2.5. Civilian control of the military and police
2.5. Civilian control of the military and police

Executive Summary

This chapter reviews the available evidence relating to the four ‘search questions’ concerned with civilian control of the military and police in the UK.

Our analysis in this chapter identifies a number of changes and continuities since our last full Audit of UK democracy. These are summarised below under three separate headings: (a) areas of improvement; (b) areas of continuing concern; and (c) areas of new or emerging concern.

(a) Areas of improvement

1. The ‘normalisation’ of security arrangements in Northern Ireland.

The success of the peace process, allied with the power-sharing model of devolution, enabled the UK to end its 38 year ‘counter-insurgency’ military operations in Northern Ireland in 2007 (for further details, see Section 2.5.1). Security arrangements in Northern Ireland are now fully in the hands of the Police Service for Northern Ireland, which stands out within the UK for its strong institutional arrangements for accountability and responsibility for human rights. (For further details, see Section 2.5.2)

2. Modest improvements in the scope for parliament to hold the intelligence and security services to account.

Parliament has gained the right to propose potential members of the Intelligence and Security Committee (ISC) to the prime minister. More significantly, the coalition has accepted, in principle, the broad recommendations of the ISC to undergo reforms which would establish it as a committee of parliament. (For further details, see Section 2.5.2)

3. Moderate improvement in the social representativeness of the armed forces and police.

While the makeup of both the armed forces and the police remains far out of line with the composition of the UK population as a whole, there has been a small rise in the proportion of armed services and police personnel who are female and a similarly modest increase in the proportion from ethnic minority backgrounds. There has also been a far more dramatic, and welcome, increase in the proportion of police officers in Northern Ireland originating from Roman Catholic backgrounds. (For further details, see Section 2.5.3)

4. Sharply diminished paramilitary activity in Northern Ireland.

In the period since the early 1990s, the membership and activity of paramilitary groups in Northern Ireland has declined sharply. As a result, the number of deaths attributable to the activities of paramilitary organisations in the province has fallen dramatically. Whereas an average of around 300 people per annum died as a result of sectarian violence in the province during the early 1970s, the number of deaths per annum attributable to ‘the troubles’ has been in single figures for around a decade. (For further details see Section 2.5.4)

(b) Areas of continuing concern

1. Inadequate parliamentary oversight of military policy and operations.

Parliament retains the formal power to either maintain or disband the UK’s armed forces, both through the passage of Armed Forces Bills every five years and the annual approval of defence spending. However, in practice, it is the government which controls the military on a day-to-day basis. Parliament is not required to approve of military interventions sanctioned by the government, and stands out within Europe as a legislature with extraordinarily weak powers of military oversight and control. (For further details see Section 2.5.1)

2. Evidence of a ‘democratic deficit’ in police accountability.

The declining significance of police authorities within the tripartite system of police accountability in England and Wales, particularly in light of the growth of central targets and controls, has given rise to concerns about the effectiveness of mechanisms designed to ensure police forces are accountable to the communities they serve. The result is an increasingly obvious ‘democratic deficit’ in police accountability which, we would argue, is unlikely to be resolved via plans for directly-elected police commissioners. Meanwhile, proposals for the creation of a national police force for Scotland highlight that concerns about local accountability remain just as significant north of the border. (For further details see Section 2.5.2)
3. Concerns remain about the independence and effectiveness of police complaints procedures.

There is little evidence to suggest that reform of police complaints procedures and the replacement of the Police Complaints Authority by the Independent Police Complaints Commission (IPCC) in 2004 has served to convince either the public or parliament that complaints against the police are dealt with fairly and impartially. These perceptions have not been helped by a number of high profile cases where IPCC investigations appear to have been bungled. (For further details see Section 2.5.2)

4. The accountability of the intelligence and security services to parliament remains inadequate.

Pending the realisation of the reforms proposed in the Justice and Security green paper (2011), the Intelligence and Security Committee (ISC) continues to meet in secret, and reports directly to the prime minister, who is largely responsible for determining its membership. While the case for reform is widely recognised, the failure to implement changes proposed by Labour in the 2007 Governance of Britain green paper suggests a need to reserve judgement on the coalition’s proposed reforms until there is a clearer indication that they will be realised in practice. (For further details, see Section 2.5.2)

(c) Areas of new or emerging concern

1. Isolated evidence of military deviation from the tradition of political neutrality.

Personnel in the armed forces are strictly prohibited from taking an active role in political organisations, or making public statements that are liable to embarrass the government or bring the neutrality of the forces into question. Some feel that these rules may have been broken by former head of the Army, Sir Richard Dannatt, who became an identified critic of the former government’s military policy and later agreed to serve as an advisor to the Conservatives, despite the fact that he remained on the Army’s payroll at the time. (For further details, see Section 2.5.1)

2. Police accountability structures have not kept pace with the growing international focus of policing operations.

In recent decades, national police forces have been drawn into closer cooperation, and international policing agencies such as Europol have come to play a growing role. While these developments are a necessary response to the internationalisation of crime, they also raise significant questions about accountability structures, which remain weakly developed in relation to these forms of police activity.

3. The scope for government to deploy troops in domestic contexts appears to have been broadened.

It has long been suggested that the ability of UK governments to deploy troops at home is ill-defined and potentially broad-ranging. The passage of the Civil Contingencies Act 2004 provides for potential military deployment in a far wider range of domestic contexts, and with fewer safeguards, than was the case under previous emergency powers legislation. (For further details, see Section 2.5.2)

Introduction

Almost without exception, all established democracies maintain armies, security and intelligence agencies and police forces. There are good reasons for the near-universal presence of such institutions in modern democracies. As our 2002 Audit noted, ‘the first duties of the state are to defend the realm against foreign aggression and other external dangers, and to maintain law and order within its boundaries’ (Beetham et al., 2002, p. 154). Without such protections from external aggression, terrorism or criminal disorder, it would be difficult, if not impossible, for democracy to flourish. At the same time, however, it is essential that armed forces, security services and the police operate under clear civil control, and that they can be held to account for their actions. There is also a strong democratic case for these agencies to be as socially representative as possible in order to ensure that they command the confidence of the population as a whole and have a legitimate claim to act in the interests of society.

In light of these principles, this section examines:

- the provisions through which civil control over the armed forces is achieved, as well as the extent to which political and civil life is free from military involvement;
- how fully the police and security services are publicly accountable for their activities;
- the degree to which the makeup of the armed forces, police and security services reflects the composition of UK society as a whole;
- the extent to which the country is free from the operation of paramilitary groups and other destabilising violent forces

Our 2002 Audit concluded that the military in the UK is under formal civilian control, and that military involvement in civilian affairs, normally confined to emergencies, has not tended to be politically controversial. However, we expressed a number of democratic concerns in
relation to the police and security services. First, we highlighted how growing central control of policing was undermining traditional mechanisms of local accountability. Second, we drew attention to concerns about the operation of the police complaints system, particularly with regard to transparency and independence. Third, we found there to be insufficient accountability of the intelligence and security services to parliament, owing to the requirements placed on the Intelligence and Security Committee to report directly to the prime minister. In addition, our 2002 Audit also highlighted that the composition of the armed forces and police was insufficiently representative of British society as a whole.

Against this backdrop, the improvements we highlight in this Audit are modest. There have been some improvements in the social representativeness of the military and police. It is also possible to point to an emerging consensus that the Intelligence and Security Committee should provide for greater accountability of the intelligence and security services to parliament, although concrete reforms to achieve this have yet to be realised. Otherwise, the concerns which we expressed almost a decade ago continue to be evident. In particular, we find growing evidence of a ‘democratic deficit’ in relation to police accountability and highlight mounting criticism of the role of the Independent Police Complaints Commission, established in 2004 as part of a major reform of the police complaints system.

2.5.1 Civilian control over the armed forces

How effective is civilian control over the armed forces, and how free is political life from military involvement?

Civilian control of the military through the medium of elected representatives is one of the cornerstones of democracy. It is essential to maintaining the accountability of armed forces personnel to the people, and also provides a vital - if not in itself sufficient - prerequisite for the legitimation of military entanglements by the state both at home and abroad. Fortunately, in the UK there are few serious concerns as to the likelihood of the armed forces ever wresting completely free of democratic control - for example, in a coup d'etat aimed at controlling the state, in the same way that the military does openly in other countries. However, there are longstanding concerns that the balance between executive and legislative power over the military may not be configured in such a way as to ensure the highest possible level of democratic, accountable and transparent military decision-making.

The legal authority under which the UK armed forces operate is complex, involving a mix of statutory powers, which are within the formal remit of parliament, and royal prerogative powers, through which the executive can act without parliamentary approval. Formally speaking, the UK’s armed forces are accountable to parliament. Each year, it must vote either in favour of or against the level of defence expenditure; and every five years, it must renew the legal basis for the existence of the armed forces and the UK’s system of military law through the passage of an Armed Forces Bill. Taken together, these arrangements satisfy the stipulation, set out in Article VI of the Bill of Rights 1689, ‘That the raising or keeping of a standing army within the kingdom in time of peace unless it be with the consent of Parliament is against the law.’ However, beyond these provisions, parliament’s powers arguably amount to very little.

The government, by contrast, enjoys virtually untrammelled power over the day-to-day running of the military by virtue of the powers vested in it through the royal prerogative (see Section 2.4.3 for general discussion of these powers). Under the royal prerogative, the government has the authority to recruit members of the armed forces; appoint commanders and grant commissions to officers; establish the Defence Council; and make agreements with foreign states about stationing troops on their soil (Ministry of Justice, 2009, p. 13). There is no legal requirement for parliament to ratify military commitments which the executive proposes or commences; and even where parliamentary votes are granted at the discretion of the executive, the decision-making of parliament is liable to be handicapped by its ineffective powers of scrutiny over government, as well as a general lack of resources (see Blick et al., 2007).

Table 2.5a: Typology of parliamentary war powers in 25 European democracies

<table>
<thead>
<tr>
<th>Extent of Parliamentary War Powers</th>
<th>Description of typical powers</th>
<th>No. of cases</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very strong</td>
<td>Prior parliamentary approval required for each government decision relating to use of military force; parliament can investigate and debate use of military force</td>
<td>11</td>
<td>Austria, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Slovenia</td>
</tr>
<tr>
<td>Strong</td>
<td>Prior parliamentary approval required for government decisions relating to use of military force but exceptions for specific cases (foreign troops on national territory, minor deployments,</td>
<td>4</td>
<td>Denmark, Ireland, Netherlands, Sweden</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Political neutrality of the armed forces

Political neutrality of the armed forces

Under the 2010 act, parliament was given a statutory part in treaty-making, but one which seems unlikely to make a substantial difference. UK involvement in Afghanistan since 2001 has been in fulfilment of its obligations under the North Atlantic Treaty mutual defence clause. It is also worth noting that the royal prerogative extends to cover the conduct of diplomacy, which has a direct association with military policies.

Policy. Until 2010 and the Constitutional Reform and Governance Act 2010, parliament had (with certain exceptions) no formal role in such instances. The Blair government was unmoved by appeals to establish such a right, arguing bluntly that 'it must be the government which takes the decision' to make war, not parliament. In 2004, a report by the House of Commons Public Administration Select Committee, which investigated the use of prerogative powers in general, recommended that legislation be quickly introduced to increase parliamentary control over their use (Public Administration Select Committee, 2004). In 2006, meanwhile, an investigation by the House of Lords Select Committee on the Constitution on the subject of Parliament's role in war-making specifically concluded that 'the exercise of the royal prerogative by the government to deploy armed forces overseas is outdated' and recommended the establishment of a parliamentary convention outlining the role which parliament ought to play in such instances (House of Lords Select Committee on the Constitution, 2006a).

Table 2.5a: Specific parliamentary control over military deployments

<table>
<thead>
<tr>
<th>Strength</th>
<th>Description</th>
<th>Number</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medium</td>
<td>Ex post parliamentary approval, i.e. parliament can demand troop withdrawal; parliament can investigate and debate the use of military force</td>
<td>2</td>
<td>Czech Republic, Slovakia</td>
</tr>
<tr>
<td>Weak</td>
<td>No parliamentary approval but deployment notification to parliament required; parliament can investigate and debate use of military force</td>
<td>4</td>
<td>Belgium, Poland, Portugal, Spain</td>
</tr>
<tr>
<td>Very weak</td>
<td>No parliament-related action required for use of military force; no specific parliamentary control or debate relating to use of military force</td>
<td>4</td>
<td>Cyprus, France, Greece, UK</td>
</tr>
</tbody>
</table>

Source: Derived from Dieterich et al. (2010).

Among other European countries, the UK parliament has long stood out, in this regard, as a legislature with extraordinarily weak powers with respect to either determining military policy, or otherwise circumscribing the war-making capabilities of the executive (Dieterich et al., 2010). As Table 2.5a shows, Dieterich et al.’s (2010) survey of parliamentary war powers placed the UK among four European democracies in which such powers were found to be ‘very weak’, alongside Cyprus, France and Greece. It is notable, moreover, that 15 of the 25 European democracies surveyed, a clear majority, have either ‘very strong’ or ‘strong’ parliamentary war powers. Among the three European comparators used throughout this Audit - Ireland, the Netherland and Sweden - parliamentary war powers were defined to be ‘strong’.

It was only following the invasion of Iraq that the issue of the UK’s almost ‘exceptional’ constitutional arrangement became a significant focus of domestic political debate. Prior to the invasion in 2003, alarming intelligence claims publicised by the government had formed a crucial part of the case for war - undoubtedly influencing many MPs in favour of the Commons’ vote in March of that year. When those claims were later shown to be either exaggerated or false, however, various proposals - including a number of ultimately unsuccessful private members’ bills - were put forward to strengthen the role of parliament in deciding whether or not to deploy troops in future instances. In 2004, a report by the House of Commons Public Administration Select Committee, which investigated the use of prerogative powers in general, recommended that legislation be quickly introduced to increase parliamentary control over their use (Public Administration Select Committee, 2004). In 2006, meanwhile, an investigation by the House of Lords Select Committee on the Constitution on the subject of Parliament’s role in war-making specifically concluded that ‘the exercise of the royal prerogative by the government to deploy armed forces overseas is outdated’ and recommended the establishment of a parliamentary convention outlining the role which parliament ought to play in such instances (House of Lords Select Committee on the Constitution, 2006a).

Previous research by Democratic Audit and partner organisations has shown that around 85 per cent of the public believe that ‘parliament as a whole’ should decide Britain’s foreign policy objectives (Blick et al., 2007). Yet talk of giving parliament an entitlement to approve troop deployments - whether by statute or some other means - has thus far amounted to nothing. The Blair government was unmoved by appeals to establish such a right, arguing bluntly that ‘it must be the government which takes the decision’ to make war, not parliament (House of Lords Select Committee on the Constitution, 2006a). And while Gordon Brown on a number of occasions indicated his desire to give parliament a codified role on troop deployment - as part of a wider review of the royal prerogative - this did not materialise during his time as prime minister, either (Flinders, 2010). Since its formation, the coalition government has itself appeared sympathetic to the idea of creating an explicitly legal commitment for government to consult parliament before engaging in military action. However, it seems that little has been done so far to bring forward the legislation necessary to do so (Allen, 2011). Indeed, while the government did seek the approval of parliament to use military force in the case of the Libyan intervention in 2011, it is arguably telling that it did so only after attacks against Muammar Gaddafi’s forces had already begun.

It is also worth noting that the royal prerogative extends to cover the conduct of diplomacy, which has a direct association with military policy. Until 2010 and the Constitutional Reform and Governance Act 2010, parliament had (with certain exceptions) no formal role in treaty-making. Once again, this is an area of government activity with a direct bearing on the deployment of the armed forces - for instance, UK involvement in Afghanistan since 2001 has been in fulfilment of its obligations under the North Atlantic Treaty mutual defence clause. Under the 2010 act, parliament was given a statutory part in treaty-making, but one which seems unlikely to make a substantial difference to its practical power (see Blick et al., 2007; for more details, see Sections 2.4.3 and especially Section 4.2.4).

Political neutrality of the armed forces
Generally speaking, military involvement in political affairs is not of a manner subversive to the UK’s democratic processes or institutions. Standards of conduct for all servicemen and women enlisted in the UK’s armed forces are laid out in the Queen’s Regulations (of which there are separate volumes for the Army, the Navy and the Air Force). These regulations forbid personnel from taking an active role in political organisations, and set out strict rules for the acceptance of appointments outside the armed forces, both during and after service. In addition, they place clear restrictions on the information which personnel are permitted to release into the public domain - whether through speeches, printed material, comments to the media or any other channel. According to the regulations, personnel are not permitted to comment on ‘politically controversial’ topics, or indeed make any contribution to public debate which is likely to embarrass the government or bring the impartiality of the armed forces into question (see Ministry of Defence, 1975). For the most part, the chiefs of the UK’s armed forces tend to abide by this formal requirement for political neutrality; although questions are occasionally raised about senior service personnel who appear to act as exceptions to the rule. One prominent recent example concerned the relationship between Sir Richard Dannatt and the Conservative Party (see Case Study 2.5a).

Case Study 2.5a: The Sir Richard Dannatt controversy

In the years before his retirement in 2009, former head of the British Army, Sir Richard Dannatt, become an outspoken - and somewhat controversial - critic of the former Labour government's handling of the wars in Iraq and Afghanistan, accusing it of not doing enough to resource front-line military operations. Later, in October 2009, it was announced that Dannatt, following his retirement from the army in August, was to become an advisor to the Conservative Party on military issues and a prospective Conservative peer in the House of Lords - despite the fact that he was still on the Army’s payroll. There was much criticism, subsequently, from retired generals and serving officers in the military - with some observers suggesting that Dannatt's behaviour had constituted a violation of the Queen’s Regulations (see Coates, 2009). However, the former general did not ultimately face any disciplinary sanction for his actions - in the end electing to sit in the Lords as a crossbencher.

Military involvement in political life

The threat posed to democracy and civil society in the UK by the armed forces, acting of their own volition, is generally regarded as extremely remote. Various unproven conspiracy theories involving the armed forces and other elements of the state security apparatus have surfaced in the past. Most notably, claims that the military were poised to seize power from Harold Wilson in 1974 have been aired on a number of occasions, including in a BBC2 documentary, The Plot Against Harold Wilson, screened in March 2006. But, conspiracy theories aside, most observers would accept that military involvement in UK civil affairs is restricted to those instances where it occurs at the behest of the UK’s democratically-elected government. Various schemes exist for the state-sanctioned intervention of the armed forces domestically. Given the umbrella term Military Assistance to the Civil Authorities (MACA), they include:

- Military Aid to the Civil Power (MACP). This involves military assistance in the maintenance or restoration of public safety or law and order, and has been used as the basis for army intervention in Northern Ireland.
- Military Aid in the Civil Community (MACC). This allows the armed forces to provide unarmed support to the public in the event of event of emergencies, such as floods or other rescue operations. Although it must, in many instances, be authorised under Section 2 of the Emergency Powers Act 1964, MACC may also be provided without approval from the government.
- Military Aid to Other Government Departments (MAGD). This allows the armed forces to be deployed in work deemed to be of urgent national importance, and has been used in the past during industrial disputes such as the Miners’ Strike of 1984. The legal basis for MAGD derives from Section 2 of the Emergency Powers Act 1964.

Some of these provisions, notably those covered by MACC, have been uncontroversial and are widely regarded as providing for valuable mobilisation of armed forces personnel at times of national or local emergency. However, the role of the military in Northern Ireland, in particular, has been the focus of much dissent. More generally, the potential for governments to abuse the provisions outlined above remains a cause for considerable unease. The ability of the government to deploy troops at home is arguably ill-defined and vast in scope, resting on a complex combination of prerogative and common law powers. This ability is augmented by the UK’s emergency powers legislation, which presents an additional cause for concern - especially since the passage of the Civil Contingencies Act 2004.

The Civil Contingencies Act, 2004 arose from a major review of emergency planning arrangements in light of concerns about the risk of terrorist attacks and following the problems experienced with emergency planning associated with three sets of events in 2000-01: the fuel crisis in 2000, large-scale flooding in 2000, and the outbreak of foot and mouth disease in 2001. A replacement for much of the pre-existing civil defence and emergency powers legislation, including the Emergency Powers Act 1920, the Civil Contingencies Act allows the executive almost unlimited power in situations which qualify as an emergency under the extremely broad criteria of the act, while doing little to clarify the government’s existing common law and prerogative powers. During its passage through parliament, the legislation was
described by the Guardian as ‘potentially the greatest threat to civil liberties that any parliament is likely to consider’ in light of the wide-ranging contexts in which it could be invoked (see Neal, 2010, p. 17). Although the bill was amended in light of some of the most serious concerns about its potential implications and there has yet to be a situation in which the provisions of the act have been enacted, it has nevertheless been described by experts as a ‘massive threat’ to civil society and a potentially ‘grave danger’ to the constitution and human rights (Walker and Broderick, 2006). Indeed, in the view of Bradley and Ewing (2011, p. 585) the act’s definition of an emergency is so broad that ‘it ought not to be necessary for governments to take additional ad hoc powers to deal with war should such an event arise’. The same authors go on to note that ‘Unlike the 1920 Act, these emergency powers can be invoked without a state of emergency being declared and without the need to invoke the Act being considered by Parliament’ (Bradley and Ewing, 2011, p. 585).

**UK military operations in Northern Ireland**

‘Operation Banner’, the British Army deployment in Northern Ireland which began in August 1969, ended at midnight on 31 July 2007 and responsibility for security was transferred to the Police Service of Northern Ireland. The numbers of troops based in Northern Ireland and the number of army bases had been on a downward trend since the first IRA ceasefire in 1994, and particularly so following the lasting IRA ceasefire in 1997 and the start of decommissioning of paramilitary weapons in 2001. A joint publication by the British and Irish governments, the Implementation Plan of August 2001, set out their intention to see ‘normalisation’ in the security situation. This was defined as:

> “Ultimately the normal state would mean the vacation, return or demolition of the great majority of army bases, the demolition and vacation of all surveillance towers, no further army presence in police stations and the use of Army helicopters for training purposes only” (Implementation Plan, para 14).

The measures proposed in the Implementation Plan were introduced as the broader situation improved, beginning with the winding down of army operations that had closed border crossings to the Republic of Ireland. By 2007, the remaining army establishment in Northern Ireland of 5,000 was on the same basis as the army presence in Great Britain, and the military presence has virtually ceased to represent a target for insurgency (although in 2009 two British Army soldiers were killed in an attack on a base by dissident republicans).

While the last fatalities resulting from British Army action in Northern Ireland were in 1992, issues remain regarding accountability for earlier actions. The Saville Inquiry into the shootings on Bloody Sunday in 1972, which reported in June 2010 after 12 years work, is of particular significance given its highly critical account of the army’s role in the incident (Saville et al., 2010). Questions remain about ‘collusion’ with loyalist paramilitaries between the 1970s and the 1990s.

### 2.5.2 Accountability of police and security services

**How publicly accountable are the police and security services for their activities?**

The police possess the power to injure, detain, incarcerate or even - in some instances - kill members of the public in the course of their professional duty to maintain law and order. As such, it is imperative that the individual officers and policing organisations which exercise this power are publicly accountable for their actions - not merely to prevent abuses of power, but also to inspire wider public trust in the police service. Yet how exactly the police should be rendered accountable to the public is far from clear. Partly, this is because the police accountability framework encompasses so many different elements - including the law relating to police conduct; oversight of local forces by police authorities; complaints bodies such as the Independent Police Complaints Commission; performance monitoring by government; and even the scrutiny of media and non-governmental organisations, such as Liberty or Inquest (Mawby and Wright, 2005). However, debate over the means to best ensure police accountability also stems from fundamental disagreements over how to strike the right balance between local and national actors within the police governance structure; as well as over the question of what constitutes an appropriate level of direct political control over policing. These twin problems of complexity and contestability make it difficult to assess overall police accountability with either precision or authority; but there are nonetheless a number of areas in which there have been developments clearly either to the benefit or detriment of accountability in recent years.

**Police governance structures and accountability**

Police governance structures are one - very important - way in which police accountability can be provided for in practice. However, aside from the complexities about police accountability highlighted above, there are also significant contrasts in the formal arrangements for police governance in the constituent countries of the UK. In England and Wales, as well as in Scotland, there are widely acknowledged shortcomings with the existing arrangements, but rather less agreement about how they might best be reformed. In Northern Ireland, by contrast, recent reforms have produced what one may regard as a model set of arrangements for police accountability.

The manner in which police governance structures are now broadly configured in England and Wales is widely acknowledged to be...
democratically defective, although there is no consensus about how to address this problem. Officially, policing is managed under a tripartite system of governance, in which local police authorities, chief constables and the home secretary occupy positions of rough equality within a localised operational structure of 'constabulary independence'. This regime, first laid out in the Police Act 1964, has continued in principle to this day. However, reforms during previous decades have disturbed the relative equilibrium which once existed between each partner in the tripartite structure - with ever greater power being accrued by central government over time (see Jones, 2008; Mawby and Wright, 2005). This process was reflected during the long period of Conservative government from 1979 until 1997, in legislation such as the Police and Magistrates’ Courts Act 1994 and the Police Act 1996, and was later continued under successive Labour administrations, for instance through the Police Reform Act 2002 and the Police and Justice Act 2006.

The changes made to police governance structures by previous governments (the effects of which left the tripartite system in a state summarised in Table 2.5b below) had an ostensibly democratic rationale - concerned, as they were, with improving police performance and service delivery. However, their concern for centrally-driven performance improvements came at the clear expense of other democratic criteria such as participation and the distribution of power (Jones, 2008). In recent decades, the powers of local police authorities have declined steadily, despite a limited number of concessions made to them in recent legislation; while chief constables have been subjected to an ever-increasing volume of Home Office directives, monitoring and statutory powers of control. Taken together, these developments have led to criticism of a 'democratic deficit' at the local level of police governance (see IPPR, 2008), and recurring fears that policing itself may have become 'politicised' to a degree incompatible with traditional Peelian notions of an impartial service, independent of political interference. These fears of politicisation were brought into stark focus in 2004, when the then home secretary David Blunkett attempted to force chief constable of Humberside Police, David Westwood, to resign over the sweeping criticism his force received in the Bichard Report on the murder of Holly Wells and Jessica Chapman; and also in 2008, when mayor of London, Boris Johnson, effectively forced Metropolitan Police commissioner, Sir Ian Blair, to resign by refusing to publicly back him.

There were noises in favour of a less centralist, and more 'localist', approach to policing towards the tail end of the previous Parliament; but these did not, in the end, lead to any substantive change in the power relationship between police authorities and central government (Jones, 2008). The coalition response to the perceived problem of overbearing government influence has been to aim to reduce central targets and, through the Police Reform and Social Responsibility Act 2011, to introduce in England and Wales directly-elected police and crime commissioners, replacing the police authorities currently responsible for overseeing police forces. The commissioners will themselves be accountable to newly-established Police and Crime Panels, mainly composed of local councillors. However, concerns have been expressed about the implications of this change for the police’s operational independence, with some worrying about the potential for undesirable 'politicisation' at a local level (see Liberty, 2010).

Police authorities in Scotland currently perform a similar set of functions to those in England and Wales, although their governance...
arrangements are somewhat different, as they consist wholly of local authority members, without the presence of independent nominees or magistrates. Six of the eight police forces in Scotland are overseen by a Joint Police Board made up of representatives of each council in the force area, while two (Dumfries & Galloway and Fife) cover the same area as a single local authority. In addition, there are a number of centralised police functions, such as training, the holding of criminal records, forensics and specialist squads, which were brought under a new Scottish Police Services Authority (SPSA) in 2007. The SPSA is governed by a board comprising the conveners of the local police boards, the chief constables and lay members appointed by the Scottish minister after the usual public appointment process. It is a non-departmental public body under the Scottish Ministry of Justice.

While the establishment of the SPSA in 2007 has improved accountability in relation to national policing, an independent review of policing in Scotland found significant flaws in the governance arrangements for the police in Scotland (Her Majesty’s Inspectorate of Constabulary for Scotland, 2009). Among the key criticisms advanced by the review were that police boards lacked influence over local policing and that they were insufficiently resourced and supported to deliver the degree of scrutiny, challenge and accountability required (Her Majesty’s Inspectorate of Constabulary for Scotland 2009, p. 6). The review also pointed to flaws in the co-ordination of local and national decision-making in policing.

In response to the review, the Scottish government announced in September 2011 that it proposed to pass legislation to create a single national police service. However, the proposal has attracted some controversy. The Confederation of Scottish Local Authorities has indicated that it is opposed a national police force and there have been significant objections raised in the consultation phase about the loss of local accountability and democratic control which the proposals will result in.

There have been significant changes to policing in Northern Ireland since the last Audit in 2002, although the process was underway following the report of the Patten Commission on Policing in Northern Ireland in 1999 (Independent Commission on Policing for Northern Ireland, 1999). The Patten Report was legislated in the Police (Northern Ireland) Act 2000 and changes in the name and governance of a new Police Service for Northern Ireland (PSNI) followed with effect from November 2001. Subsequently, the Northern Ireland assembly was granted overall responsibility for policing in the province in April 2010 as a result of police and criminal justice powers being transferred to the devolved government. The significance of these reforms cannot be underestimated. Prior to 2001, policing had been the responsibility of the Royal Ulster Constabulary, established in 1922 as an armed force, based around barracks rather than dispersed as part of local communities, and with a clear remit to combat paramilitary forces. Moreover, following the introduction of direct rule in 1972, the RUC had been accountable to the secretary of state for Northern Ireland in the UK government.

Police accountability in Northern Ireland has been greatly strengthened as a result of these reforms, which centred on the establishment of a new policing board and a policing ombudsman. The Northern Ireland Policing Board acts as the equivalent of a local police authority for the PSNI. It makes appointments and dismissals to the post of chief constable and other senior ranks, establishes priorities and budgets, monitors the police and consults with local people. It also has a specific legislated role to ensure that the PSNI complies with the Human Rights Act 1998. The board comprises ten members of the legislative assembly, drawn in proportion to the political parties’ strength in the assembly, and nine independent members appointed by the secretary of state subject to a process of open competition, under the Nolan Principles, and balanced in composition between the two communities. While Sinn Fein did not take up its seats on the board, its participation since 2007 has ensured, for the first time, a much greater degree of consensus about policing in the province. Meanwhile, the police ombudsman provides for independent investigation of complaints against the police in Northern Ireland which, unlike in England and Wales (see below), are investigated by the police ombudsman rather than being handled by the police force itself. Taken as a whole, these arrangements provide for stronger and clearer lines of police accountability than are found in the rest of the UK. Indeed, the chief constable of the PSNI suggested in June 2005 that ‘the Police Service of Northern Ireland is possibly one of the most closely scrutinised police services in the world. It is undoubtedly one of the most accountable’ (Northern Ireland Policing Board, 2006).

**Police complaints procedures**

Given that an important part of holding the police to account is through police complaints systems, it is essential that existing procedures deliver fast, effective and fair solutions to those citizens who believe that they have been failed, or otherwise ill-treated, by the police. Currently, in England and Wales, complaints can be dealt with either at a local level, by police forces’ internal disciplinary arrangements, or at an external level by the Independent Police Complaints Commission (IPCC). In the minority of cases where complaints cannot be resolved at a local level, appeals may be lodged with the IPCC. In 2008-09, appeals to the IPCC represented two per cent of all complaints which could not be resolved locally, while in 2009-10 the figure was three per cent (IPCC, 2011b).

Having been established in 2004 through the Police Reform Act 2002, the creation of the IPCC was part of a wider reform of police complaints procedures. The IPCC has almost certainly improved on the previous body responsible for handling police complaints - the Police Complaints Authority (PCA) - which was widely considered to lack both independence and transparency (Smith, 2004). An increase in public awareness and confidence in the police complaints system following the creation of the IPCC is arguably evidenced in the increasing number of annual complaints recorded by police forces in England and Wales (as shown in Figure 2.5a), and has been attested to some extent by a similar increase in the number of complaints dealt with by the IPCC itself.
to - albeit rather meekly - by a combination of academic and parliamentary evaluation (see Jones, 2008; Public Accounts Select Committee, 2009). Yet, alongside evidence of modest improvements in the police complaints system, there has also been worrying evidence of systemic underperformance at the IPCC, as well as occasional catastrophic errors. Moreover, the case that there has been increase in public confidence is not entirely borne out by the commission’s own surveys. These reveal a largely static picture, with confidence in the impartiality and fairness of the IPCC - and differential confidence rates between white and ethnic minority survey respondents - changing little overall between 2004 and 2011 (IPCC, 2011a).

Figure 2.5a: Total complaints recorded by police forces in England and Wales, 1990 - 2008/09 (000s).

In addition, the commission has been subject to fierce criticism in relation to a number of well-publicised cases of incompetence - the most notable among them being the cases of Jean Charles de Menezes and Ian Tomlinson (for details of the latter, see Case Study 2.5b below). In late 2011, similar concerns began to arise in relation to the investigation into the fatal shooting by the Metropolitan Police of Mark Duggan, an incident which had helped trigger widespread rioting in London in August that year (Guardian, 2011a). Statistics suggest, moreover, that the commission’s underperformance is far from isolated to a limited number of cases. Indeed, the vast disparity across force areas between the percentage of complaints declared substantiated and those declared unsubstantiated rather suggests that the IPCC is failing, on a massive scale, to deal with complaints consistently and effectively (Crawley, 2009).

Case Study 2.5b: The Ian Tomlinson Case

Ian Tomlinson, a newspaper vendor, died on the evening of 1 April 2009 after falling to the ground as a result of becoming caught up in the G20 protests in the City of London on his way home from work. An initial statement released by the Metropolitan Police shortly after Mr Tomlinson's death claimed that officers were first aware of the incident when a member of the public approached a police cordon and notified officers that a man (Mr Tomlinson) had collapsed. The statement added that police were attacked by protestors throwing missiles while they went to Mr Tomlinson's aid.

This version of events was immediately questioned by eye-witness accounts. However, despite immediate calls for them to investigate, the IPCC initially left the investigation in the hands of the City of London Police. The IPCC resisted calls to intervene for six days, only assuming control of the investigation after photographs and, subsequently, a video of the incident was released on the website of the Observer and Guardian newspapers. This video clearly showed that a police officer had hit Mr Tomlinson forcibly with a baton and pushed him to the ground. Three further videos were made public by media organisations over the next two weeks, two via the Guardian and one via Channel 4 News.
It subsequently emerged that three Metropolitan Police officers had informed supervisors, prior to the release of the video footage, that they had witnessed a fellow officer attack Mr Tomlinson. The Metropolitan Police had passed this information on to the City of London Police who chose to withhold it from the IPCC, the pathologist, the media and the victim's family.

Conflicting medical evidence about the causes of Mr Tomlinson's death originally led the Crown Prosecution Service (CPS) to determine there were insufficient grounds to bring a prosecution against the officer, described as this time as PC “A”. Despite the clear evidence that PC “A” had used force against Mr Tomlinson and that Mr Tomlinson ‘did not pose a threat to PC “A” or any other police officer’, the Director of Public Prosecutions, Keir Starmer, argued that it would not be possible to ‘prove beyond reasonable doubt that Mr Tomlinson’s death was caused by PC “A” pushing him to the ground’.

However, in May 2011 there were further developments. The IPCC published three reports about the incident concluding there was no evidence of a ‘cover up’ by police or of police officers or personnel setting out to mislead. However, the IPCC also confirmed that they would be undertaking further inquiries into specific aspects of the case, including the apparent failure of the City of London police to pass information onto the IPCC. At the same time, an inquiry jury set up to consider the case subsequently delivered its verdict of ‘unlawful killing’. As a result of this verdict, the CPS brought charges of manslaughter against PC Simon Harwood, with the case due to be heard in June 2012.

Aside from the many issues which the case highlights about police accountability, it raises particularly significant questions about the role played by the IPCC, as a Guardian leader from 10 May 2011 explained:

‘Why did the IPCC not start its investigation immediately as it learned of Mr Tomlinson's death on 1 April, or on 3 April when it learned that members of the public saw the pushing incident, or on 5 April when the Observer published the first photographs of the police assault? Why, if the IPCC now knew about the three police witnesses when it finally took over the investigation on 8 April, has it released a report more than two years later which fails to acknowledge their evidence at all?’ (Guardian, 2011c)

Significantly, the Tomlinson case has not been the only recent incident to give rise to concerns about the independence and effectiveness of the IPCC. In an adjournment debate in the House of Commons on 15 November 2011, David Lammy MP called for major reforms of the IPCC ‘to ensure that we can maintain confidence in the police complaints system’ (Hansard, 15 Nov 2011, Column 813 onwards).

Sources: Yates (2009); Starmer (2010); Guardian (2011b); Guardian (2011c); Greer and McLaughlin (2011).

Underlying these concerns about performance in dealing with complaints are broader fears about the independence of the complaints process. As has been noted, the role of the IPCC in dealing with complaints is modest, since the bulk of complaints are dealt with directly by local forces. As the Home Affairs Select Committee (2010, p. 5) explained ‘99 times out of 100 and despite the existence of the IPCC, the complaints procedure remains the “police investigating the police”. Yet, doubts about independence also extend to the IPCC itself. The commission may not be part of any government department, but the Home Office remains responsible for its overall budget allocation; and could, by restricting the IPCC’s income, inhibit its ability to investigate complaints. Similarly, whilst IPCC commissioners cannot, by law, have previously worked for the police, this does not apply to those investigating complaints when it finally took over the investigation on 8 April, has it released a report more than two years later which fails to acknowledge their evidence at all?’ (Guardian, 2011c)

The state of affairs described by our witnesses is clearly inappropriate - ex-police officers should not end up investigating possible ex-colleagues in their former force. Public confidence in the impartiality of the IPCC is bound to be damaged by these practices. We are shocked that this situation has been allowed to develop and recommend that steps are taken to prevent this occurring and to remove any hint of impropriety’ (Home Affairs Select Committee,2010, p. 15).

National and international police structures and their accountability

The increasing concern about international organised crime, and how best to combat it, has led to the creation of a number of national agencies such as the Serious Organised Crime Agency (SOCA), as well as international policing agencies such as Europol. Yet the creation - and progressive empowerment - of national and international policing agencies has led to understandable concerns over accountability. In the case of Europol, for instance, greater power has not been accompanied by a concomitant enhancement of
accountability structures - with some considering the irregular supervision of the EU’s Justice and Home Affairs Council to be a poor substitute for effective scrutiny by the European parliament (Den Boer and Bruggeman, 2007). Meanwhile, the coalition’s plan to create a new national policing body, the National Crime Agency (which will combine the functions of SOCA and the Association of Chief Police Officers) means that further change could be on the way, but without any real guarantee that the move will increase police accountability.

Accountability of the intelligence and security services

The role of intelligence and security services inevitably creates a tension between the need for such work to proceed with a high degree of secrecy and the demand that the state agencies charged with such functions remain fully accountable to elected politicians. Since our last full Audit in 2002, however, debate on this issue has shifted decisively towards concerns to ensure greater accountability - a development which we welcome. In particular, a growing consensus has emerged in the UK that a means must be found to ensure that the intelligence and security services are accountable to parliament.

As we noted in our previous Audit, it was only relatively recently that the UK’s intelligence and security services were recognised in statute. The Security Services Act 1989 provided a statutory basis for the existence of the Security Service (MI5), while the Intelligence Services Act 1994 performed the equivalent function in relation to the Secret Intelligence Service (MI6) and the Government's Communication Headquarters (GCHQ) (Beetham et al., 2002). The 1994 act also established the Intelligence and Security Committee (ISC) to provide a degree of scrutiny for the operation of these secret services, marking a key development in a process which Bochel et al. (2010, p. 483) describe as a gradual lifting of the ‘veil of secrecy’.

Recent debates about the accountability of the intelligence and security services have centred on the role of the ISC. The ISC has a mandate to examine issues concerning the administration, policy and expenditure of the intelligence and security services. Its members are drawn from both houses of parliament and are appointed by the prime minister following consultation in secret with the leader of the opposition. Described as a statutory committee rather than a select committee, the ISC is in truth ‘a constitutional anomaly, being a committee of parliamentarians, but not a committee of Parliament’ (Bochel et al., 2010, p. 484). The committee meets in secret, is staffed by Cabinet Office officials rather than parliamentary clerks and has restricted power to request information from the agencies is to supposed to scrutinise. The ISC publishes annual reports but these are vetted by the prime minister prior to publication and tend to be heavily redacted as a result. As we noted in our 2002 Audit, there are therefore serious questions about the extent to which the ISC is independent from government and there have also been long-standing concerns that information is withheld from the committee (Beetham et al., 2002).

There has been growing pressure on government in recent years to bolster the role of the ISC, especially in view of concerns about the role of intelligence and security services in framing the justification for UK involvement in the war in Iraq. There have also been attempts by select committees to undertake inquiries in areas which might ordinarily be regarded as the remit of the ISC (Bochel et al., 2010). Two notable examples include an investigation into the government’s presentation of the case for war in Iraq conducted by the Foreign Affairs Select Committee (2003) and the inquiry initiated by the Joint Committee on Human Rights (2009) into allegations of UK intelligence personnel being complicit in the use of torture.

In 2007, the Governance of Britain green paper sought views on how the role of the ISC could be amended to bring the way in which it is appointed, operates and reports as far as possible into line with that of other select committees, while maintaining the necessary arrangements for access to, and safeguarding of, highly-classified information on which effective security depends (HM Government, 2007). At the same time, the green paper suggested that a number of changes could be made while this consultation was taking place, including more transparent procedures for the appointment of committee members, permitting the committee to meet in public, possibly in parliament, scheduling parliamentary debates on ISC reports, and separating the committee’s secretariat from Cabinet Office personnel.

These proposals were, however, to be watered down in the subsequent Governance of Britain white paper (HM Government, 2008). In particular, the proposal for the ISC to meet in public was dropped in favour of the committee holding public briefing sessions. What did emerge was a commitment to open up the appointments process and, in July 2008, the House of Commons passed a standing order stating: ‘The Committee of Selection may propose that certain members be recommended to the Prime Minister for appointment to the Intelligence and Security Committee under section 10 of the Intelligence Services Act 1994’ (cited in Almandras and Strickland, 2009, p. 13).

However, the case for going further in reforming the ISC continued to be made. The House of Commons Reforms Select Committee (2009) took the view that allowing parliament to make nominations to the prime minister was not enough and proposed that members of the ISC should be elected, on similar basis as it proposed for select committees (see Section 2.4.1). Under these proposals, members of the House of Commons seeking election to the ISC would require the formal consent of the prime minister to do so, but would be appointed by parliament rather than by the prime minister. However, while the majority of the select committee’s recommendations were eventually adopted, its recommendations relating to the ISC were not. In light of these developments, the special status of the ISC has become increasingly difficult to justify. As Kelso (2010, p. 490) notes, wider reforms to the House of Commons will mean that ‘parliamentarians and
the public will now more easily see the anachronism of the ISC in comparison to the rest of parliament’s increasingly robust scrutiny infrastructure’.

As a result of these pressures, fresh proposals have emerged which would bring an end to ‘the strange extraparliamentary twilight status of the ISC’ (c.f. Kelso, 2010, p. 490). Significantly, these proposals originate from the ISC itself. In its 2010-11 annual report, the ISC sets out what it describes as ‘radical proposals for change’ (see Case Study 2.6c for further details). Under these proposals, the ISC would become a committee of parliament, with greater powers to request information and with a remit to examine operational aspects of the work of the security and intelligence services.

Case Study 2.5c: The Intelligence and Security Committee’s proposals for reform (extract)

The Intelligence and Security Committee was established under the Intelligence Services Act 1994, and has now been in existence for over 16 years. We therefore considered that it was right to review whether the structure, remit and powers of the Committee were still sufficient in the context of the current intelligence machinery. It is clear that the current provisions are outdated and that the status quo is unsustainable. We have therefore submitted radical proposals for change that will ensure strengthened, more credible oversight of the UK intelligence and security Agencies and provide greater assurance to the public and to Parliament. We recommend that these form the basis for the proposals for reform of the ISC in the forthcoming Green Paper on the handling of intelligence material in judicial proceedings.

Our proposals to the National Security Council are based on the following key principles:

- the Intelligence and Security Committee should become a Committee of Parliament, with the necessary safeguards, reporting both to Parliament and the Prime Minister;
- the remit of the Committee must reflect the fact that the ISC has for some years taken evidence from, and made recommendations regarding, the wider intelligence community, and not just SIS, GCHQ and the Security Service;
- the Committee’s remit must reflect the fact that the Committee is not limited to examining policy, administration and finances, but encompasses all the work of the Agencies;
- the Committee must have the power to require information to be provided. Any power to withhold information should be held at Secretary of State level, and not by the Heads of the Agencies; and
- the Committee should have greater investigative and research resources at its disposal.

Source: Intelligence and Security Committee (2011, p. 82).

In its Justice and Security green paper, published in October 2011, the government acknowledged criticisms that the ISC is insufficiently independent; that it has insufficient knowledge of the agencies it is supposed to scrutinise and the process through which appointments are made to the committee lacks transparency (HM Government, 2011a). In the green paper, the government indicated its support for almost all of the ISC’s proposals for reform, and expresses the view that the ISC should become a statutory committee of parliament (rather than a select committee). The green paper goes on to note that it would follow as a ‘natural consequence’ that the ISC should be ‘accommodated in suitably secure premises on the parliamentary estate’; that its staff would be parliamentary staff rather than civil servants; and that its budget would be allocated to parliament rather than to the Cabinet Office (HM Government, 2011a, p. 43).

In short, it is widely recognised, including by the committee itself, that the ISC, as currently configured, is an inadequate mechanism for ensuring that the intelligence and security services are publicly accountable for their activities. These concerns persist despite a degree of recent reform. It remains to be seen whether the proposals contained in the most recent green paper will provide the basis for more-far reaching reforms of the ISC within the lifetime of this parliament, not least because issues of national security will remain paramount in the current process of consultation. However, there is now widespread acceptance of the view, asserted over a decade ago by the Home Affairs Committee (1999), that ‘the accountability of the security and intelligence services to parliament ought to be a fundamental principle in a modern democracy’. As such, the pressures for the ISC to become a committee of parliament appear to have reached the point at which further reform seems inevitable in the near-future.

2.5.3 Social representativeness of the army, police and security services
How far does the composition of the army, police and security services reflect the social composition of society at large?

The armed forces

In our 2002 Audit, we expressed concerns that the culture of the military had given rise to armed forces which were unrepresentative of British society, both in relation to gender and ethnicity (Beetham et al., 2002). In 2000, women made up just eight per cent of armed services personnel, a modest increase from six per cent in 1990 (Oakes, 2001). Meanwhile, a mere 1.5 per cent of British military personnel in 2000 were from black and minority ethnic groups, despite the fact that these groups then constituted around seven per cent of the UK population (Beetham et al., 2002). Efforts since then to recruit more women and ethnic minorities into the armed forces have been met with some degree of success. Women now account for nearly 10 per cent of armed forces personnel as a whole, while ethnic minority representation in the armed forces also grew steadily during the 2000s, reaching 4.9 per cent in 2004 and 6.8 per cent in 2011 (DASA, 2006; DASA 2009; DASA 2011a).

These incremental improvements in the social representativeness of the armed forces are of course welcome. However, there still remain a number of areas of concern, as well as potential barriers to further improvements in the inclusiveness of the forces in the future. Figure 2.5b shows that the Royal Air Force has been far more successful in recruiting greater numbers of women than the Army or the Navy and that the Army, in particular, evidences only a very gradual increase in the proportion of personnel who are female. The trends in relation to senior military personnel are rather more encouraging, however. As Figure 2.5c indicates, women now account for 12.3 per cent of officers in the military, compared to 8.9 per cent in 2000. Again, the greatest progress is evident in the Royal Air Force, where the percentage of female officers has increased from 10 to 15.6 over the course of a decade. However, there has also been a clear rise in the proportion of Army and Navy officers who are women, rising from 9.2 and 6.8 per cent, respectively, in 2000, to 11.3 and 9.7 per cent, respectively, in 2011.

Figure 2.5b: Women as a proportion of UK regular forces personnel, 2000-11.

Source: DASA (2011b).

Figure 2.5c: Percentage of military officers who are female, 2000-11.
Figures for gender representation in the military clearly require some contextualisation. For women, there would appear to be formidable practical limits on the extent to which further gender parity might be achieved. Currently, women are not permitted to serve in any role where the primary duty is ‘to close with and kill the enemy’ - thereby restricting them to 67 per cent of Army posts, 71 per cent of posts in the Royal Navy, and 96 per cent of posts in the Royal Air Force. Although many countries - including Denmark, Canada and Germany - place no restrictions on the military occupations in which women can serve, the debate on whether the same right should be extended to women in the UK has yet to be decisively resolved. The policy of excluding women from combat roles was reviewed in 2009-10. However, the review’s final report concluded that the ‘inconclusive’ nature of the evidence available militated against an end to the ban (Ministry of Defence, 2010). Yet, even with these restrictions in place, the representation of women in the UK armed forces compares reasonably favourably with most other NATO member state, as Table 2.5c shows.

Table 2.5c: Women as a percentage of armed forces personnel, selected NATO countries, c.2009-10.

<table>
<thead>
<tr>
<th>Country</th>
<th>Women as a % of armed forces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>8</td>
</tr>
<tr>
<td>Canada</td>
<td>15</td>
</tr>
<tr>
<td>Denmark</td>
<td>5.2</td>
</tr>
<tr>
<td>Germany</td>
<td>8.9</td>
</tr>
<tr>
<td>Italy</td>
<td>13.5</td>
</tr>
<tr>
<td>Netherlands</td>
<td>9</td>
</tr>
<tr>
<td>Norway</td>
<td>8.6</td>
</tr>
<tr>
<td>Portugal</td>
<td>13.9</td>
</tr>
<tr>
<td>UK</td>
<td>9.5</td>
</tr>
</tbody>
</table>

Source: Reports of members states to NATO Committee on Gender Perspectives (2010).

For ethnic minorities, meanwhile, it is clear that the overall increase in armed forces representation throughout the 2000s masks a number of perturbing underlying trends. As Figure 2.5d shows, while there has been a considerable increase in the percentage of ethnic minority personnel in the Army, and to a lesser extent in the Navy, the percentage of ethnic minorities in the Royal Air Force has actually declined over the period surveyed - from 2.6 per cent in 2002 to 2.0 per cent in 2011. Furthermore, as Figure 2.5e indicates, there has effectively
been no change in the proportion of officers in the armed forces from a black or minority background, which has been static at around 2.5 per cent in the armed forces as a whole since 2005.

Figure 2.5d: Ethnic minority composition of UK regular forces, 2002-11.

![Ethnic minority composition of UK regular forces, 2002-11](image)

Source: DASA (2011b).

Figure 2.5e: Percentage of military officers from ethnic minority backgrounds, 2005-11.

![Percentage of military officers from ethnic minority backgrounds, 2005-11](image)

Source: DASA (2011b).
The overall social representativeness of the police force improved steadily during Labour’s time in office. In 1997, just 1.7 per cent of police officers in England and Wales were from ethnic minority backgrounds, and only 15 per cent were women; whereas by 2010, 4.6 per cent of police officers in England and Wales came from ethnic minority backgrounds and 25 per cent were women (see Figure 2.5f below). In Greater London, easily the most ethnically diverse region of the UK, 9.6 per cent of officers in the Metropolitan Police staff are from ethnic minority backgrounds (Home Office, 2011). Encouragingly, some of the most rapid of these increases occurred at the very highest ranks of the police. Since 1999, the proportion of officers from ethnic minority backgrounds serving at the rank of superintendent or higher increased more than five fold - from 0.5 per cent to 2.7 per cent (Equality and Human Rights Commission, 2009). In addition, nine of the 223 officers ranked Chief Constable or above in March 2010 were from ethnic minority backgrounds, representing 4 per cent of the total (Berman, 2010). Meanwhile, the number of women serving either as an inspector, chief inspector or superintendent has more than trebled since the late 1990s (Home Office, 2011). Nonetheless, there is still significant room for improvement in the social representativeness of senior police officers, particularly in relation to gender; only 14.3 per cent of officers in England and Wales currently ranked Chief Superintendent or above are female.

Figure 2.5f: Women and ethnic minority police officers as a percentage of all officers, England and Wales, 1997-11.

The gender composition of Scottish police officers has shifted in line with the trends in England and Wales over the same period. As Figure 2.5g shows, women accounted for 24.2 per cent of police officers in Scotland in 2009, compared to 14.9 per cent in 1998. While the growth in the number of ethnic minority police officers in Scotland was far less evident than in England and Wales, rising from 0.3 to 1.1 per cent, it should be noted that this has taken place in the context of ethnic minority groups making up an estimated two per cent of the population of Scotland as a whole.

Figure 2.5g: Women and ethnic minority police officers as a percentage of all officers, Scotland, 1998-09.
Of course, despite these advances in recent years, women and ethnic minority officers remain disproportionately clustered in less senior positions; and there is still evidence to suggest that the police have not yet fully eradicated internal problems of prejudice and discrimination, which may well act as a barrier to further progress. A reputation for racism persists despite comprehensive changes to the way police forces operate and widely-acknowledged improvements in the way in which the problem is dealt with (Foster et al., 2005; Equality and Human Rights Commission, 2009). Likewise, women and LGBT officers also face prejudice and discrimination at work - including the use of sexist or homophobic language by work colleagues, which a 2005 report for the Home Office found was ‘increasingly tolerated’ within police forces (Foster et al., 2005).

Available statistics for Northern Ireland indicate that women are represented to roughly the same level among police officers in the province as they are in England and Wales (27 per cent in 2011). While there are very few police officers from black and ethnic minority backgrounds in Northern Ireland (0.5 per cent), it is vital to note that this figure is closely in line with the ethnic composition of Northern Irish society. Of particular significance in the context of Northern Ireland, however, is the evidence of a dramatic change in the composition of the police by religious background. In the decade since the Royal Ulster Constabulary was replaced by the Police Service of Northern Ireland, the proportion of police officers perceiving themselves as Roman Catholic has grown from 8 to 30 per cent of the force (see Table 2.5d). As a result, the Northern Irish police are now far more representative of the society which they serve.

### Table 2.5d: Social composition of police officers in Northern Ireland, by religious background

<table>
<thead>
<tr>
<th></th>
<th>2001</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>%</td>
</tr>
<tr>
<td>Perceived Protestant</td>
<td>8305</td>
<td>87.9</td>
</tr>
<tr>
<td>Perceived Roman Catholic</td>
<td>756</td>
<td>8.0</td>
</tr>
<tr>
<td>Undetermined</td>
<td>385</td>
<td>4.1</td>
</tr>
<tr>
<td>Total</td>
<td>9446</td>
<td>100.0</td>
</tr>
</tbody>
</table>

**Sources:** Hansard (2011); Police Service of Northern Ireland (2011)

---

**Social composition of the security services**

There is minimal information available about the social composition of personnel in the intelligence and security services. While we made direct requests to MI5, MI6 and GCHQ for information about the composition of their staff by gender and ethnicity, these requests were refused on the grounds that all three bodies are exempted from the Freedom of Information Act.
However, while there are no published statistics, a limited amount of commentary on the social makeup of staff at GCHQ is available. For instance, the Capability Reviews Team (2009, p. 8) found that ‘delivery against diversity targets’ for staffing at GCHQ was poor, noting that:

‘The ratio of women in the Senior Civil Service (at GCHQ) is low compared to other government departments and it is also falling short of its targets on numbers of black and minority ethnic and disabled staff. The Department needs to understand better the reasons underpinning its performance in this area, and the Board must take greater responsibility for, and drive, significant improvement.’

The ISC’s annual report for 2010-11 notes that the GCHQ Board adopted a set of diversity initiatives in response to this review, including ‘mandatory diversity training for all staff, awareness-raising events, and consulting other organisations to identify best practice’ (Intelligence and Security Committee, 2011, p. 21). The ISC also noted a modest increase in the proportion of GCHQ junior and middle managers from black and minority ethnic backgrounds, from 2.5 to 2.8 per cent.

We were not able to identify any official information about the social representativeness of staff at MI5 or MI6. However, in response to our request to MI6, we were directed to an interview with an ‘undercover MI6 officer’, which appeared in the Birmingham Post in March 2010 as part of the agency’s efforts to recruit more female and ethnic minority operatives. In this interview, the MI6 representative revealed that:

‘We want to recruit people that are representative of our society. There are far more female operatives these days. When I joined there was just one on the course. We also want to attract more people from black and ethnic minority backgrounds [...] The last intake of 80 operatives came from 30 different universities. The intake was 35 per cent female and eight per cent black and ethnic minority. The great challenge we face is that more boys want to be spies than girls’ (Birmingham Post, 2010).

2.5.4 Freedom from armed and/or violent anti-democratic forces

How free is the country from the operation of paramilitary units, private armies, warlordism and criminal mafias?

All established democracies tend to be relatively free from destabilising or ‘anti-system’ forces such as paramilitary units, private armies and warlords. However, the UK has experienced several decades of paramilitary violence in Northern Ireland, as well as violent extremism associated with far-right and ‘neo-Nazi’ political movements. In more recent years, concerns about domestic terrorism associated with small cells of radical Muslim movements have also heightened considerably.

Northern Ireland

The activities of paramilitary organisations in Northern Ireland have presented a serious and sustained threat to the democratic process in the province since the early 1970s. Described by one expert as ‘by far the worst [conflict] seen in Western Europe since the Second World War’ (Tonge, 2006, p. 1), around 3,600 people are estimated to have died as a result of paramilitary activity in Northern Ireland since 1969 (Sutton, 1994; CAIN, 2011). Analysis of the data contained in the ‘Sutton Index’ reveals that of those killed, a little over half have been ordinary members of the civilian population; a third have been members of the British or Irish security forces; and the remainder have been paramilitaries.

At the height of The Troubles from 1971-76, deaths attributable to sectarian violence ran at an average of around 300 people per annum - peaking at 479 deaths in 1972 (Sutton, 1994). While the level of violence fell during the late 1970s, the number of deaths per annum continued to average around 100 from 1977-1994, with peaks of violent activity in both the early and the late 1980s (Sutton, 1994). Concerted attempts to negotiate a peace from the early 1990s onwards prompted levels of violence to fall further, despite sporadic increases in paramilitary activity associated with the breakdown of peace talks or with the splintering of both republican and loyalist groupings. From 1995-2003, deaths associated with paramilitary activity dropped to around 10-20 per annum - with the exception of 1998, the year of the Omagh bombing, in which 29 people were killed (CAIN, 2011). Paramilitary activity has thus diminished substantially in recent years, and the membership of individual paramilitary organisations is now reckoned to amount to no more than a few hundred. It is generally agreed that the number of deaths each year associated with sectarian violence has been in single figures since 2004; and it is possible that many of these incidents relate to the settling of old scores or to the organised criminal activities of the residual membership of paramilitary groups.

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Year founded</th>
<th>Alignment</th>
<th>Estimated no. fatalities caused, 1969-</th>
<th>Volume of claimed/suspected attacks</th>
</tr>
</thead>
</table>

2.5. Civilian control of the military and police
Published: 12th May 2011
Updated: 24th Apr 2012
<table>
<thead>
<tr>
<th>Group Name</th>
<th>Year of Formation</th>
<th>Type</th>
<th>Claimed/Suspected Responsibility</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ulster Volunteer Force (UVF)*</td>
<td>1966</td>
<td>Loyalist</td>
<td>2001</td>
<td>261 incidents from 1970-2005</td>
</tr>
<tr>
<td>Non-specific Loyalist Groups</td>
<td>n/a</td>
<td>Loyalist</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Direct Action Against Drugs</td>
<td>Assumed to be a cover name for IRA activity</td>
<td>Republican</td>
<td>2001</td>
<td>4, 1995-96</td>
</tr>
</tbody>
</table>


Notes: * UVF includes killings claimed by Protestant Action Forces and the Protestant Action Group, as well as Red Hand Commandos; ** The UDA did not claim any killings during The Troubles, instead using the name Ulster Freedom Fighters in such circumstances.

Nevertheless, paramilitary groups do continue to exist and a degree of paramilitary activity remains evident. The Global Terrorism Database recorded 25 terrorist incidents in Northern Ireland in 2008, ranging from attacks on police to petrol bombs being thrown at private addresses or commercial premises. While only one of these attacks resulted in a paramilitary group (the Continuity IRA) claiming responsibility, and no deaths occurred as a result, it is clear that violent attacks involving guns and makeshift bombs have by no means been eradicated from Northern Irish society. Moreover, there is still widespread public concern about the continued operations of both loyalist and republican criminal gangs. A recent Northern Ireland Omnibus Survey found that 72 per cent of Protestants and 57 per cent of Catholics held paramilitary organisations responsible for organised crime in the province ([Wilson, 2009](#)).

**UK mainland**
The UK mainland has not, in recent decades, been subject to the activities of terrorist and paramilitary groups in the same way that Northern Ireland has. However, that is certainly not to say that Great Britain is free from secretive terrorist cells and paramilitary groups; or indeed that acts of political violence and terror are unknown in England, Scotland and Wales. From 1972 onwards, the Provisional IRA, for instance, waged a sporadic but damaging bombing campaign against English targets which lasted until the late 1990s. Between them, these terrorist incidents in London, Manchester and elsewhere killed dozens of people, injured many hundreds more, and caused billions of pounds worth of damage. While the last attack by Northern-Ireland related terrorist groups on Great Britain occurred a decade ago, in 2001, this threat still remains today. Indeed, the government announced in September 2010 that the threat of attack to the mainland from these groups had been upgraded from ‘moderate’ to ‘substantial’ - meaning that an attack is now considered to be a ‘strong possibility’ (BBC News, 2010).

In addition to the danger presented by Northern-Irish terrorist groups, the UK also faces the threat of organised acts of violence and terror from a number of ‘homegrown’ extreme ideological and religious factions - some of them long-established. One of the oldest of these threats is the extreme right. Acknowledged by the government’s latest terrorism prevention strategy document, Prevent, to be among the most dangerous potential sources of terrorism in the UK (HM Government, 2011b), the extreme right consists of a number of loose but extensive networks of fascists and neo-nazis which have been targeting minority groups and political opponents for decades (Gable and Jackson, 2011). The danger that they pose to the lives of ordinary people was tragically demonstrated in 1999, when the explosion of three bombs planted by David Copeland - a former member of the British National Party and National Socialist Movement - led to the deaths of three people and the injury of more than a hundred others. Thankfully, the scale of the fascist atrocities of 1999 has to yet to be matched in the UK by other like-minded individuals. However, the frequent discoveries by police of weapons caches and explosives belonging to members of the extreme right - together with various, smaller-scale examples of coordinated violent attacks - clearly demonstrate that the threat they pose to citizens of the UK remains a grave one.

Of course, the greatest terrorist threat to domestic security today is generally held to emanate not from either Northern Ireland-related groups or the extreme right, but rather from Islamic extremists - particularly those who either belong to, or are in some way affiliated with Al Qa’ida (see HM Government, 2011b). Prior to the London bombings of 2005, in which 52 people were killed and more than 700 injured, the threat posed by Islamic extremism was perceived primarily by western nations as an external, or ‘foreign’, problem. However, the events of 7 July 2005 changed that perception. All four of the suicide bombers involved in the plot were UK nationals, leading the UK government - and other governments in the west - to increasingly recast the potential threat posed by radicalised muslims as an internal, or ‘domestic’, problem (Crone and Harrow, 2011). Subsequent terrorist plots planned by Islamic extremists have also involved radicalised UK nationals.

Conclusion

It is clear that the military and police forces in the UK are under civilian control. While we have expressed clear concerns in this section about the potential scope for military deployment in civilian affairs, especially since the passage of the Civil Contingencies Act 2004, military intervention in domestic matters remains exceptionally rare in the UK. If anything, government emergency powers are now used more rarely than they were in previous decades, owing to the decline of industrial action, with military involvement tending to be restricted to instances of genuine emergency where troops provide aid to the civil community. We are also encouraged by the progress, albeit modest, in the social representativeness of the armed forces and police. The increase in the proportion of female and ethnic minority personnel in both the military and the police reflects genuine efforts to diversify recruitment and is to be welcomed in a modern democracy - although there is clearly still room for improvement.

Meanwhile, in Northern Ireland, the power-sharing model of devolution enabled the UK to end its 38 year ‘counter-insurgency’ military operations in Northern Ireland in 2007. The normalisation of the security of Northern Ireland under the PSNI, a police service with particularly strong accountability in terms of its institutions of governance and responsibility to human rights, can only be seen as an area of considerable progress since the previous Audit. We are also encouraged by the success of efforts to ensure that the social composition of the Police Service of Northern Ireland reflects the makeup of Northern Irish society as a whole.

However, by no means does this section of the Audit present a ‘clean bill of health’ with regard to the accountability of the armed forces and the police. Indeed, aside from the dramatic improvements noted in Northern Ireland, we must repeat almost all of the concerns expressed in previous Audits about the extent to which existing mechanisms serve to ensure that the military, police and security services are publicly accountable for their actions. With regard to the military and the security services, the role of parliament remains exceptionally weak. Key decisions about military affairs, including whether to engage in war, remain in the control of the executive as a result of the continuation of royal prerogative powers. And, while reform has again been promised, the lack of provision for parliament to hold the security and intelligence services to account remains a key concern. With regards to police accountability, we have highlighted the continued erosion of the role of police authorities in ensuring that police forces are accountable to the communities they serve.

A whole host of events over the past decade illustrate why these are not just theoretical concerns. From the decision to go to war in Iraq,
and the nature of the intelligence used to justify it, though to high-profile controversies about how police officers have responded to major incidents, questions about the extent of democratic control and accountability loom large in relation to the military, police and security and intelligence services. We are, moreover, surprised by the relative paucity of academic research into these issues.

As with other sections of this Audit, this section has highlighted some notable contrasts between the constituent parts of the UK, particularly with regard to police accountability. Here, as elsewhere, there may be much that the UK government can learn from the experience of devolution in Scotland and Northern Ireland. At the same time, the growing contrasts in models of police accountability within the UK, which will be heightened by the coalition’s policy of moving to elected police commissioners in England and Wales, arguably provides further evidence of the constitutional instabilities arising from asymmetric devolution. Another of the core themes highlighted in this Audit, the failure of reforms to stem the decline of public confidence in key institutions, is equally significant in this regard. It is particularly striking that serious concerns persist about the police complaints system, despite the establishment of the Independent Police Complaints Commission almost a decade ago. Moreover, while measures of public confidence in the police derived from the British Crime Survey were relatively stable in the 2000s, there is clear evidence of sharp, long-term decline compared to previous decades (Crawford, 2008; Bradford, 2011). We would question whether a move to elected police commissioners is likely to improve the situation.

Finally, the analysis presented in this section adds further evidence of parliament becoming more assertive in its relationship with the executive in key aspects of decision-making, including the role of the military and the accountability of the security and intelligence services. While the balance is yet to shift towards greater powers for parliament in these areas, the dynamic towards greater democratic oversight of the military and security services suggests that demands for reform will prove increasingly difficult to resist.

References


CAIN (2011) Sutton Index of Deaths, University of Ulster: Conflict and Politics in Northern Ireland web service.


Guardian (2011b) Ian Tomlinson evidence was held back from IPCC’, The Guardian, 9 May.


Hansard (2011) Written Answer – Royal Ulster Constabulary: Catholicism, 3 May 2011, Colum 619W


National Consortium for the Study of Terrorism and Responses to Terrorism (2011) *Global Terrorism Database*, University of Maryland.


Police Service of Northern Ireland (2011) *Workforce Composition Figures*, Belfast: PSNI.


