

# Denial, Silence and the Politics of the Past: Unpicking the Opposition to Truth Recovery in Northern Ireland

Cheryl Lawther\*

## Abstract<sup>1</sup>

There has been considerable and protracted debate on whether a formal truth recovery process should be established in Northern Ireland. Some of the strongest opposition to the creation of such a body has been from unionist political elites and the security forces. Based on qualitative fieldwork, this article argues that the dynamics of denial and silence have been instrumental in shaping their concerns. It explores how questions of memory, identity and denial have created a 'myth of blamelessness' in unionist discourse that is at odds with the reasons for a truth process being established. It also examines how three interlocking manifestations of silence – 'silence as passivity,' 'silence as loyalty' and 'silence as pragmatism' – have furthered unionists' opposition to dealing with the past. This article argues that making peace with the past requires an active deconstruction of these practices.

**Keywords:** truth commissions, denial, silence, unionism, Northern Ireland

## Introduction

The 21st century has been witness to an 'urge' to truth wherein the norms and principles of transitional justice and, specifically, truth recovery not only have become an axiomatic element of postconflict reconstruction but also permeate contemporary social and political debates in 'settled' societies.<sup>2</sup> The purported values of truth recovery, including the importance of reaffirming the rule of law and challenging incompatible versions of the past in divided societies have, however, been offset by a number of powerful critiques of the perceived 'need' to recover truth about the past.<sup>3</sup> Couched within the euphemisms of 'getting peace'

\* Lecturer, School of Sociology, Social Policy and Social Work, Queen's University, Belfast, Northern Ireland. Email: c.lawther@qub.ac.uk

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<sup>2</sup> See, for example, Rudi G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000); Kieran McEvoy, 'Beyond Legalism: Towards a Thicker Understanding of Transitional Justice,' *Journal of Law and Society* 34(4) (2007): 411–440.

<sup>3</sup> See, for example, Priscilla B. Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions* (London: Routledge, 2002). See also, Erin Daly, 'Truth Skepticism: An Inquiry

and promoting ‘reconciliation,’ for example, some of the most slippery and strongly stated oppositional discourses to truth have been framed within a context of denial and silence.<sup>4</sup> While Michael Ignatieff asserts that even partial truth recovery can ‘narrow the range of permissible lies,’ doing so is one of the most formidable postconflict challenges, particularly in the face of efforts made by once and still powerful actors keen to conceal their past actions and inactions.<sup>5</sup>

This article engages with these processes of denial and silence and uses the debate on how Northern Ireland should deal with its troubled past as a case study. Sociologist Stan Cohen has defined denial as ‘the need to be innocent of a troubling recognition’ and, by distinguishing between concepts such as literal, interpretive and implicative denial, demonstrates how information that is too threatening or disturbing to be publicly acknowledged can be repressed or re-interpreted.<sup>6</sup> Silence, the ‘socially constructed space in which and about which subjects and words normally used in everyday life are not spoken,’ is also an active and deliberate response to past trauma.<sup>7</sup> In contrast to denial, whereby the uncomfortable aspects of the past may be reframed or deflected, silence constitutes that which is ‘generally known but cannot be spoken.’<sup>8</sup> As this article illustrates, these distinct but complementary concepts have played a key role in the mobilization against truth recovery in Northern Ireland.

As a result of over 30 years of violent conflict and more than 3,700 deaths, many unanswered questions remain in Northern Ireland. In addition to public inquiries, civil actions, police-led truth recovery and ‘bottom-up’ community initiatives, the question of whether a formal truth recovery process should be established has been rumbling since the signing of the Belfast Agreement in 1998.<sup>9</sup> To address this issue, the Consultative Group on the Past (CGP), chaired by Lord Robin Eames (former archbishop of Armagh and primate of all Ireland) and Denis Bradley (a former priest), was appointed by the British government in June 2007 and mandated to consult across the community how Northern Ireland society can best approach the legacy of the events of the past 40 years; and to make recommendations, as appropriate, on any steps that might be taken to support

into the Value of Truth in Times of Transition,’ *International Journal of Transitional Justice* 2(1) (2008): 23–41.

<sup>4</sup> See, for example, Leigh A. Payne, *Unsettling Accounts: Neither Truth nor Reconciliation in Confessions of State Violence* (Durham, NC: Duke University Press, 2008); Barbara A. Misztal, *Theories of Social Remembering* (Maidenhead, PA: Open University Press, 1991).

<sup>5</sup> Michael Ignatieff, ‘Articles of Faith,’ *Index on Censorship* 25(5) (1996): 113.

<sup>6</sup> Stanley Cohen, *States of Denial: Knowing about Atrocities and Suffering* (Cambridge: Polity, 2001), 25.

<sup>7</sup> See, for example, Efrat Ben-Ze’ev, Ruth Ginio and Jay Winter, *Shadows of War: A Social History of Silence in the Twentieth Century* (Cambridge: Cambridge University Press, 2010), 4.

<sup>8</sup> Eviatar Zerubavel, ‘The Social Sound of Silence: Toward a Sociology of Denial,’ in Ben-Ze’ev, Ginio and Winter, *supra* n 7 at 32.

<sup>9</sup> See, Kieran McEvoy, *Making Peace with the Past: Options for Truth Recovery Regarding the Conflict in and about Northern Ireland* (Belfast: Healing Through Remembering, 2006), for a comprehensive overview of existing truth recovery structures.

Northern Ireland society in building a shared future that is not overshadowed by the events of the past.<sup>10</sup>

One of the key recommendations in the CGP's January 2009 report is for a 'Legacy Commission,' which, given its suggested work of 'review and investigation,' 'information recovery' and 'thematic examination,' would be, effectively, a truth commission.<sup>11</sup> Little agreement has emerged on the CGP's proposals and discussions regarding the process have stalled, except that, in October 2011, Northern Ireland's cross-community party, the Alliance Party, called on the Secretary of State to convene cross-party talks and take the issue forward.<sup>12</sup> Given former Secretary of State Owen Paterson's assertion that the country has no need for a 'shiny, glossy new organisation,' it is questionable whether a formal truth recovery body will be established.<sup>13</sup>

Progress has been curtailed by a lack of consensus among Northern Ireland's main political parties. In broad terms, ostensibly at least, the main nationalist and republican political parties, the Social Democratic and Labour Party (SDLP) and Sinn Féin (SF), respectively, have supported the concept of a formal truth process. Over the course of debates on such a process, their key demand has been the establishment of an independent international truth commission, overseen by the UN, to which all parties to the conflict – unionists/loyalists, nationalists/republicans and the British state – would be accountable.<sup>14</sup> In contrast, some of the strongest opposition to a truth recovery body has come from the elite within the main unionist political parties and the security forces. Among their most well-rehearsed arguments are the claims that a truth process would, for example, become 'a Brit bashing session' and provide an opportunity for republican politicians and ex-combatants to 're-write' the past in a way that would legitimize their actions and retraumatize bereaved families and victims.<sup>15</sup> This article exclusively focuses on elite-level unionists' opposition to a truth process and argues that the dynamics of denial and silence have been instrumental in shaping their concerns.

Some introduction to political unionism is therefore beneficial at this juncture. As a political ideology, in broad terms, unionism seeks to preserve the union

<sup>10</sup> Northern Ireland Office, 'Hain Announces Group to Look at the Past,' press statement (22 June 2007).

<sup>11</sup> Consultative Group on the Past (CGP), *Report of the Consultative Group on the Past* (2009).

<sup>12</sup> Alliance Party, 'Alliance Brings Need for Party Talks on the Past to the Assembly,' press release (7 October 2011).

<sup>13</sup> 'Paterson: Truth Body Will Not Work for Northern Ireland's Troubles Legacy,' *Belfast Telegraph*, 5 October 2011.

<sup>14</sup> See, for example, Sinn Féin, 'Truth Commission Needed – Adams,' press release (17 May 2011).

<sup>15</sup> See, for example, Democratic Unionist Party, *A Voice for Victims: The Democratic Unionist Party's Policy on Innocent Victims of Terrorism* (2003); Ulster Unionist Party (UUP), 'Eames-Bradley 2,' press release (2 February 2009); Northern Ireland Retired Police Officers Association (NIRPOA), *Submission to the Consultative Group on the Past* (2008); Cheryl Lawther, "Securing" the Past: Policing and the Contest over Truth in Northern Ireland,' *British Journal of Criminology* 50(3) (2010): 455–473; Cheryl Lawther, *Truth, Transition and Denial: Northern Ireland and The Contested Past* (London: Routledge, forthcoming).

between Northern Ireland and Great Britain and is based on a sense of loyalty to and sacrifice on behalf of the British state. The Democratic Unionist Party (DUP), the largest unionist party, and the Ulster Unionist Party (UUP) currently represent unionism in the Northern Ireland Assembly.<sup>16</sup> The Traditional Unionist Voice (TUV), a considerably smaller unionist party, is a harsh critic of the Belfast Agreement and the involvement of SF in the Northern Ireland Assembly. Given the importance unionists placed on securing the Northern Ireland state during the conflict, they have historically had a close relationship with the security forces.<sup>17</sup> The largely Protestant composition of the security forces and the nature of their daily work have meant that their political and social views have been largely interchangeable with those of the unionists.<sup>18</sup> This article focuses on the views of the representative bodies of the security forces most closely associated with the unionist-dominated and now disbanded Royal Ulster Constabulary (RUC). They include the Northern Ireland Retired Police Officers Association (NIRPOA), the Police Federation for Northern Ireland (PFNI) and the RUC George Cross Foundation. The Progressive Unionist Party (PUP) and Ulster Political Research Group (UPRG) are, respectively, the political representatives of the Ulster Volunteer Force and the Ulster Defence Association, the largest loyalist paramilitary organizations in Northern Ireland.<sup>19</sup> Neither is currently represented in the Northern Ireland Assembly.

This is not, however, to suggest that republicans or the British state are wholly comfortable with the prospect of a truth process and have not sought to mask aspects of the past. There has, for example, been continued skepticism regarding SF's demand for an independent international truth commission on the grounds that setting the 'bar' so high deliberately prevents the establishment of such a body.<sup>20</sup> Given that republican paramilitary organizations were responsible for the greatest loss of life during the conflict, with the Provisional Irish Republican Army (IRA) alone responsible for 1,771 deaths, it would be simplistic to suggest that republican political elites could manage the sheer number of such 'ugly truths' without damage to their political identity.<sup>21</sup> Moreover, republicans' commitment to truth telling is uncertain. As has been well documented, Martin McGuinness was the only republican to give evidence at the Saville Inquiry and, when questioned, made recourse to a 'republican code of honour' that prevented full and

<sup>16</sup> See, James McAuley, *Ulster's Last Stand? Reconstructing Unionism after the Peace Process* (Dublin: Irish Academic Press, 2010).

<sup>17</sup> Aogán Mulcahy, *Policing Northern Ireland: Conflict, Legitimacy and Reform* (Cullompton: Willan, 2006).

<sup>18</sup> See, Graham Ellison and Jim Smyth, *The Crowned Harp: Policing Northern Ireland* (London: Pluto, 2000).

<sup>19</sup> See, Graham Spencer, *The State of Loyalism in Northern Ireland* (Basingstoke: Palgrave Macmillan, 2008).

<sup>20</sup> See, for example, Brian Rowan, 'Ugly Truths that Stop Us Building a Better Future,' *Belfast Telegraph*, 10 September 2011.

<sup>21</sup> David McKittrick, Seamus Kelters, Brian Feeney, Chris Thornton and David McVea, *Lost Lives: The Stories of the Men, Women and Children Who Died as a Result of the Northern Ireland Troubles* (Edinburgh: Mainstream, 2007).

detailed truth telling. Likewise, despite compelling documentary and anecdotal evidence to the contrary, SF President Gerry Adams has persistently denied being a member of the IRA.<sup>22</sup> Despite its establishment of the CGP, the British government's commitment to truth telling is also questionable. Its announcement in October 2011 that there would not be a public inquiry into the death of human rights lawyer Pat Finucane, in which there is evidence of security force collusion with loyalist paramilitaries, is indicative.<sup>23</sup> A reluctance to engage with uncomfortable truths is therefore not exclusive to unionists. I am conscious that by focusing only on unionists' views this article speaks to just one aspect of this triangle.

To fully explore unionists' opposition to a truth process, the article is based on over 40 semistructured interviews, including seven interviews with representatives of the UUP, eight with DUP representatives, one with a TUV representative, four with UPRG members, three with members of PUP, eight with members of the security forces, three with members of CGP and nine with others. The interviews were conducted between March and October 2009, after the release of the CGP's report. The overwhelming majority of interviewees are male (40) and participants come from a range of socioeconomic backgrounds and geographical locations throughout Northern Ireland. A form of purposeful sampling was used whereby potential interviewees were approached on the basis of their relevance to the research questions.<sup>24</sup> This meant that I approached individuals who had, for example, publicly engaged in the debate on dealing with the past or who were well placed to represent the views of their organization. Given time and space constraints, the quotations used throughout this article reflect dominant themes brought up by interviewees.

This approach means that a number of groups and patterns of investigation have not been part of the research. Specially, the findings are not geographically representative of spokespersons across Northern Ireland and do not represent the views of ordinary rank-and-file unionists and loyalists. Likewise, they do not include the views of unionist victims' and community groups. While such areas of research are highly valuable in their own right, this is a purposefully elite-focused study.

Starting with the concept of denial, the first section of the article addresses how unionists' reluctance to engage fully with the idea that their actions or inactions played a role in the causes and consequences of the Northern Ireland conflict has structured their opposition to a truth process. Two main areas are explored: how questions of memory, identity and denial have created a 'myth of blamelessness' in unionist discourse that is at fundamental odds with the reasons for a truth process, and the impact of the politicization of victimhood and unionists'

<sup>22</sup> Cheryl Lawther, 'Unionism, Truth Recovery and the Fearful Past,' *Irish Political Studies* 26(3) (2011): 361–382.

<sup>23</sup> Brian Rowan, 'Why the Government Is So Keen to Let Sleeping Dogs Lie,' *Belfast Telegraph*, 14 October 2011.

<sup>24</sup> Alan Bryman, *Social Research Methods* (Oxford: Oxford University Press, 2004).

consequent need to be seen as the ‘real’ and ‘innocent’ victims of the conflict. The second section examines how three interlocking manifestations of silence have furthered unionists’ opposition to truth recovery. Conceptualized as ‘silence as passivity,’ ‘silence as loyalty’ and ‘silence as pragmatism,’ these manifestations illustrate that silence is an active rather than a passive form of communication. Silence is also an intensely political form of communication. Given that unionism is not monolithic – as a political ideology, its hybrid nature has been well documented – where appropriate, significant differences of opinion are highlighted.

## **Truth, Denial and the ‘Past Perfect’<sup>25</sup>**

As Ruti Teitel has argued, transitional accountings incorporate a state’s repressive legacy and, through this, draw a line that both redefines a past and reconstructs a state’s political identity.<sup>26</sup> Yet, a sense of identity is precious to a regime’s supporters, particularly in the aftermath of violent conflict, when ‘imagined’ versions of the past can become reified and deified by its key players.<sup>27</sup> In Northern Ireland, many unionist politicians and representatives of the security forces have advocated a narrative of the past in which they are largely absolved from responsibility for the conflict or its events.<sup>28</sup> A truth process poses a significant challenge to this claim. Examining the intersection of memory, identity and denial as well as the inherently competitive and politicized nature of victimhood, the discussion that follows critically explores how these factors have structured unionists’ opposition to a formal truth process.

### **Truth and Memory as Blamelessness**

Arguably one of the most compelling reasons for establishing a formal truth recovery process is to broaden ownership and responsibility for the past, inculcating the idea that ‘all sides in the struggle did bad things’ and to complicate simple and polarized histories. The resulting ‘truths’ are thus a plurality of ideas that correspond to the complexity of the real world rather than the binary divisions of conflict.<sup>29</sup> James Gibson, for example, has described the South African Truth and Reconciliation Commission’s ‘multifaceted truth’ as ‘an amalgam of ideas about the past with which all South African’s must at least contend.’<sup>30</sup> Speaking to Nils Christie’s idea of ‘conflicts as property,’ cultivating a more equal distribution of responsibility requires political generosity and the

<sup>25</sup> W. James Booth, ‘The Unforgotten: Memories of Justice,’ *American Political Science Review* 95(4) (2001): 788.

<sup>26</sup> Teitel, *supra* n 2.

<sup>27</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 2nd ed. (London: Verso, 2006).

<sup>28</sup> See, for example, Democratic Unionist Party, *Dealing with the Past in Northern Ireland* (2009); NIRPOA, *supra* n 15.

<sup>29</sup> Hayner, *supra* n 3.

<sup>30</sup> James L. Gibson, ‘Does Truth Lead to Reconciliation? Testing the Causal Assumptions of the South Africa Truth and Reconciliation Commission,’ *American Journal of Political Science* 48(2) (2004): 204.

willingness of all parties to the conflict to take ownership of and acknowledge their role in the past.<sup>31</sup> Doing so is vital to developing an organic and embedded approach to conflict transformation that is founded on the participants' commitment to peacemaking and a less polarized future.

That a truth process could play a similar role in Northern Ireland has been interpreted by many senior unionists and representatives of the security forces as an attempt unjustifiably to 'blame' the pro-state constituency for much of the conflict. Rather than, for example, recognizing that the political culture of the unionist-dominated Stormont parliament of 1921–1972 at times found expression in discriminatory policies levied against the nationalist minority or that certain members of the security forces engaged in exclusionary and partial policing practices, much of contemporary unionist discourse eschews the suggestion that their words or deeds contributed to the conflict.<sup>32</sup> Instead, they have sought to derive legitimacy from emphasizing the 'criminal' origins of the IRA campaign and from emotive appeals as to the role of the security forces in upholding the rule of law, often by way of death and sacrifice.<sup>33</sup> In their efforts to create a 'usable past,' unionists' opposition to many of the key conflict transformation processes, including the release of paramilitary prisoners and the issue of truth recovery, is related to their sense of identity and collective memory.<sup>34</sup> Speaking to the difference between history and memory, their opposition also illustrates how frames of meaning from the past continue to structure interpretations of contemporary sociopolitical developments.<sup>35</sup>

The unionist 'usable past' is therefore one where the 'myth of blamelessness' has been articulated and reproduced to deny responsibility for the conditions that gave rise to or emerged during the conflict. This perspective was clearly articulated by one representative of the DUP:

I think that unionists come to the Troubles with a view that they are completely guiltless in all of this and that they were victims of a revolutionary organization who wanted to overthrow their state and all they wanted to do was to see their state functioning normally. I actually have a great deal of sympathy for that point of view because I am in that situation . . . I see a community that suffered and suffered terribly and could have involved themselves in a civil war and didn't . . . To me that is an amazing story of passiveness in the face of human suffering.<sup>36</sup>

<sup>31</sup> Nils Christie, 'Conflicts as Property,' *British Journal of Criminology* 17(1) (1977): 1–15.

<sup>32</sup> See, for example, Richard Bourke, *Peace in Ireland: The War of Ideas* (London: Pimlico, 2003).

<sup>33</sup> See, for example, Feargal Cochrane, *Unionist Politics and the Politics of Unionism since the Anglo-Irish Agreement* (Cork: Cork University Press, 1997); Chris Ryder, *The RUC 1922–2000: A Force under Fire* (London: Arrow, 2000).

<sup>34</sup> Robert G. Moeller, *War Stories: The Search for a Usable Past in the Federal Republic of Germany* (Berkeley, CA: University of California Press, 2001).

<sup>35</sup> John D. Brewer, *Peace Processes: A Sociological Approach* (Cambridge: Polity, 2010); Peter Novick, *The Holocaust in American Life* (Boston: Houghton Mifflin, 1999).

<sup>36</sup> Personal interview, DUP, 12 September 2009.

Stanley Cohen's typology of denial provides a framework in which to contextualize unionists' approach.<sup>37</sup> The most overt form of denial – literal denial, whereby the fact or knowledge of the fact is denied – has been levied against the CGP's attempt to encourage unionists to begin to accommodate the idea that wrongs were committed by all parties to the conflict.<sup>38</sup> An example of the CGPs' effort is an early speech by Lord Eames and Denis Bradley that noted the necessity of unionists countenancing their own 'ugly truths,' including the fact that the state at times acted outside the law.<sup>39</sup> The CGP's report similarly suggests that 'versions of the past differ not so much in the facts of what happened but more in the moral assessment of the rightness and wrongness of what was done by opposing sides'<sup>40</sup> and that 'just as rights were present on both sides, wrongs were also committed by both.'<sup>41</sup> Such efforts have not been received well. Former UUP leader Tom Elliott, for example, argued that the report is 'promoting the view that [the conflict] is the fault of Unionism from 1921,'<sup>42</sup> while a former party advisor noted there is an 'implicit acceptance of one theory of the origins of the Troubles' and an assumption of 'too much guilt'.<sup>43</sup>

Northern Ireland's place in the UK – a jurisdiction with an impressive democratic pedigree and ideological commitment to the rule of law – has also informed these arguments.<sup>44</sup> According to Clifford Geertz, law represents a way of conceptualizing and articulating an ideal vision of the social world and enables people 'to imagine principled lives they can practically lead'.<sup>45</sup> For unionists, as supporters of the state, privileging this status has been key to imagining their identity and 'principled' lives. Yet, as noted above, the British state also played an active role in the conflict. That a truth process would investigate human rights violations the state's legal architecture should have rendered impossible is thus paradoxical and uncomfortable for the British state and its supporters. That such violations conflict with the state's preferred self-image has arguably made them difficult to 'see'.<sup>46</sup> Unionists' relationship of loyalty for and sacrifice on behalf of the British state may therefore have contributed to the creation of selective 'blind spots' regarding the state's conduct.

<sup>37</sup> Cohen, *supra* n 6.

<sup>38</sup> *Ibid.*

<sup>39</sup> 'Eames: The Speech in Full,' *Belfast Telegraph*, 29 May 2008.

<sup>40</sup> CGP, *supra* n 11 at 53.

<sup>41</sup> *Ibid.*, 55.

<sup>42</sup> Ulster Unionist Party, 'Reject Eames-Bradley Says Elliott,' press release (30 January 2009).

<sup>43</sup> Esmond Birnie, *Evaluation of the Report of the Consultative Group on the Past – Eames Bradley* (unpublished manuscript, 2009).

<sup>44</sup> Fionnuala Ní Aoilán and Colm Campbell, 'The Paradox of Transition in Conflicted Societies,' *Human Rights Quarterly* 27(1) (2005): 172–213.

<sup>45</sup> Clifford Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (London: Fontana Press, 1983), 234.

<sup>46</sup> Colm Campbell and Ita Connolly, 'The Sharp End: Armed Opposition Movements, Transitional Truth Processes and the *Rechtsstaat*,' *International Journal of Transitional Justice* 6(1) (2012): 11–39.

An array of other practical and rhetorical strategies of denial underpin this metanarrative.<sup>47</sup> The response of a number of unionists to the allegation that members of the security forces colluded with loyalist paramilitary organizations well illustrates this case. Unionists have seen this allegation as a betrayal of their self-identification as upholders of the rule of law and as part of a broader attempt to ‘blame’ the RUC for the conflict. Evidence of collusion found by, for example, Sir John Stevens, Judge Peter Cory and the Office of the Police Ombudsman for Northern Ireland has been deflected by way of a four-pronged defence: literal denial; isolation, with blame ascribed to a tiny percentage of ‘bad apples’; contextualization, or the argument that the conditions of the time mean that unionists’ actions cannot be judged retrospectively; and advantageous comparison, by way of reference to the role of the RUC in upholding the law and fighting terrorism.<sup>48</sup> Reactions by a number of unionist politicians to the Saville Inquiry’s ruling that, for example, British soldiers opened fire illegally on Bloody Sunday is also insightful.<sup>49</sup> While not all unionists or members of the British state have been as unequivocal,<sup>50</sup> the DUP’s Gregory Campbell and Jeffrey Donaldson engaged in a ‘condemnation of the condemners’ and denial of victimhood, arguing respectively that British paratroopers would not have been in the area if it were not for ongoing IRA-led violence and that justice can only be celebrated when shared by all communities.<sup>51</sup>

Paralleling this polarized interpretation of the conflict is the argument that a truth process should be designed to place all responsibility for the conflict with paramilitary organizations and that their ‘repentance’ should be sought. Arguments made by DUP representatives during debates in the Northern Ireland Assembly and during interviews include the claim that ‘the Consultative Group had a moral duty to place the blame where it lay – with those who took up arms’ – and that ‘people want to hear others saying, standing up and admitting that “I did wrong.”’<sup>52</sup> At least one DUP representative argued that a formal truth process should be founded on and reflect this binary construction of the conflict.<sup>53</sup> I would also argue that this backdrop structured many unionists’ unswerving faith in the judicial process and its ability, in the opinion of a interviewee from the TUV, to apportion ‘right’ and ‘wrong,’ ‘innocence’ and

<sup>47</sup> Cohen, *supra* n 6.

<sup>48</sup> Ibid.; personal interview, RUC GC Foundation, 10 August 2009; personal interview, PFNI, 20 June 2009; personal interview, NIRPOA, 19 May 2009; personal interview, DUP, 11 May 2009.

<sup>49</sup> For a summary of the Saville Inquiry’s findings, see, ‘Bloody Sunday Inquiry: Key Findings,’ *Guardian*, 15 June 2010.

<sup>50</sup> General Sir Mike Jackson, a parachute regiment officer in Derry/Londonderry at the time of Bloody Sunday has, for example, asserted, ‘I have no doubt that innocent people were shot.’ Tom Peterkin, ‘Bloody Sunday Dead Were Innocent, Says Jackson,’ *Telegraph*, 30 May 2007.

<sup>51</sup> Cohen, *supra* n 6. ‘Question Time,’ *BBC1*, 17 June 2010 (author’s recording).

<sup>52</sup> Northern Ireland Assembly, Private Members Business, 2 February 2009, Consultative Group on the Past; personal interview, DUP, 3 April 2009.

<sup>53</sup> Personal interview, DUP, 12 May 2009.

'guilt.'<sup>54</sup> Rejecting an overarching process of truth recovery and advocating a selective approach to 'truth' through law/criminal trials for those 'outside' the law – paramilitary organizations – may therefore be another part of the effort to manage and neutralize the unionist community's role in the conflict.

These dynamics have also been instrumental in shaping loyalist ex-combatants' concerns about a truth process. In contrast to mainstream unionism, loyalist ex-combatants have, in the main, been much more willing to acknowledge their role in the conflict and support the notion that every community has to share responsibility for the past.<sup>55</sup> However, one of their most commonly expressed grievances is that while some unionist politicians provided the leadership for and context in which violence could flourish, they 'used and abused' loyalist activists by privately encouraging and then publicly denouncing their actions during the conflict.<sup>56</sup> That some unionist politicians have been reluctant to recognize the contribution a number of loyalist ex-combatants have made to their communities by way of conflict transformation has furthered this sense of betrayal and stigmatization.<sup>57</sup> As the following response by a UPRG member illustrates, there is a sense that their participation in a truth process would be manipulated by certain unionists to further attribute blame and guilt:

It is going to allow unionists to say, 'It was them bad boys, it wasn't us,' but the fact remains that the loyalist paramilitaries could not have survived unless they had that sea to swim in and unionists created that sea for them to swim in. There is culpability all the way round here.<sup>58</sup>

This is not to suggest that all working-class loyalists agree with these sentiments. In the opinion of one former representative of the PUP, there is increasing recognition of the complexity and benefits of dealing with the past, particularly around the extent and direction of collusion and the distribution of blame and responsibility among loyalist ex-combatants.<sup>59</sup> That these views were not shared more widely is perhaps indicative of loyalists' entrenched suspicion of the actions and motivations of certain unionist politicians.

## **Truth, Victimhood and the 'Myth' of Equivalence**

Closely related to unionists' desire to project an image of blamelessness is a drive to portray themselves as the 'real' and 'innocent' victims of the conflict. This

<sup>54</sup> Personal interview, TUV, 20 March 2009.

<sup>55</sup> Pete Shirlow and Kieran McEvoy, *Beyond the Wire: Former Prisoners and Conflict Transformation in Northern Ireland* (London: Pluto, 2008).

<sup>56</sup> Claire Mitchell, 'The Limits of Legitimacy: Former Loyalist Combatants and Peace-Building in Northern Ireland,' *Irish Political Studies* 23(1) (2008): 1–19; James McAuley, "'Just Fighting to Survive": Loyalist Paramilitary Prisoners and the Progressive Unionist Party,' *Terrorism and Political Violence* 16(3) (2004): 522–543.

<sup>57</sup> Shirlow and McEvoy, *supra* n 55; Kevin Cassidy, 'Organic Intellectuals and the New Loyalism: Re-Inventing Protestant Working Class Politics in Northern Ireland,' *Irish Political Studies* 23(3) (2008): 411–430.

<sup>58</sup> Personal interview, UPRG, 18 June 2009.

<sup>59</sup> Personal interview, PUP, 6 April 2009.

scenario is not unique to Northern Ireland. As Daniel Bar-Tal notes, groups in conflict tend to form selective ‘collective memories’ of violence that ‘focus mainly on the other side’s responsibility for the outbreak and continuation of the conflict and its misdeeds, violence and atrocities’ while at the same time ‘concentrating on their own self-justification, self-righteousness, glorification and victimization.’<sup>60</sup> Speaking to questions of legitimacy, morality and power, defining ‘who’ is a ‘victim’ or ‘combatant’ is inherently competitive and politicized. In Northern Ireland, the definition of a victim contained in the Victims and Survivors (Northern Ireland) Order 2006 has been the most recent battleground over who the ‘real’ victims of the conflict are. As an ‘inclusive’ definition, the Order includes victims, former combatants and their families and corresponds to Alex Boraine’s suggestion that regarding ex-combatants as victims ‘is simply to try to understand something of the ambiguity, the contradictions, of war, of conflict, of prejudice.’<sup>61</sup> Yet, as Teitel points out, creating symmetric representations of victims and combatants risks the charge of advocating ‘moral equivalence’ – unionists’ key critique of the Order.<sup>62</sup> Speaking to Mark Osiel’s argument that the myth of equivalence exploits the binary logic of criminal liability, in the opinion of one senior DUP figure, to imply parity between ‘innocent’ victims and ‘guilty’ combatants challenges the Protestant mindset of right and wrong and therefore where blame and responsibility for the conflict lie.<sup>63</sup> Members of both the DUP and UUP similarly emphasized that a distinction must be upheld between ‘the service and sacrifice of members of the security forces’ and those ‘who were setting out to plan murder.’<sup>64</sup>

The allegation that a formal truth recovery process could be ‘used in the service of equivalence’ was apparent from the start of the work of the CGP.<sup>65</sup> A number of distinct critiques can be identified. One of the strongest was expressed by a member of the TUV who argued that the entire purpose of a truth process would be to create moral equivalence, treating all narratives of the past with equal validity and respect.<sup>66</sup> Implicit in this critique is the suggestion that there should be a hierarchy of narratives on the past. A member of the PFNI, for example, suggested that unionists’ self-constructed boundaries of right and wrong will neither make room for the stories of the ‘other’ being told in anything

<sup>60</sup> Daniel Bar-Tal, ‘Collective Memory of Physical Violence: Its Contribution to the Culture of Violence,’ in *The Role of Memory in Ethnic Conflict*, ed. Ed Cairns and Michael D. Roe (Basingstoke: Palgrave Macmillan, 2003), 78.

<sup>61</sup> Alex Boraine, *A Country Unmasked: Inside South Africa’s Truth and Reconciliation Commission* (Oxford: Oxford University Press, 2000), 128.

<sup>62</sup> Teitel, *supra* n 2.

<sup>63</sup> Personal interview, DUP, 3 April 2009; Mark Osiel, *Mass Atrocity, Collective Memory and the Law* (London: Transaction Publishers, 2000).

<sup>64</sup> Personal interview, DUP, 20 April 2009; personal interview, UUP, 5 May 2009.

<sup>65</sup> UUP, *supra* n 15; Democratic Unionist Party, ‘DUP Response to Eames-Bradley Unveiled,’ press release (20 November 2009).

<sup>66</sup> Personal interview, TUV, 20 March 2009.

other than local-level initiatives nor allow unionists to listen to them.<sup>67</sup> A former UUP advisor critiqued statements such as ‘this listening must then lead to an honest assessment of what the other is saying and to recognition of the truth within their story’ on the grounds that the view that ‘the Northern Ireland conflict has a number of “sides” and they all deserve to be heard’ implies moral equivalence.<sup>68</sup> In the opinion of another UUP representative, unionists’ and the security forces’ experiences and narratives should be prioritized in discussions of conflict-related events.<sup>69</sup> Such remarks illustrate the hierachal construction of victimhood prevalent in unionist discourse.<sup>70</sup>

The question of whether an amnesty or limited immunity from truth telling would be offered to aid the truth-finding process is similarly problematic for many unionists interviewed. Extinguishing criminal and/or civil liability, conditional amnesties have accompanied truth recovery processes in a number of transitional jurisdictions. One of the main purposes of an amnesty in such contexts is to encourage combatants to reveal information and potentially allow a greater degree of truth recovery than may have been possible with formal criminal proceedings.<sup>71</sup> Amnesties or other processes to shield individuals from prosecution are not without precedent in Northern Ireland. Limited immunity from prosecution has, for example, been offered by the Independent Commission for the Location of Victims’ Remains.<sup>72</sup> It was also a key element of the architecture of the Saville and Nelson Inquiries into the events on Bloody Sunday and the death of solicitor Rosemary Nelson.<sup>73</sup> In such instances, the offer of limited immunity has been a pragmatic tool to incentivize truth recovery.

The CGP appeared to recognize this point. Given that the likelihood of large numbers of criminal prosecutions is decreasing with time, among other factors, it is difficult to envisage how a truth process could operate without a guarantee of immunity. Revelations in the media in January 2008 that an amnesty might be offered were arguably part of a deliberate attempt to begin to ‘acclimatize’ politicians and civil society to this idea. Variously described as ‘sickening and unacceptable,’ ‘immoral’ and a ‘betrayal’ of innocent victims, the suggestion was rejected by many unionists and members of the security forces.<sup>74</sup> Perceived to

<sup>67</sup> Personal interview, PFNI, 30 June 2009.

<sup>68</sup> CGP, *supra* n 11 at 14. See also, Birnie, *supra* n 43.

<sup>69</sup> Personal interview, UUP, 3 April 2009.

<sup>70</sup> Graham Dawson, *Making Peace with the Past? Memory, Trauma and the Irish Troubles* (Manchester: Manchester University Press, 2007).

<sup>71</sup> Louise Mallinder, *Amnesty, Human Rights and Political Transitions: Bridging the Peace and Justice Divide* (Oxford: Hart Publishing, 2008).

<sup>72</sup> Established in 1999, this body is mandated to obtain information, in strict confidence, which may lead to ascertaining the whereabouts of the remaining ‘disappeared,’ the 15 victims who were abducted, killed and secretly buried between 1972 and 1986.

<sup>73</sup> Austen Morgan, ‘The Northern Ireland (Location of Victims’ Remains) Act 1999: Amnesty, Immunity or What?’ *Irish Jurist* 37 (2002): 306–321; Angela Hegarty, ‘The Government of Memory: Public Inquiries and the Limits of Justice in Northern Ireland,’ *Fordham International Law Journal* 26(4) (2003): 1148–1192.

<sup>74</sup> See, for example, ‘Victims’ Anger at “Amnesty for Terrorists,”’ *News Letter*, 9 January 2008.

afford legitimacy and justification to the actions of republican paramilitaries, an amnesty thus blurs the line between innocence and intent that has been crucial to unionists' self-legitimizing narratives.<sup>75</sup> It is, however, interesting to note that a number of key figures within unionism and the security forces were more open to the idea of an amnesty or limited immunity behind closed doors. One DUP representative, for example, conceded in a pragmatic and victim-centred argument, 'I do think that some victims are entitled to be asked that question [of whether an amnesty should be offered to incentivize truth recovery].'<sup>76</sup> Members of the CGP also claimed that virtually all representatives of the security forces advocated for amnesty.<sup>77</sup> These findings suggest a considerable distinction between some unionists' public and private views.

For many unionists, the mechanics of a truth recovery process have therefore been interpreted as challenging their claim to 'innocent' victimhood and have been perceived to deny and exacerbate the Protestant community's memories of loss and 'disproportionate' victimization.<sup>78</sup> Competing for the supremacy of the moral and political high ground, such discourses have mitigated against their engagement with the truth recovery debate.

## The Politics of Silence and the Problem of the Past

While truth commissions and other efforts at historical investigation are often cited as being capable of breaking the silences of the past and creating vivid and unforgettable records of past atrocities, in many transitional societies cultures of silence often accompany efforts to deny aspects of a violent past.<sup>79</sup> In such contexts, silence is a social construction, an active response to uncomfortable truths and unpalatable realities.<sup>80</sup> Seeking to preserve their narratives of the past, many unionists have implicitly and explicitly met calls for truth with silence. I have chosen to conceptualize this dynamic with three overlapping themes: 'silence as passivity,' 'silence as loyalty' and 'silence as pragmatism.'

### Silence as Passivity

Unionists' silence on the past can in part be traced to a historical tendency towards passivity in unionist political culture. Linked by Cohen to a form of denial, passivity is the 'absence of reaction' by 'those who have seen, known or heard about the situation – yet have still not reacted.'<sup>81</sup> For unionist leaders who

<sup>75</sup> NIRPOA, *supra* n 15; Police Federation for Northern Ireland, *Submission by the Police Federation for Northern Ireland to the Consultative Group on the Past* (2008).

<sup>76</sup> Personal interview, DUP, 12 September 2009.

<sup>77</sup> Personal interview, CGP, 10 June 2009; personal interview, CGP, 8 October 2009.

<sup>78</sup> See, for example, Katy Hayward and Claire Mitchell, 'Discourses of Equality in Post-Agreement Northern Ireland,' *Contemporary Politics* 9(3) (2003): 293–312.

<sup>79</sup> Nigel Biggar, *Burying the Past: Making Peace and Doing Justice after Civil Conflict* (Washington, DC: Georgetown University Press, 2003).

<sup>80</sup> Jay Winter, 'Thinking about Silence,' in Ben-Ze'ev, Ginio and Winter, *supra* n 7.

<sup>81</sup> Cohen, *supra* n 6 at 140.

dominated the Stormont parliament of 1921–1972, their tenure was marked by a reluctance to engage in building strong and well-defined political arguments and to deal with the weaknesses of the Northern Ireland state. For many, a sense of inertia and the confident assumption that their numerical superiority vis-à-vis the nationalist/republican community was an effective counter to increasing political and social challenges characterized their contribution to political life.<sup>82</sup> Resulting in what Arthur Aughey and Brian Graham have respectively termed an ‘inheritance of political inarticulateness, an inheritance which almost constitutes a form of a-politicism,’<sup>83</sup> and a ‘masterly inactivity’ as regards developing a well-defined sense of place and past, this backdrop has negatively impacted upon attitudes to truth recovery.<sup>84</sup> This perspective was well articulated by a senior figure in the UUP:

There is also the fact built into the DNA of our party, as a party of government for 50 years in the state of Northern Ireland, of basically not having to answer questions. It was almost as if the unionist party only spoke to unionist voters and therefore it was closed, hermeneutic almost, there was no need to go outside and try to explain ourselves and we got intellectually lazy. When you get intellectually lazy and then you face a crisis and a conflict and you have to articulate yourself in front of people who may not be sympathetic to you, then you hit a brick wall.<sup>85</sup>

That participants in a truth recovery process may lack confidence in their ability to articulate their experiences is not uncommon. For those who have been the subject of torture, intimidation and marginalization, for example, the prospect of participating may be particularly daunting.<sup>86</sup> Yet, for many, one of the most attractive features of a truth process is its capacity to provide participants with a ‘voice’ with which to articulate their experiences and contribute to the creation of a more complete account of the past.<sup>87</sup> Speaking to Jacques Derrida’s description of silence as a binary construction between a superior presence and one that is marginalized and silenced, this is, in part, an irony in the unionist position.<sup>88</sup> As the majority in Northern Ireland, many unionists’ assumption of their ‘right’ to rule the ‘legitimate’ Northern Ireland state is

<sup>82</sup> See, for example, Feargal Cochrane, ‘The Past in the Present,’ in *Politics in Northern Ireland*, ed. Paul Mitchell and Rick Wilford (Boulder, CO: Westview, 1999).

<sup>83</sup> Arthur Aughey, *Under Siege: Ulster Unionism and the Anglo-Irish Agreement* (Belfast: Blackstaff, 1989), vii.

<sup>84</sup> Brian Graham, ‘Contested Images of Place among Protestants in Northern Ireland,’ *Political Geography* 17(2) (1998): 136.

<sup>85</sup> Personal interview, UUP, 23 June 2009.

<sup>86</sup> Hayner, *supra* n 3.

<sup>87</sup> Fiona C. Ross, ‘On Having Voice and Being Heard: Some After-Effects of Testifying before the South African Truth and Reconciliation Commission,’ *Anthropological Theory* 3(3) (2003): 325–341.

<sup>88</sup> Cited in Simon Hallsworth and Tara Young, ‘Crime and Silence: “Death and Life Are in the Power of the Tongue” (Proverbs 18:21),’ *Theoretical Criminology* 12(2) (2008): 131–152.

axiomatic but one that has latterly engendered a lack of confidence in their historical narratives. When faced with the prospect of a truth process and the inevitable challenge to their preferred version of the past, this legacy of silence is problematic.

A more ‘straightforward’ explanation for their silence on the past was put forward by a number of interviewees. Two DUP representatives stated:

We believed in the justness of our case, we believed that the public, when the public at large saw people being slain on their farms, slaughtered in the streets, blown to pieces, that every right-thinking person across the world would say that is wrong, that is horrendous.<sup>89</sup>

Because of that storytelling became less relevant because for unionists it is obvious – you shouldn’t have to go on a six-week course to describe all of this. It was very clear: people started protesting and marching and murdering and shooting and you can’t reconcile yourself to that. Eventually after a period of time they had to stop. What is there to tell a story about?<sup>90</sup>

At one level, silence in the aftermath of violent conflict is not unexpected or unanticipated. Touching on the themes of loss, mourning, sacrifice and redemption, Jay Winter suggests that silence is always a part of the framing of public understandings of war and violence.<sup>91</sup> The quotations above suggest, however, that unionists may consider the ‘causes’ and consequences of the conflict so ‘obvious’ that there is no need to articulate the trauma they experienced or to make their case.<sup>92</sup> Moreover, as Eviatar Zerubavel argues, the intensity of silence is self-reinforcing, whereby the longer people remain silent, the harder it is to find things to say, and the longer things go undiscussed, the harder it becomes to talk about them.<sup>93</sup> At least one interviewee from the DUP acknowledged this vicious circle of silence, conceding that ‘in the past we never sold our case, we didn’t do it particularly well... and we are now paying a heavy price for it.’<sup>94</sup> Existing and prospective mechanisms of truth recovery therefore heighten the tension between two dynamics: unionists’ lack of confidence in their ability effectively to articulate their narratives of the conflict, and, as noted elsewhere, the realization that not everything in unionist discourse (as also in nationalist/republican and British state perspectives of the conflict) would stand up to the scrutiny of a truth process. These factors have contributed to a silence that is both born out of experience and bound up with broader efforts at denial.

<sup>89</sup> Personal interview, DUP, 20 April 2009.

<sup>90</sup> Personal interview, DUP, 12 May 2009.

<sup>91</sup> Winter, *supra* n 80.

<sup>92</sup> There were, of course, times when many unionists felt they simply could not speak out. Hastings Donnan and Kirk Simpson’s work on Protestants living in the border counties of Northern Ireland well illustrates this case. Hastings Donnan and Kirk Simpson, ‘Silence and Violence among Northern Ireland Border Protestants,’ *Ethnos* 72(1) (2007): 5–28.

<sup>93</sup> Eviatar Zerubavel, ‘The Social Sound of Silence: Toward a Sociology of Denial,’ in Ben-Ze’ev, Gino and Winter, *supra* n 7.

<sup>94</sup> Personal interview, DUP, 20 April 2009.

## Silence as Loyalty

The second manifestation of silence is grounded in unionists' sense of loyalty to the British state. Embracing 'solicitude, unconditional love, personal loyalty and a willingness to sacrifice for others,' James Connor argues that loyalty indicates how individuals should act in particular circumstances and enables them to predict others' responses to their actions.<sup>95</sup> Unionists' and the security forces' loyalty to one another, the British state and the maintenance of the union between Northern Ireland and Great Britain has a long and distinguished history.<sup>96</sup> Statements such as 'unionism means seeking at all times to preserve the Union' illustrate this case.<sup>97</sup> Further, as Michele Lamb notes, an important consequence of the emotional facet of loyalty is its implication of unconditional commitment and perseverance, even in the face of mistaken judgements.<sup>98</sup> Unionists have consequently been reluctant to criticize the state and its institutions or to support any political enterprise that would be considered tantamount to doing so.<sup>99</sup> Criticism would both compromise their sense of 'we-ness' with the British state and be interpreted as a form of 'disloyalty' more readily associated with nationalists and republicans – a perennial problem for pro-state groups.<sup>100</sup>

For any truth recovery body to operate effectively in Northern Ireland, the participation of all parties to the conflict is imperative. This would inevitably involve the British state. For unionists, to engage in an initiative that would necessarily ask the 'difficult' questions of the state and its security forces concerning their conduct during the conflict is the antithesis of loyalty and an affront to their sense of imagined political community with the British state. The following comments by a member of the UPRG best capture this feeling: 'It is our state . . . It would be anti-state, it would be against everything that we stand for.'<sup>101</sup> For Benedict Anderson, an imagined political community's sense of fraternity 'makes it possible, over the past two centuries, for so many millions of people not so much to kill, as willingly to die for such limited imaginings.'<sup>102</sup> Proclaiming a loyalty that often found practical manifestation in terms of life or death, silence is a natural extension of, and a way to honour and protect, unionists' relationship with the British state.

<sup>95</sup> James Connor, *The Sociology of Loyalty* (New York: Springer, 2010), 58.

<sup>96</sup> Cochrane, *supra* n 33; Ryder, *supra* n 33.

<sup>97</sup> Cochrane, *supra* n 33 at 24.

<sup>98</sup> Michele Lamb, 'Loyalty and Human Rights: Liminality and Social Action in a Divided Society,' *International Journal of Human Rights* 14(6) (2010): 999.

<sup>99</sup> Cochrane, *supra* n 33.

<sup>100</sup> Steve Bruce, 'The Problems of "Pro-State" Terrorism: Loyalist Paramilitaries in Northern Ireland,' *Terrorism and Political Violence* 4(1) (1992): 67–88.

<sup>101</sup> Personal interview, UPRG, 18 June 2009. See also, Anderson, *supra* n 27.

<sup>102</sup> Anderson, *supra* n 27 at 224.

As Winter points out, however, the more insidious side of this form of loyalty as silence arises when the

morally ambiguous chapters of a country's history cannot be faced easily... Silence then is the insurance policy people take to protect this given order, even at the cost of the truth.<sup>103</sup>

Privileging a narrative of blamelessness, unionists' and the security forces' silence on the past is both a form of resistance and a type of communication. Speaking to the discussion above on memory and identity, resisting truth through silence is a form of loyalty to the memory of the past.<sup>104</sup> As Barbara Misztal points out, forgetting and silence are also frequently reactions to a traumatic past and a way to protect and defend the value and image of specific social groups.<sup>105</sup> The trauma associated with the 'growing realization that not everything that was done by the security forces during the conflict adhered to the rule of law' has consequently engendered a silence that is both strategic and grounded in fear.<sup>106</sup> Yet, as Maurice Blanchot notes, 'to be silent is still to speak.'<sup>107</sup> Silence may therefore be a rational choice for unionists. Given the state's rule of law status, as Colm Campbell and Ita Connolly argue, collusion had to be well concealed. By maintaining a silence on the past, it may be possible to limit the provable truths about collusion and assist in turning the state's and the unionist community's role in the past into a nonevent.<sup>108</sup> In such contexts, 'silence, then, is not the opposite of speech but, indeed, its very condition of possibility, the precondition of knowing and of meaning.'<sup>109</sup>

For those who have been more willing to countenance the idea that not all was perfect in the past, doing so has been extremely difficult. The following comments by a UUP representative are illustrative:

For me the most difficult thing I have had to do in the party in recent years was sit down with a friend of mine from a republican background saying about how she was harassed by police officers going to mass when she was growing up in County Down. I was thinking, 'I know a lot of police officers but not a single one who would have done that.' I *know* she is not lying to me, I *know* it happened.<sup>110</sup>

As Ignatieff points out, when caught between the tension of an idealized vision of the RUC and more unpalatable realities, 'denial is actually a defense of everything one holds dear.'<sup>111</sup> The obvious difficulty this interviewee had when attempting to articulate his silent struggles reflects Cohen's argument that

<sup>103</sup> Winter, *supra* n 80 at 28–29.

<sup>104</sup> Paul Ricoeur, *Memory, History, Forgetting* (Chicago: University of Chicago Press, 2004).

<sup>105</sup> Misztal, *supra* n 4.

<sup>106</sup> Personal interview, UUP, 23 June 2009.

<sup>107</sup> Cited in Winter, *supra* n 80 at 3.

<sup>108</sup> Campbell and Connolly, *supra* n 46.

<sup>109</sup> David Eng, 'The Value of Silence,' *Theatre Journal* 54(1) (2002): 86.

<sup>110</sup> Personal interview, UUP, 23 June 2009 (author's emphasis).

<sup>111</sup> Ignatieff, *supra* n 5 at 118.

'the problem is not remembering the story . . . but you have to locate and make sense of memories which you yourself cannot fully believe.'<sup>112</sup> Doing so arguably entails losing the relative 'comfort' of 'living within the lie' as well as risking vulnerability.<sup>113</sup> In this form of 'ideological denial,' silence born out of loyalty is 'choosing, ostrich-like not to know.'<sup>114</sup> It is also underpinned by profoundly political considerations.

### Silence as Pragmatism

The third manifestation of silence is 'silence as pragmatism' – the deliberate choosing of silence to suspend or truncate conflict over the meaning or justification of past violence.<sup>115</sup> Opponents of truth recovery in Northern Ireland have raised a number of practical objections to truth recovery concerning the sequencing of a truth process and its potentially adverse effect on political and social stability. While not uncommon in transitional jurisdictions, as the discussion to follow illustrates, in large part these arguments are couched in broader trends of denial and silence and form a further aspect of unionists' mobilization against truth recovery.

In any transitional jurisdiction, the delicate balance of peace demands a careful assessment as to the sequencing of a truth process. While at least initially part of a wider discourse on this issue, unionists have consistently argued that Northern Ireland is 'not ready' for truth, citing an absence of political stability and concern that the conflict is not definitively 'over.' Professor Henry Patterson's assertion that 'the time is not ripe for such a body given that it would simply become a theatre for the successive acts of two conflicting morality plays' is suggestive.<sup>116</sup> However, the indicators showing that Northern Ireland is 'ready' for truth have not yet been identified. Since 2004, there have been a number of critical junctures in the peace process – the decommissioning of paramilitary weapons, the scaling down of security force installations and commitments and the devolution of policing and justice powers – that indicate a clear move away from violence as well as growing political maturity. To suggest that a society is only ready for truth when political and social relations are entirely neutral also imposes conditions many supposedly peaceful societies would fail to meet.

Of particular interest is the suggestion made by a small number of interviewees that the events of the past should be 'parked' and left for future generations to examine. One UUP representative was a firm advocate of this approach and claimed young people 'could engage in serious debate without maybe going into the bitterness and hatred of the past . . . Maybe 20 years down the line it

<sup>112</sup> Cohen, *supra* n 6 at 131.

<sup>113</sup> *Ibid.*

<sup>114</sup> Kanan Makiya, cited in Cohen, *supra* n 6 at 166.

<sup>115</sup> Winter, *supra* n 80.

<sup>116</sup> Henry Patterson, 'Victims Who Must Wait for the Truth,' Parliamentary Brief (10 April 2009), <http://www.parliamentarybrief.com/2008/04/victims-who-must-wait-for-the-truth> (accessed 10 October 2012) (on file with the author).

would be better.<sup>117</sup> This stance is at variance with the argument that the aftermath of violent conflict should be dealt with by its protagonists to educate and free younger generations from its legacy.<sup>118</sup> Given that the summer of 2011 was dominated by headlines concerning the increasing threat of dissident republican terrorism and intercommunal rioting, the need for a process that exposes the dirty reality of violent conflict and serves an educative function may be particularly pressing.

For others, concerns as to the effect of a truth process on political and social stability have contributed to a preference for silence on the past. From a political management perspective, one member of the DUP stressed that uncovering past details could pollute political relationships and asked the question of whether the Northern Ireland Assembly would survive.<sup>119</sup> Similar concerns were raised as to the effect on social stability. For example, speaking to the concern that the conflict is not over, a senior member of the DUP suggested that the details emerging from a truth process could reignite social tensions and encourage new recruitment to paramilitary organizations.<sup>120</sup> Two loyalist ex-combatants similarly questioned whether their involvement in cross-community work would be sustainable.<sup>121</sup> Other interviewees argued that Northern Ireland is 'too small' for truth, with its large extended families and closely knit communities, which mean that a death or injury has wide social repercussions. This argument was made clearly by a TUV representative:

I'm not sure it would serve any purpose of stability for somebody living in a country district to know that the night their husband was murdered, their next door neighbour set him up, that they watched the comings and goings, they made the phone call that said he's now home, he's now out the back feeding the cattle . . . Is that going to bring stability? I don't think so.<sup>122</sup>

Given the legacy of the Northern Ireland conflict and the country's long transition to political and social stability, these arguments are not entirely unexpected or ungrounded. Their rationale is, however, more unclear. For example, one of the most compelling reasons for the establishment of a truth process in Northern Ireland is the capacity of such a body to act as a 'toxic bank' in which the 'poisonous legacy' of the past can be discharged.<sup>123</sup> As Christine Bell has suggested, without such a mechanism, the uncomfortable truths of the past will continue to seep out, undermining political stability.<sup>124</sup> Given that since the establishment of

<sup>117</sup> Personal interview, UUP, 20 April 2009.

<sup>118</sup> Michael Ignatieff, *The Warrior's Honour: Ethnic War and the Modern Conscience* (New York: Henry Holt and Co., 1998).

<sup>119</sup> Personal interview, DUP, 25 March 2009.

<sup>120</sup> Personal interview, DUP, 11 May 2009.

<sup>121</sup> Personal interview, UPRG, 18 June 2009; personal interview, UPRG, 24 June 2009.

<sup>122</sup> Personal interview, TUV, 20 March 2009.

<sup>123</sup> Liam Clarke, 'Troubles' Toxic Debt Needs a "Bad Bank,'" *Sunday Times*, 26 January 2009.

<sup>124</sup> See, for example, Christine Bell, 'Dealing with the Past in Northern Ireland,' *Fordham International Law Journal* 26(4) (2003): 1095–1139.

the Northern Ireland Assembly in 1998, the devolved institutions have been rocked by revelations of details of the past on numerous occasions, and that an undercurrent of suspicion, accusation and counteraccusation often structures political debates, it is not unreasonable to suggest that the continuing presence of the past has been destabilizing.<sup>125</sup>

Likewise, many of the arguments above in relation to social stability are predicated on a particular distinction between knowledge and acknowledgement. Differentiating between knowledge and acknowledgement is a cornerstone of transitional justice theory and practice. According to Thomas Nagel, acknowledgement is what happens to knowledge when it becomes officially sanctioned and enters public discourse.<sup>126</sup> Publicly accepting long-silenced facts has been considered vital to taking responsibility for past actions and omissions, recognizing victims' experiences and so contributing to the creation of stable societies.<sup>127</sup> Writing in respect to the South African Truth and Reconciliation Commission, Wilson notes that 'the truth of the TRC lay mostly in its official confirming and bringing into the public space what was already known'.<sup>128</sup> The sentiments noted above are in direct opposition to these arguments and appear to suggest that in Northern Ireland the 'risks' of true acknowledgement of the past are too great.

Ongoing calls for truth do, however, indicate that for many victims the need for truth and acknowledgement is imperative.<sup>129</sup> They also challenge Elizabeth Stanley's argument that 'when victims and perpetrators live side by side . . . knowledge itself is not enough . . . They already know . . . Their concern is focused on developing an acknowledged truth'.<sup>130</sup> To argue against a truth process on the grounds of political and social stability may therefore be indicative of a desire to protect sociopolitical relations, but it could also be part of an attempt to hide past culpability.

## Conclusion

Unionists and members of the security forces have displayed little enthusiasm for the establishment of a formal truth recovery process in Northern Ireland. As this article has illustrated, the attempt to deny and silence their involvement in past conflict-related events has underpinned much of their opposition. A narrative of 'blamelessness,' an exclusive conception of 'innocent' victimhood and a strategic preference for silence have all been influential.

<sup>125</sup> Marie Breen Smyth, *Truth Recovery and Justice after Conflict: Managing Violent Pasts* (London: Routledge, 2007).

<sup>126</sup> Cited in Cohen, *supra* n 6.

<sup>127</sup> Hayner, *supra* n 3.

<sup>128</sup> Richard A. Wilson, 'Reconciliation and Revenge in Post-Apartheid South Africa,' *Current Anthropology* 41(1) (2000): 79.

<sup>129</sup> See, for example, Northern Ireland Assembly debates, 10 October 2011; Henry McDonald, 'Pat Finucane's Family's Anger over Inquiry Decision,' *Guardian*, 11 October 2011.

<sup>130</sup> Elizabeth Stanley, cited in Phil Scraton, 'Policing with Contempt: The Degrading of Truth and Denial of Justice in the Aftermath of the Hillsborough Disaster,' *Journal of Law and Society* 26(3) (1999): 278.

These findings have a number of implications for the development of the truth recovery debate in Northern Ireland and elsewhere. As noted earlier, while talks between the political parties and the Northern Ireland Secretary of State are ongoing, interim statements suggest that a formal truth process is unlikely to be established. The strength of unionists' opposition is a significant, though not the only, impediment to further progress. If a truth process is not established in Northern Ireland, it could have a number of negative consequences. In the first instance, it would mean that the 'piecemeal' approach to addressing the past will continue. This approach is both financially costly and largely 'state-centric,' often focusing on the actions of the state and its security forces – a point of contention for many unionists.<sup>131</sup> It is also likely that details from the past will continue to surface, potentially impacting on political and social stability, while meeting victims' needs for truth and acknowledgement and providing a space in which to hear and record narratives of the past will remain one of the most pressing and outstanding issues of the peace process.

For other transitional jurisdictions or settled democracies dealing with uncomfortable aspects of the past, this article raises a number of points.<sup>132</sup> At one level, it draws attention to the reasons why denial and silence may mitigate against an investigation of the past in the aftermath of violent conflict. Highlighting questions of guilt and innocence, as well as loyalty and sacrifice, the article signposts how oppositional discourses to truth may be manifested in other transitional contexts and why techniques of denial may persist postconflict. Where the transitional jurisdiction in question is a liberal democracy founded on the rule of law, denying and silencing the past may also have a particular urgency. As this article has suggested, making peace with the past requires an active deconstruction of these practices.

<sup>131</sup> Lawther, *supra* n 22.

<sup>132</sup> See, Matt James, 'A Carnival of Truth? Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission,' *International Journal of Transitional Justice* 6(2) (2012): 182–204, on efforts to deal with the past in a settled democracy.