to discredit such individuals is mind-boggling. Terms such as fellow-traveller, sneaking-regarder, provo-stooge, crypto-provo and hush-puppy-provo entered the lexicon used to label critically thinking individuals as IRA apologists. One of the more public manifestations of this phenomena occurred in 1974 when a Minister made an after-dinner speech for political correspondents and verbally accused them of being 'provo-stooges' because of their coverage of the conflict.²³

A silencing project?

When considered in isolation, the emergence of a siege mentality, the repressive legislation, the turning of a blind eye to abuses perpetrated by agents of the state, the heavy-handed censorship of broadcasting, the attempted censorship of print media and the virulent demonisation of any views that challenged the conventional wisdom on the conflict may appear as phenomena unrelated to one another. However, when considered together, the cumulative effect was to create and perpetuate a climate of silence and fear of expressing opinions or analyses that went against the pseudo-consensus that the only permissible and safe thing to say on the conflict was to condemn the IRA. **The most proffered justification for Section 31 was that those who refuted the democratic process also forfeited the rights (including the right of freedom of expression) of that democracy. However, it is arguable that those who vigorously stifled debate also refuted or had no trust in the democratic process.**

The curtailment of debate impacted not only on freedom of expression. It also severely hampered the ability of the media to test and establish the truth of many occurrences of the conflict. This in turn diluted the robust public debate required in any properly functioning democracy. The net result was zero public pressure on the southern body politic to actively engage with what was happening north of the border. Conversely, the IRA never had to account for its actions or place its activities in a political rather than a military context. In short, the demands of censorship prevented the nation from adequately addressing the conflict from which the ban arose.

The notion that public opinion was wholly supportive of Section 31 is questionable and public opinion certainly seemed more flexible than the blanket ban that existed. In a 1987 survey of attitudes among the Dublin electorate 53% of respondents disapproved of Section 31.²⁴ But the overwhelming determination on the part of successive governments to limit rather than encourage critical debate resulted in the conflict being publicly defined in black and white terms for over two decades. One of the most damning and ironic consequences of such one-dimensional thinking was that successive governments unwittingly fell into their own trap of silence. For fear of exciting an easily influenced

southern electorate and inciting support for the IRA, successive governments could only offer the most insipid responses to injustices such as the imprisonment of the Birmingham Six and the Guildford Four and the Dublin and Monaghan bombings. Indeed, the fact that the annual renewal of Section 31 usually passed without any debate in Dáil Éireann is itself a testament to the asphyxiating silence that characterised the southern response to the northern conflict.

¹ Noelle-Neumann, E. (1993) *The Spiral of Silence: Public Opinion - Our Social Skin*. Chicago: University of Chicago Press, 201.

² Davis, E. & Sinnott, R. (1979) *Attitudes in the Republic of Ireland Relevant to the Northern Ireland Problem*. Dublin: Economic and Social Research Institute.

³ Harris, E. (1987) 'Television and Terrorism'. Unpublished.

⁴ It was originally established under the Offences Against the State Act 1939 and was suspended in 1946.

⁵ Among some southern politicians there existed a view that the Arms Trial jury was intimidated. See O'Brien, J. (2000) *The Arms Trial*. Dublin: Gill and MacMillan, 220.

⁶ O'Toole, F. 'The Life and Times of Conor Cruise O'Brien' (part three) in *Magill*, June 1986, 37-46.

⁷ The state of emergency that had existed since 1939 was ended and a new state of emergency was declared. This lasted until February 1995.

⁸ Dunne, D. & Kerrigan, G. (1984) *Round Up the Usual Suspects*. Dublin: Magill, 184.

⁹ O'Briain Report (1978) *Report of the Committee to Recommend Certain Safeguards for Persons in Custody and for Members of An Garda Síochána*. Dublin: Stationary Office.

¹⁰ O'Brien, C.C. (1998) *Memoir: My Life and Themes*. Dublin: Poolbeg Press, 355.

¹¹ McGurk, T. 'The Silent Years' in *Sunday Tribune*, 11 January 1981.

¹² FitzGerald, G. (1991) *All in a Life: An Autobiography*. Dublin: Gill & MacMillan, 313.

¹³ In 2004, Justin Keating, a member of that Cabinet stated in response to allegations of contemporary misconduct, 'I'm satisfied that the nods and winks that were given to the Gardai at that time gave rise to the culture we see today'. Coulter, C. 'Opportunity to reform Garda Síochána must not be missed' in *Irish Times*, 17 January 2004.

¹⁴ See *Irish Times*, 14 February 1977.

¹⁵ Allen, G. (1999) *The Garda Síochána: Policing Independent Ireland 1922-82*. Dublin: Gill & MacMillan, 193.

¹⁶ Report of Amnesty International Mission to Ireland 1977.

¹⁷ *Irish Press* political correspondent Michael Mills cited in O'Brien, M. (2001) *De Valera, Fianna Fáil and the Irish Press*. Dublin: Irish Academic Press, 149.

¹⁸ Dáil Éireann Report: Vol. 292 (1976) col. 482.

¹⁹ O'Brien, M. op. cit. 149.

²⁰ *ibid.*

²¹ Dáil Éireann Report: Vol. 292 (1976) col. 474-479.

²² Both Pyle and Trench apologised to the court.

²³ Anon. 'Conor Cruise O'Brien and the Media' in *Belfast Bulletin* (9) Spring 1981, 2-8.

²⁴ Horgan, J. & Meehan, N. (1987) *Survey on Attitudes of Dublin Population to Section 31 of the Broadcasting Act*. Dublin: National Institute of Higher Education.