

STATEMENT OF CASE TO DESIGNATE THE REAL IRISH REPUBLICAN ARMY AS A TERRORIST ENTITY

Purpose

1. The purpose of this paper is to set out the case demonstrating that the Real Irish Republican Army (also known as the Real IRA or RIRA) meets the statutory criteria for designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (“TSA”).
2. The paper concludes that the Real Irish Republican Army (RIRA) meets the criteria for designation as a terrorist entity under the TSA.

Structure of this paper

3. This paper sets out background information about the RIRA covering various aspects of the organisation including (briefly) its background and history; ideology and objectives; its size and structure; sources of income; targets, weapons and capabilities, before detailing three case studies of recent attacks which meet the definition of a terrorist act under the TSA.
4. The discussion preceding the case studies provides background about the situation in Northern Ireland and about the RIRA which helps inform the analysis of the specific attacks in the case studies below. The attacks detailed in the three case studies represent attacks attributed to and claimed by the RIRA. It is these three attacks that have been analysed as meeting the definition of a “terrorist act” under s 5 of the TSA, and which provide the basis for the paper’s conclusion that the RIRA meet the legal criteria for designation as a terrorist entity under the TSA.

Statutory criteria for this designation under the TSA

5. The Prime Minister has the power under the TSA to designate individuals or groups as terrorist entities. Section 22 provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts.
6. A terrorist act is defined in s 5 of the TSA. A number of different acts fall within this definition. The s 5 criteria relevant to this paper are those which deem an act to be a terrorist act if that act:
 - 6.1 Is intended to cause the death of, or serious bodily injury to, one or more persons; and
 - 6.2 Is carried out for the purpose of advancing an ideological, political, or religious cause; and
 - 6.3 Is intended to either:
 - 6.3.1 Induce terror in a civilian population; or
 - 6.3.2 Unduly compel or force a government or an international organisation to do or abstain from doing any act; and

- 6.4 Is not an act that occurs in a situation of armed conflict and which is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.

Credibility of Sources

7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are: Jane's World Insurgency and Terrorism (Jane's); the Economist; New York Times; Washington Post; the BBC; and the Independent Monitoring Commission (IMC). The formal task of this Commission set up under articles four and seven of an agreement between the Government of the United Kingdom and the Government of Ireland, is to "monitor the remaining threat from the paramilitary groups..."¹ Its informal task is to reassure all sides that developments in the paramilitary sector are known, understood and, if necessary, being countered. Some Irish media reporting has been drawn on when the information is consistent with the reporting from the above sources; the website "Conflict Archive on the Internet (CAIN) - Conflict and Politics in Northern Ireland" being one.²

Background

Establishment of the RIRA

8. The RIRA was established in November 1997.³ It emanates from the tradition of extreme Irish Republicanism aimed at "removing, through violent means, the British presence in Northern Ireland and restoring a united Ireland".⁴ It sees the present Republic of Ireland as "a betrayal of the all-Ireland republic" first proclaimed by the leaders of the 1916 rebellion in Dublin and ratified by the first Dail (the lower House of the Irish parliament) in 1919.⁵
9. Because of its total commitment to a united Ireland, the RIRA argues that "The Republican struggle was never about economic and social change within the Six-County state - it was about destroying that very state and getting the British out of Ireland".⁶ Its attitude to the Police Service of Northern Ireland (PSNI) is that it "regard[s] the PSNI as an integral section of the British Crown Forces and its war machine in Ireland".⁷
10. The RIRA's emergence has been very much aided by the Provisional Irish Republican Army's (PIRA) gradual shift away from the use of force towards the pursuit of politics. This has created a gap in the tradition of violent republicanism which the various dissident republican groups are filling.⁸ At the local level, RIRA members often co-operate at the local level with members of the Continuity Irish Republican Army (CIRA).
11. The RIRA has been designated as a terrorist organisation by the United States⁹ and the United Kingdom¹⁰ and has been listed by the European Union,¹¹ Australia and Canada for asset freeze purposes.

Size, Organisation and Structure

12. The RIRA is small in number (Jane's gives an estimate of the RIRA's activists at between 100 and 150).¹² Some had been members of the PIRA, which they left as it became obvious that it was abandoning violence. Some of these ex-PIRA members brought with them weapons and some specialist skills such as the making of IEDs/bombs. Some ex-PIRA members remain formally independent of the RIRA but collaborate with it on specific operations: others have either joined or

prefer to work with other dissident republican organisations such as the Irish National Liberation Party and the CIRA. Some of the RIRA are young and the reasons they have joined are debated. Jane's argues that the young are drawn to the RIRA partly because they anticipate lucrative earnings from the RIRA's criminal operations in drugs, general smuggling and protection rackets¹³. The Economist says that "most dissidents are not disaffected IRA but younger men, drawn in by a mixture of diehard belief that violence is essential if Northern Ireland is to be freed from the United Kingdom and a hankering for the excitement of disorder and the community status that paramilitaries once enjoyed".¹⁴

13. Jane's says that the RIRA lacks a tightly organised structure¹⁵ and that individual units have a high degree of autonomy. It comprises numerically small, geographically-linked cells into which activists are recruited.
14. The IMC's most recent report¹⁶ says that the RIRA is divided into two wings. The first is present in Belfast, Newry, South Armagh, Londonderry, Ballymena, Cookstown and Lurgan. In the South, it is present mainly in Donegal, North Lough, Dublin and Cork. The IMC's 21st Report¹⁷ notes that "it is perhaps important to note that the two factions of RIRA operate independently and do not therefore present the same coherent organisation that the PIRA was". Jane's notes that the IMC's report of April 2004 says that that "there is little central strategy although there is input from leadership figures in terms of authorising or overseeing attacks".¹⁸

Income

15. Jane's reports that funding flows continue from private individuals and organisations in the United States who are sympathetic to the Republican cause¹⁹. The RIRA's links with various criminal activities including armed robbery, smuggling, "fuel laundering"²⁰, "tiger" kidnapping²¹, fraud and other rackets also boost its income.

Ideology/objectives

16. The RIRA's *raison d'être* is the removal by violence of British rule in Northern Ireland and the establishment of a new 32 county Irish republic encompassing all of Ireland.²² The RIRA hold the position that the reunification of Ireland will only proceed on a sustainable basis after "the British military and political presence is "totally removed from the equation". Its secondary aim therefore is the failure of the Good Friday Agreement,²³ under which political power is shared between the Unionists, the Republicans and some other political groups in Belfast.
17. The RIRA's immediate aim is to defeat the security forces in Northern Ireland (most particularly, the PSNI).²⁴ The defeat of the security forces, the RIRA anticipates, will result in both the collapse of Northern Ireland's present political structures and British withdrawal. Thus, in April 2009, the IRA committed itself to "continu(ing) to strike at the British occupation forces wherever and whenever we decide" and it warned that "any young person fool enough to join the colonial police...is sadly mistaken. The ...PSNI are a British police force..."²⁵

Tactics and Weapons

Tactics

18. In the pursuit of the objectives discussed above, in the six months from 1 September 2009 to 28 February 2010, the IMC²⁶ tallied the RIRA's activities as:
 - 18.1 murdering one man and trying but failing to murder many others;
 - 18.2 mounting sixteen separate attacks against the PSNI. Of these, eleven included some form of explosive device. Also, the RIRA attacked court houses and British Army bases; and
 - 18.3 being heavily involved in serious non-terrorist crime. This included a number of shootings and assaults, often directed at drug dealers or those who engage in other forms of anti-social activity.
19. Overall, the IMC concluded that the RIRA "remains an extremely serious threat".²⁷
20. More generally, the RIRA uses the tactics of terrorism as an integral part of its campaign. It instils fear in the general public²⁸ by demonstrating its ability to target individuals through assault and intimidation.

Weapons

21. The weapons deployed by the RIRA include:
 - 21.1 assault,²⁹ automatic and semi-automatic rifles;
 - 21.2 rocket propelled grenades³⁰;
 - 21.3 improvised explosive devices³¹, some of which can be very large (200 kg). Much of the explosive content is locally made, as are the bombs themselves.³² The RIRA also has some stocks of Semtex³³;
 - 21.4 the RIRA has developed improvised weaponry, including the 'Mark 19' a 120mm mortar.³⁴ One such improvised weapon, a mortar, was deployed but not used in the attempted attack on the PSNI station at Keady in February 2010.³⁵ The mortar took three days to render safe and remove. The IMC attributed it to the RIRA.³⁶
22. As noted in paragraph 12 above, some of those militants who joined the RIRA after the Provisionals abandoned violence brought with them weapons. The RIRA has also smuggled weapons in to Northern Ireland. Evidence in a recent court case was to the effect that the RIRA had engaged in serious negotiations with arms dealers to buy some 100kgs of plastic explosives, 20 AK47s, 10 sniper rifles, 20 handguns and 20 rocket propelled grenades.³⁷

Factions and splits

23. As noted in paragraph 14 above, the RIRA is divided into two wings. Dissident Republicanism in Northern Ireland is factionalised, including as it does the CIRA, the Irish National Liberation Army and Oglagh na h-Eireann.³⁸ This factionalism within the dissident republican movement arguably diminishes its capacity and contributes to a weakness in terms of strategic focus and management.

Capabilities

24. Jane's reports that "Security chiefs and observers in Northern Ireland, Britain and the Republic of Ireland all agree that the threat posed by the Real IRA is high".³⁹ Similarly, the Economist notes that "Northern Ireland's security forces are becoming increasingly concerned that republican terrorism is mutating into a new and even more dangerous form, more expert and with a wider range of tactics".⁴⁰ The IMC's view earlier this year was follows: "...the range and nature of RIRA's activities in the six months under review (1 September 2009 to 28 February 2010) were, by any yardstick, a very serious matter".⁴¹
25. Even so, the RIRA is much less effective than the Provisional IRA was before it gave up violence. Operationally, the IMC notes, the RIRA "does not have comparable resources in terms of personnel, money, organisation and cohesion, or range of weaponry and expertise, and it has not matched the range and tempo of the PIRA's activities. It has neither significant local or international support".⁴²

Case Studies

Attempt to kill a Police Officer - 12 May 2008

The Facts

26. An off-duty Police Service of Northern Ireland (PSNI) officer sustained serious leg injuries when a bomb exploded under his car, at Spamount, Castlederg on May 12, 2008⁴³. The officer appears to have been lucky to survive: he had to be dragged clear of the wreck which caught fire. The car had not been used for several days beforehand, and police believe that the device was planted under it while it was parked.⁴⁴
27. The placing of the explosive device under the officer's car suggests that the attackers had identified the policeman as a target and could identify with some certainty the particular car that he would use.⁴⁵ The attackers also demonstrated their capacity to fabricate a viable car bomb: according to Jane's⁴⁶, the RIRA "possesses expertise in the manufacture of home-made explosives...".
28. The RIRA is plainly hostile to the PSNI. As noted in paragraphs 9 and 17 above, the RIRA sees the PSNI as an organisation that protects the current political order in Northern Ireland and thus by definition works against the unification of the Northern Ireland with Ireland. From this flows the importance it accords to neutralising the PSNI by attacking its members.⁴⁷ Clearly, the RIRA had the motive to make the attack. The IMC has determined that the RIRA was indeed the attacker.⁴⁸ Jane's also attributes the attack to the RIRA, relying on the IMC.⁴⁹ Both the IMC and some elements of the Irish media have reported that the RIRA has claimed responsibility for the attack.⁵⁰

The attack meets TSA criteria for designation

29. The planting of a bomb under the PSNI officer's car is consistent with the definition of a terrorist act under s 5 of the TSA.
30. The targeted nature of the bombing of the officer's vehicle clearly shows an intention to cause the death or serious bodily injury of the civilian officer (s 5(3)(a) TSA). The bombing is one of a number of attacks on PSNI officers carried out by the RIRA since 2009 (see paragraph 18 above). As noted above at paragraph 20, the RIRA instils fear in the general public by demonstrating its ability to target individuals

through assault and intimidation. Accordingly, as an example of such a targeted attack, this bombing represents an attempt to induce terror in the civilian population (s 5(2)(a) TSA). The RIRA has made known its willingness to attack members of the PSNI, which it sees as an instrument of British rule in Northern Ireland (see paragraph 17 above). This attack is thus also an example of the RIRA's pursuit of its objective to compel, through the use of violence and terror against the civilian population, the removal of the British presence in Northern Ireland and the abandonment by the Irish government of the Good Friday Agreement (s 5(2)(b) TSA). This bombing was therefore also carried out with the purpose of advancing the RIRA's own ideological/political cause (s 5(2)(a) TSA).

The killing of two Soldiers, the wounding of two others and the wounding of two civilians outside Massereene Barracks - 7 March 2009.

The Facts

31. On 7 March 2009, two British soldiers were killed by gunmen who opened fire on them outside the Massereene Barracks in County Antrim. Two other soldiers were wounded, as were two civilians. The soldiers were taking delivery of pizzas from the two civilians.
32. The available sources are agreed that the killings were the work of the RIRA. The IMC⁵¹, Jane's⁵², the BBC⁵³, the Times/Sunday Times⁵⁴ and the Guardian⁵⁵ all point to the RIRA as the killers. The RIRA has also made a claim of responsibility⁵⁶.
33. The evidence is conclusive that the attack was deliberate. Gunmen were waiting, in a car outside the barracks⁵⁷, for the soldiers to emerge from the barracks⁵⁸. They had two semi-automatic rifles and fired over 60 rounds. Once the victims had fallen, they moved closer and fired again.⁵⁹
34. According to the IMC's 22nd Report, in April 2009, the RIRA issued a statement in which it claimed the 'right' to 'execute' anybody providing services to the security forces.⁶⁰ The injuring of the two civilian pizza workers in the attack outside of Massereene Barracks is consistent with the RIRA's statement.

The attack meets TSA criteria for designation

35. The shooting of the soldiers and pizza delivery workers outside Massereene Barracks is consistent with the definition of a terrorist act under s 5 of the TSA.
36. The deliberate, targeted and prolonged nature of the shooting clearly shows an intention to cause the death or serious bodily injury of civilians as well as the soldiers (s 5(3)(a) TSA). Carrying out the violent attack upon civilian workers delivering pizzas to the soldiers shows an intention to induce terror in the civilian population (s 5(2)(a) TSA). The circumstances of the attack and the subsequent statements by the RIRA show that this attack was carried out in pursuit of the RIRA's objective to compel, through the use of violence and terror against the civilian population, the removal of the British presence in Northern Ireland and the abandonment by the Irish government of the Good Friday Agreement (s 5(2)(b) TSA). This attack was therefore also carried out with the purpose of advancing the RIRA's own ideological/political cause (s 5(2) TSA).

The attack on a PSNI Officer on 8 November 2007

The Facts

37. A PSNI officer was shot and wounded while off-duty on 8 November, 2007. In its 18th Report, the IMC⁶¹ ascribed the attack to the Real IRA as did Jane's.⁶²
38. The policeman, a Catholic, was attacked immediately after he had dropped his child at school in Londonderry. Hit and wounded, he managed to drive away to a nearby Police station. In its statement claiming responsibility, the RIRA, made it plain that it intended to kill the officer, saying that, after the firing of the shotgun, another 'volunteer' approached the vehicle with a hand gun which malfunctioned, thereby saving the officer's life.⁶³
39. This attack was an attempt by the RIRA to kill a police officer. As such, it was consistent with the RIRA's aim of defeating the PSNI.⁶⁴

The attack meets TSA criteria for designation

40. The shooting of the PSNI officer in Londonderry is consistent with the definition of a terrorist act under s 5 of the TSA.
41. The targeted nature of the shooting and the subsequent statement by the RIRA clearly shows an intention to cause the death or serious bodily injury of the civilian officer (s 5(3)(a) TSA). Like the bombing in the first case study above, the shooting is one of a number of attacks on PSNI officers carried out by the RIRA since 2009 (see paragraph 18 above). As noted above at paragraph 20, the RIRA instils fear in the general public by demonstrating its ability to target individuals through assault and intimidation. Accordingly, as an example of such a targeted attack, this shooting represents an attempt to induce terror in the civilian population (s 5(2)(a) TSA). The RIRA has made known its willingness to attack members of the PSNI which it sees as an instrument of British rule in Northern Ireland (see paragraph 17 above). This attack is thus also an example of the RIRA's pursuit of its objective to compel, through the use of violence and terror against the civilian population, the removal of the British presence in Northern Ireland and the abandonment by the Irish government of the Good Friday Agreement (s 5(2)(b) TSA). This shooting was therefore also carried out with the purpose of advancing the RIRA's own ideological/political cause (s 5(2) TSA).

Is there an armed conflict and are RIRA members combatants?

42. For the s 5(4) exemption to apply, two conditions must be satisfied. First that there is a state of armed conflict currently in Northern Ireland and second that the attack accords with the law of armed conflict ("LOAC"). If one of these conditions is not met, the exemption does not apply.
43. An internal armed conflict exists where the conflict is fought between government forces and opposing non-state forces, or amongst armed groups, none of whom qualify as a legitimate government. Additional Protocol II (1977) to the 1949 Geneva Conventions adopted a higher threshold, requiring the insurgent forces fighting the government to be under responsible command and to control territory such that it would be able to implement the Additional Protocol. Such violence may even be classified as an international armed conflict when peoples are fighting against colonial domination, alien occupation or racist regimes in the exercise of their right to self determination.⁶⁵ LOAC distinguishes, however, between armed conflict and other internal disturbances or tensions such as riots and isolated and sporadic acts of violence.

44. Although RIRA uses language suggestive of an armed conflict against the United Kingdom the situation is one of sporadic violent activity by the organisation. RIRA's attacks began in 1997 and they have not considered themselves bound by the Good Friday agreement. There is no evidence of violence that has reached a degree of intensity and continuity on the part of either RIRA or the Northern Irish / UK authorities that would bring the situation within the meaning of "armed conflict."
45. Given there is no situation of armed conflict, the exemption in s 5(4) cannot apply to RIRA's attacks detailed in the case studies.
46. Even if it is accepted that there is a current armed conflict, the second threshold for applying LOAC is also not met. Only combatants⁶⁶ have the right to conduct attacks in accordance with LOAC. This generally means members of armed forces, however irregular forces can still qualify provided that they distinguish themselves from the civilian population while engaged in an attack or operations preparatory to an attack⁶⁷ RIRA, by not distinguishing themselves from the civilian population during operations (their attacks are covert or carried out remotely) or conducting its operations according to LOAC, does not qualify for combatant status.⁶⁸ Furthermore there is no evidence of a responsible internal disciplinary system within RIRA which enforces compliance with LOAC.⁶⁹ Again, this means that the exemption in s 5(4) cannot apply.

The case studies

47. For completeness, even if the two threshold questions were answered in the affirmative and LOAC did apply to RIRA, in both instances detailed in the case studies, RIRA has breached LOAC in two respects.
48. First, in case studies Numbers 1 and 3, the attack was targeted against policemen. Members of the police, unless integrated into the armed force, are civilians. This breaches the LOAC principle of distinction – that attacks on enemy combatants and military objectives are lawful, whereas attacks on the civilian population, civilian objects and people rendered *hors de combat*⁷⁰ are not. The attack in case study Number 2 was primarily against members of the UK Armed Forces, but included the wounding of civilians in circumstances where it is clear from the statements of the RIRA and the way the attack was conducted, that no attempt was made to distinguish between military personnel and civilians. Second, "terror attacks" are prohibited by LOAC.⁷¹ Although the attacks in question were directed primarily toward members of the PSNI and the UK Armed Forces, the circumstances of these killings and the threats that accompany them were also clearly meant to send a terrorising message to the population.

¹ For further details, see Annex 1 to the 23rd Report of the Independent Monitoring Commission. This is can be found at www.independentmonitoringcommission.org and then by clicking on the 23rd Report.

² See <http://cain.ulst.ac.uk/othelem/organ/ira/rira280103.htm>

³ See p 1 of the report by Jane's World Insurgency and Terrorism Report of 5 March 2010 entitled Real IRA (RIRA). This report is available on subscription at www.janes.com.

⁴ See p 5 of footnote 3 above

⁵ See p 2 of footnote 3 above.

⁶ See p 2 of footnote 2 above

⁷ See p 4 of footnote 2 above.

⁸ See p 2 of footnote 3 above.

⁹ U.S Department of State "Foreign Terrorist Organizations" <http://www.state.gov/s/ct/rls/crt/2008/122449.htm>

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- 10 U.K Home Office "Proscribed Terrorist Groups"
[http://www.homeoffice.gov.uk/publications/counter-terrorism/proscribed-terror-groups/proscribed-](http://www.homeoffice.gov.uk/publications/counter-terrorism/proscribed-terror-groups/proscribed-groups?view=Binary)
[groups?view=Binary](http://www.homeoffice.gov.uk/publications/counter-terrorism/proscribed-terror-groups/proscribed-groups?view=Binary)
- 11 Official Journal of the European Union "Council Common Position 2005/847/CFSP 29 November
 2005: http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_314/l_31420051130en00410045.pdf
- 12 See p 3 of footnote 3 above.
- 13 See p 3 of footnote 3 above
- 14 See the item entitled "Britain: Shadow of the past" dated 14 March 2009. This is available on
 subscription from www.economist.com.
- 15 See p 5 of footnote 3 above
- 16 See paragraph 2.25 on page 12 of footnote 1, above.
- 17 See paragraph 2.30 on page 12 of the 21st Report by the International Monitoring Commission. Go
 to www.internationalmonitoringcommission.org and click on 21st report.
- 18 See p5 of footnote 3 above.
- 19 See p4 of footnote 3, above.
- 20 The price of petrol in Ireland and Northern Ireland differs sufficiently for the smuggling of petrol
 across the border to be profitable.
- 21 This is the taking of family members hostage in order to compel other family members to cooperate
 with the captors.
- 22 See p1 of footnote 3 above.
- 23 See:
- pp 1, 2 and 4 of a statement by the Real Irish Republican Army on 28 January 2003. Footnote 2 above
 refers; and
 - an article in the Tribune newspaper entitled "Brits out or nothing". Dated 3 February 2003 it is
 available at [http://www.tribune.ie/archive/article/2008/feb/03/brits-out-or-nothing-for-real-ira-](http://www.tribune.ie/archive/article/2008/feb/03/brits-out-or-nothing-for-real-ira-hardliners/)
[hardliners/](http://www.tribune.ie/archive/article/2008/feb/03/brits-out-or-nothing-for-real-ira-hardliners/)
- 24 See :
- paragraphs 2.23 and 2.27 on p 12 of footnote 1, above; and
 - answers 2 and 2b on p 2 of footnote 2, above.
- 25 See p 2 of the RIRA's Easter Statement, 13 April 2009. This is available at
<http://cain.ulst.ac.uk/othelem/organ/ira/rira130409.htm> .
- 26 See paragraph 2.32 on p 15 of footnote 1, above
- 27 See paragraphs 2.26 - 2.32 on pp 12 - 15 of footnote 1 above.
- 28 See, for example, paragraph 2.35 of the IMC's 22nd Report, in which the following is reported about
 the RIRA: it "will not hesitate to use violence, particularly but not only against members of the security
 forces, and will not hesitate to kill". A series of violent RIRA attacks on civilians or their property are
 chronicled in paragraphs 2.27 and 2.29 (on pages 11 and 12) of the IMC's 21st Report; paragraphs 2.29
 to 2.33 and paragraph 2.35 (all on pp12-14) of the IMC's 22nd Report; and paragraphs 2.26 and
 2.30 -2.32 (see pp 12, 14 and 15) of the IMC's 23rd Report.. Such a series of attacks demonstrate that
 the RIRA is uninhibited in its use of violence and is willing to attack civilians. Fear of the RIRA is the
 logical consequence.
- 29 See p 4 of footnote 3 above.
- 30 See p 4 of footnote 3 above.
- 31 See p 4 of footnote 3, above.
- 32 See paragraph 2.29 on p14 of footnote 1, above
- 33 See p 4 of footnote 3 above.
- 34 See p 4 of footnote 3, above.
- 35 See the BBC item entitled "Mortar bomb left near Keady police station" and dated 19 February 2010.
 This is available at http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/8523641.stm
- 36 See both the final indent in para 2.27 on p 13 and para 2.29 on p 14 of footnote 1
- 37 See:
- the BBC item: "Two guilty of Real IRA gun plot", dated 30 June 2010 which is available at:
<http://www.bbc.co.uk/news/10464897>; and
 - the item "Real IRA gun smuggling trial ends", dated 21 June, 2010. This report is available from
<http://www.u.tv/News/Real-IRA-gun-smuggling-trial-ends/430027f9-efa5-41ac-8417-3d400549af62>
- 38 ONH is a name sometimes used by one of the factions within the RIRA. It is also the name of a
 second and independent group of dissident republicans located around the town of Strabane. See the
 first indent in paragraph 2.8 on p 7 of footnote 1, above
- 39 See p 2 of footnote 3, above.
- 40 See the Economist item "Britain: Resurgent; terrorism in Northern Ireland", dated 12 December, 2009.
 This is available on subscription.
- 41 See paragraph 2.3 on p 5 of footnote 1 above

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- 42 See paragraph 2.3 on p 5 of footnote 1 above.
- 43 See BBC report "Officer hurt by booby trap bomb", dated 13 May 2008. This is available at http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/7397420.stm
- 44 See article entitled "Attempted murder of police officer in County Tyrone", dated 1 May 2008. This is available at http://www.psnipolice.uk/12_05_08_-_attempted_murder_of_police_officer_in_county_tyrone
- 45 The IMC reported in 2008 that the RIRA undertook "targeting, mainly of security force personnel, and it gathered information about them". See page 12, page 2.23 of the Independent Monitoring Commission's 20th report. This can be obtained by Googling "Independent Monitoring Commission" and clicking on the 20th Report.
- 46 See p 4 of footnote 3 above. The RIRA uses bombs in cars in various ways. The most common use is merely for transport. In April this year, for example, the RIRA hijacked a taxi, in which a large bomb was placed. It was then was driven to an army base in north Belfast where it exploded, causing little damage and one minor injury - there was time to clear the area outside of the base.
- 47 The RIRA shares with the other terrorist groups in the tradition of extreme Irish Republicanism the core aim of removing the British presence from Northern Ireland.
- 48 See p 11, paragraph 2.22 of the Independent Monitoring Commission's 20th report. This can be obtained by going to www.independentmonitoringcommission.org and clicking on the 20th Report.
- 49 See pp 9 and 13 of footnote 3 above.
- 50 For example, see an article in the "Irish News" dated 16 May 2008. This is available at <http://saoirse32.blogspot.com/2008/05/.../murder-bid-admitted-by-real-ira/>.
- 51 See paragraph 2.30 on page 12 of the IMC's 21st Report. This can be obtained by going to www.independentmonitoringcommission.org and clicking on the 21st Report.
- 52 See p 9 and 14 of footnote 3, above.
- 53 See BBC report, dated 23 November, 2009, entitled "Dissident suspect is refused bail". This is available at http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/8374249.stm.
- 54 See London Times report "Terror groups unite in 'new IRA'". This report, dated 13 December, 2009 is available at www.timesonline.co.uk/tol/news/world/ireland/article6954582.ece
- 55 See p 3 of a report entitled "Republican threat forces 20 police officers to move home" in the Guardian of 30 December 2009. This is available at <http://www.guardian.co.uk/uk/2009/dec/30/psni-police-assassination-threat>.
- 56 See a BBC report, dated 12 May 2009 and entitled "Judge undecided on Real IRA case". This is available at http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/8044526.stm.
- 57 See p 2 of a BBC report entitled 'real IRA was behind army attack'. This was dated 8 March, 2009 and is available at http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/7930995.stm
- 58 See p1 of a BBC item "How the barracks attack unfolded", dated 9 March 2009 and available at http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/7931260.stm
- 59 See p 2 of footnote 51 above.
- 60 See paragraph 2.29 on p 12 of the IMC's 22nd Report. This is available by going to www.independentmonitoringcommission.org and then by clicking on 22nd report.
- 61 See paragraph 2.22 on p 10 of the Independent Monitoring Commission's 18th report. This report is available from <http://www.independentmonitoringcommission.org>, and then click on the report's button.
- 62 See p 12 of footnote 3, above
- 63 The Real IRA's claim was reported in p 8 of <http://fenian32.livejournal.com/2007/11/12/>. An extract from the claim was carried in Jane's World Insurgency and terrorism (see +p 12 of footnote 3 above).
- 64 See pp 1 and 2 of footnote 2, above.
- 65 Additional Protocol I (1977) to the Geneva Convention of 1949 Art 1 (4).
- 66 Strictly speaking combatant status only arises in international armed conflict so the tests from Additional Protocol I have been applied.
- 67 Additional Protocol I (1977) to the Geneva Convention of 1949 Art 44.
- 68 The applicable LOAC would be customary international law, Common Article 3 of the Geneva Conventions 1949 and Additional Protocol II (1977) to those Conventions. The United Kingdom has ratified all four Geneva Conventions and the two Additional Protocols.
- 69 Additional Protocol I (1977) to the Geneva Convention of 1949 Arts 44 and 43(1).
- 70 A person is *hors de combat* if he or she is wounded, sick or shipwrecked or captured by the opposing force.
- 71 Customary international law. See also Additional Protocol II (1977) to the Geneva Convention of 1949 Art 4(2)(d). Such attacks are also unlawful under customary international law.