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'Abject and true remorse': loyalism and the politics of regret in Northern Ireland

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Kieran McEvoy

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'Abject and True Remorse': Loyalism and the Politics of Regret in Northern Ireland

Kieran McEvoy
Senator George J. Mitchell Institute for Global Peace, Security and Justice and School of Law, Queen's University Belfast

ABSTRACT

This article examines the politics of apologies from loyalist armed groups. Using the CLMC 1994 ceasefire statement as a case study, it is based on original survey data; semi-structured interviews with ex-combatants, victims and others; and archival research. It also draws on the academic literature on apologies, transitional justice, political violence, historical institutionalism, literary criticism and the sociology of legitimacy and identity. It examines the broader role of apologies in post-conflict Northern Ireland before focusing on the political and historical context of the CLMC statement and its role as a palimpsest for subsequent loyalist engagement on legacy issues. It suggests that a close reading of the original statement and its afterlife reveals important

Author's email: k.mcevoy@qub.ac.uk
ORCID iD: https://orcid.org/0000-0003-1437-3388

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apology-related themes concerning timing, presentation, leadership and truth recovery. Finally, the paper examines the vexed issues of collusion and criminality. It concludes that loyalists can exercise further agency and leadership through apologies before exiting the political stage.

INTRODUCTION

In what is sometimes referred to as 'the politics of regret',[1] saying 'sorry' publicly has become a key feature of efforts by political leaders, senior clerics, corporate CEOs and other leaders to address past abuses.[2] Past-facing apologies have also featured prominently in post-authoritarian or post-conflict societies—becoming an important element of broader transitional justice toolkit processes.[3] Perhaps precisely because they are usually considered an 'add-on' in terms of dealing with the past, the issue of apologies has received much less sustained analysis regarding post-conflict Northern Ireland than other aspects of transitional justice in the region.[4] Instead, much of the academic and policy work on dealing with the past in Northern Ireland has focused on policing and investigations, truth recovery, reconciliation, victimhood, and particular high-profile issues such as the disappeared or more recently the drive by the current UK government to implement some form of amnesty and hamper effective investigations.[5] Aware of this lacuna, I have been working with colleagues for a number of years to better understand the role of apologies in addressing the past in Northern Ireland. The discussion below is therefore drawn from a range of sources over the past decade.

By way of background, from 2013 to 2015 I worked with colleagues at the Belfast-based NGO Healing Through Remembering (HTR), who established

[1] Jeffrey Olick, *The politics of regret* (New York, 2007).

[2] See e.g. Anne-Marie McAlinden, 'Acts of contrition: forgiveness and intergroup apologies for historical institutional abuses', *International Review of Victimology* (2023), https://doi.org/10.1177/02697580231162383; Daryl Koehn, 'Why saying "I'm sorry" isn't good enough: the ethics of corporate apologies', *Business Ethics Quarterly* 23 (2) (2013), 239–68.

[3] Kieran McEvoy and Anna Bryson, 'Apologies in transitional justice', in Cheryl Lawther and Luke Moffett (eds), *Research handbook on transitional justice* (Cheltenham, 2023), 306–24.

[4] For notable exceptions see Stephen Hopkins, 'The politics of apology and the prospects for "post-conflict" reconciliation: the case of the provisional Irish Republican Movement', *International Journal of Transitional Justice* 14 (3) (2020), 524–43; Patricia Lundy and Bill Rolston, 'Redress for past harms? Official apologies in Northern Ireland', *International Journal of Human Rights* 20 (1) (2016), 104–22.

[5] For an overview see Anna Bryson and Kieran McEvoy, 'Human rights activism and transitional justice advocacy in Northern Ireland', *International Journal of Transitional Justice* (2023), ijad022, https://doi.org/10.1093/ijtj/ijad022.

a baseline database on apologies drawn from newspaper sources in Northern Ireland. Drawn primarily from Northern Ireland newspapers, the latter included 93 statements of acknowledgement and/or apology on conflict-related events up to 2014. From 2016 to 2021 I led an interdisciplinary team based at Queen's University Belfast on an ESRC-funded project that explored the use of apologies in addressing past harms in Northern Ireland and the Republic of Ireland across three sites of harm—the conflict, institutional abuse and the banking crisis.[6] This project involved conducting 1,007 computer-assisted interviews with a stratified sample of the general population in Northern Ireland and the Republic of Ireland, 24 focus groups with a stratified sample of the general population and select individuals who had been directly affected by the harms under analysis.[7] We also conducted over 70 in-depth semi-structured interviews with perpetrators, victims/survivors, policy makers and other relevant stakeholders across Northern Ireland and Ireland between 2017 and 2021.[8] In addition, a much more extensive database of conflict-related apologies/statements of acknowledgement (416) was compiled.[9] An extensive interdisciplinary literature review on apologies was also commissioned. Ethical approval for the research was granted by the Law School Research Ethics Committee at Queen's University Belfast.

More recently, I have worked for a number of years with a victim of the conflict (Paul Crawford) and an interlocutor to the Ulster Volunteer Force (UVF) to help secure a truthful account and statement of acknowledgement from that group about its responsibility for the murder of Mr Crawford's father.[10] Finally, in September 2023 I commenced a three-year fellowship to

[6] ESRC grant reference ES/N010825/1.

[7] The locations were Dublin (3), Belfast (3), Galway City (2), Derry City (2), Newry (2), Cork City, West Cork and Fermanagh.

[8] The focus groups and interviews were recorded, transcribed and then coded in NVivo, using a fusion of inductive and deductive approaches. See further Jennifer Fereday and Eimear Muir-Cochrane, 'Demonstrating rigor using thematic analysis: a hybrid approach of inductive and deductive coding and theme development', *International Journal of Qualitative Methods* 5 (2006), 80–92. In light of potential risks to participants and researchers, a detailed ethical protocol was developed to assist in the focus groups and interviews, including access to support services.

[9] The archive was compiled by Dr Kevin Hearty, then a post-doctoral research fellow at the Mitchell Institute, Queen's University Belfast. It included mainstream print outlets such as *Belfast Telegraph*, *Irish News*, *News Letter*, *Irish Times* and local newspapers such as *Andersonstown News*, *Derry Journal*, *Newry Reporter* as well as 'in-house' publications, e.g. *An Phoblacht/Republican News* [IRA], *Combat/Purple Standard* [UVF], *The Loyalist* [UDA].

[10] Kieran McEvoy, *The killing of John Crawford: a victim-centred and co-designed truth recovery process* (Belfast, 2023).

examine apologies and armed groups.[11] This article is the first of a number of publications to emerge from that project and the focus in this particular paper is on loyalism. Apologies involving republicans and the British and Irish states will feature in future publications.

The structure of this article is as follows. The first part is a definitional discussion as to what constitutes an apology and how effective apologies may link to broader processes of acknowledgement. It then determines whether apologies are deemed to 'matter' regarding the Northern Ireland conflict. The article then traces the ways in which apologies and acknowledgement have featured in public debates on dealing with the past. Next I focus in particular on the loyalist ceasefire statement and apology of 1994, arguing that it may be viewed as a 'critical juncture' in loyalist history, which renders legible a number of themes concerning that constituency's attitude to dealing with the past but also the self-identity of the loyalist groupings. These themes include timing, presentation, leadership and the relationship between apologies and truth recovery—at a macro level but also where loyalists have been prepared to address individual past harms. Finally, in addition to reflecting on the durability of language used in the 1994 statement, I argue that, despite a range of challenges including continued criminality by some loyalists and the vexed issue of collusion, an opportunity remains for loyalists to again exercise agency and leadership through further statements of acknowledgement and apology for past harms.

APOLOGIES AND ACKNOWLEDGEMENT DEFINED: DO THEY 'MATTER'?

The focus in this article is on public apologies rather than private communications between organisations or individuals and victims and survivors. Apologies have been variously defined as the 'acknowledgement and painful embracement of our deeds, coupled with a declaration of regret',[12] 'the best means of cleaning and stitching wounds', actions that 'speak directly to our character and our integrity',[13] acceptance of responsibility, acknowledgement

[11] Leverhulme Major Research Fellowship, *Apologies, armed struggle and the transition from violence*, grant award reference MRF-2022-113.
[12] Nicholas Tavuchis, *Mea culpa: a sociology of apology and reconciliation* (Stanford, CA, 1991).
[13] Nick Smith, *I was wrong: the meanings of apologies* (Cambridge, 2008).

of injury to victims, commitment to not repeating those actions and offers of reparation.[14] There is also increased attention on the performative dimensions of apologies,[15] how apologising individuals or institutions should seek to maximise the awareness of an apology, its symbolic and practical importance but also the possibility that it will be received as genuine and sincere.[16]

Summarising for the sake of brevity from the relevant interdisciplinary literature, an effective apology is defined herein as a recognition of a hurt deliberately or negligently inflicted which is named; an admission of individual, organisational or collective responsibility for that hurt; a statement of remorse or regret related to the wrongful act(s) or omission; a promise of non-repetition, delivered with due respect, dignity and sensitivity to the victimised, made without reservation, qualification or attempted justification and after consultation both with the constituency to whom the apology is addressed and within the apologising constituency.[17]

'Acknowledgement' is a much more nebulous term than 'apology'. Govier defines acknowledgement as a 'spelling out or marking of what we know', which for 'perpetrators or significantly affiliated groups' means 'admitting wrongdoing and their responsibility or complicity in it'.[18] In a similar vein, Stamato suggests that acknowledgement is way of 'affirmatively indicating that a wrong was done; it requires that truth be told, neither minimising the offence nor rationalising the behaviour'.[19] Cohen, in his seminal *States of Denial*, suggests that acknowledgement is the opposite of denial.[20] For Cohen, it is about more than just the perpetrators of past abuses 'coming clean' about those abuses: it also requires a broader collective 'coming to terms with the past'—a process that requires 'knowing (and admitting to knowing) exactly what happened'.[21] He in turn spells out a number of 'modes of acknowledgement' including truth commissions, criminal trials, compensation, commemoration and memorialisation, apology, reconciliation and

[14] Aaron Lazare, *On apology* (Oxford, 2004).
[15] Cels Anderijn, 'Interpreting political apologies: the neglected role of performance', *Political Psychology* 36 (3) (2015), 351–60.
[16] Erving Goffman, *Relations in public: microstudies of the public order* (New York, 1971); Alice MacLachlan, 'Beyond the ideal political apology', in Mihaela Mihai and Mathias Thaler (eds), *On the uses and abuses of political apologies* (London, 2014), 13–31.
[17] See further McEvoy and Bryson, 'Apologies in transitional justice'.
[18] Trudy Govier, 'What is acknowledgement and why is it important?', *OSSA Conference Papers Archive* (1999), 7 and 13–14.
[19] Linda Stamato, 'Peace and the culture and politics of apology', *Peace Review* 20 (2009), 389–97: 394.
[20] Stanley Cohen, *States of denial: knowing about atrocities and suffering* (London, 2001), 248.
[21] Cohen, *States of denial*, 222.

[143.117.193.232] Project MUSE (2024-04-29 14:31 GMT) Queen's University, Belfast

reconstruction.[22] Finally, Quinn argues that acknowledgement should be viewed as part of a broader *process* (rather than one-off events), which (in an ideal world) could ultimately contribute to more positive outcomes in post-conflict societies including healing, dealing with the emotional consequences of the past and finding appropriate methods of remembering and commemoration.[23]

Given their prevalence, a significant theme in the literature on apologies is the extent to which they are regarded with varying degrees of cynicism. Apologies have been described as 'empty, shallow, hollow, insincere, fraudulent or just talk',[24] 'cheap reconciliation'[25] or 'a seductive feel-good strategy' contrived by the powerful to avoid properly addressing the past.[26] They may be viewed as 'purely instrumental', allowing the apologiser to 'manipulate social conventions' to their advantage and/or to 'feign concern for the well-being of the injured, or stage emotional displays' to achieve their own personal or political objectives.[27] For state or former state leaders, as illustrated by the pre-recorded apology issued by former South African President F.W. de Klerk before his death in 2021, they may be viewed variously as 'reiterating the obfuscation of apartheid truths or a defensive strategy without adequate reparative actions'.[28] Similarly, apologies from armed groups, such as those issued by the leaders of FARC and the AUC (right-wing paramilitaries) to the Colombian Truth Commission in 2021, may be dismissed as 'self-justificatory' or 'doing what benefits them'.[29]

This was a key issue explored in our fieldwork with the general public. As one might expect, in the focus group element of this fieldwork there was much discussion on the motivation of those apologising, whether or not they were genuine and whether apologies could be manipulated by those apologising

[22] Cohen, *States of denial*, 227–40.
[23] Joanna Quinn, *The politics of acknowledgement: truth commissions in Uganda and Haiti* (Vancouver, 2010), 17–18.
[24] Lazare, *On apology*, 8.
[25] Michel-Rolph Trouillot, 'Abortive rituals: historical apologies in the global era', *Interventions: International Journal of Postcolonial Studies* 2 (2) (2002), 171–86.
[26] Gillian Cowlishaw, 'A multiplicity of meanings: an ethnographic reflection on Kevin Rudd's apology on behalf of the nation', *Critique of Anthropology* 29 (3) (2009), 358–60.
[27] Smith, *I was wrong*, 150.
[28] Melanie Judge and Dee Smythe, 'The meaning of apology', in Melanie Judge and Dee Smythe (eds), *Unsettling apologies: critical writings on apology from South Africa* (Bristol, 2022) 1–20: 7.
[29] Megan Janetsky, 'Colombia's ex-armed group leaders apologise for war atrocities: ex-FARC and right-wing paramilitary leaders testify as part of Truth Commission into country's decades-long conflict', *Al Jazeera News*, 4 August 2021.

to avoid other forms of accountability in addressing the past (prosecutions, truth recovery, etc.). However, once asked to comment on the significance of apologies in the general population survey, 68 per cent of respondents on the island as a whole (70 per cent in Northern Ireland) responded that they thought apologies were either 'important' or 'very important' in terms of addressing the Northern Ireland conflict.[30] When Northern Ireland respondents were asked to rank the different ways of addressing the past, apologies were ranked slightly higher than truth recovery and memorialisation work and below only prosecutions and reconciliation. These findings broadly mirror the previously expressed views of direct victims of the conflict. In Brewer and Hayes's analysis of the views of 1,016 victims of the conflict, 71 per cent of respondents supported the idea of public apologies from those who 'did wrong', with only 14 per cent disagreeing about the need for such apologies.[31]

To summarise, notwithstanding some understandable cynicism, our fieldwork confirmed that apologies are regarded as an important component in addressing the legacy of the Northern Ireland conflict. Moreover, as discussed below, the loyalist ceasefire apology of 1994 remains *the* conflict apology from loyalism, which has remained in the public consciousness almost three decades later.

APOLOGIES, ACKNOWLEDGEMENT AND THE TRANSITIONAL JUSTICE LANDSCAPE IN NORTHERN IRELAND

Transitional justice has been defined as 'the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past violations and abuses to ensure accountability, serve justice, and achieve reconciliation'.[32] In practical terms, this may include post-conflict prosecutions; truth recovery; reparations; institutional reforms designed to prevent the recurrence of violence or human rights abuses; and ex-combatant

[30] Shadd Maruna, 'What do the public want from public apologies?', paper presented at Apologies, Acknowledgement and Dealing with the Past Conference, Queen's University Belfast, November 2021.
[31] John Brewer and Bernadette Hayes, 'Victimhood and attitudes towards dealing with the legacy of a violent past: Northern Ireland as a case study', *British Journal of Politics and International Relations* 17 (3) (2015), 512–30, Table 1.
[32] United Nations, *The rule of law and transitional justice in conflict and post conflict societies: report of the Secretary General* (Geneva, 2004).

demobilisation, disarmament and reintegration, as well as civil society- or community-based efforts to address past harms.[33] As noted above, apologies and acknowledgement are normally viewed as complementary to such processes.

In the Northern Ireland context, the Good Friday Agreement did not contain any mechanisms for an overarching method for addressing the conflict nor any commitment on the part of the protagonists to engage with processes of apology or acknowledgement.[34] The jurisdiction has instead witnessed the evolution of a piecemeal approach to the past, much of which has focused on the legal system.[35] As discussed further below, there have also been a number of 'top-down' political attempts to design an overarching process to deal with the past, culminating in the controversial Northern Ireland Troubles (Reconciliation and Legacy) Act 2023. In addition, there have been a number of significant 'from-below' efforts by civil society and community-based organisations, some of which have engaged more substantively on questions of apology and acknowledgement.[36] Again as detailed below, some of the latter reflect the evolution of loyalist and republican thinking on apologies and acknowledgement.

In 2006 HTR published a lengthy report on different models for dealing with the past.[37] HTR is a cross-community NGO, the membership of which includes republican and loyalist combatants, former soldiers and police officers, victims and survivors and a diverse cross-section of members of Northern Ireland civil society. HTR's report suggested that apologies may well follow 'an intense process of internal discussion and negotiations amongst all of the armed actors as part of a broader process of acknowledgement'.[38] In the same year HTR also published a scoping study on apologies and acknowledgement, arguing that not only the two governments, loyalists and republicans but also key political and civil society stakeholders should engage in processes of acknowledgement leading to public statements taking

[33] See Lawther and Moffett, *Research handbook on transitional justice*.
[34] The Belfast Agreement, *An Agreement Reached at the Multi-Party Talks on Northern Ireland* (Belfast, 1998, Cm 3883).
[35] See Bryson and McEvoy, 'Human rights activism and transitional justice advocacy in Northern Ireland' for an overview.
[36] HTR, *Making peace with the past: options for truth recovery regarding the conflict in and about Northern Ireland* (Belfast, 2006); HTR, *Dealing with the past: an overview of legal and political approaches to relating to the conflict in and about Northern Ireland* (Belfast, 2013). The author researched and wrote both these documents for HTR.
[37] See HTR, *Making peace with the past*.
[38] HTR, *Making peace with the past*, 38.

responsibility for past actions (or inactions) and referencing the harms done to victims.[39]

In 2009 the Labour government-appointed Consultative Group on the Past (CGP) reported after two years of debate and consultation.[40] In addition to recommending a 'Legacy Commission' (a truth commission by another name), it controversially recommended an 'acknowledgement payment' of £12,000 to all survivors who had a loved one killed (including the families of republican and loyalist activists)—a recommendation that was rejected within a month of the report's launch after it was the subject of intense criticism.[41] In addition, it suggested that one outcome of the investigative work of the Commission into both thematic and individual cases would be to 'recommend an apology or other measures designed to promote reconciliation'.[42] The report concluded that there would be no shared future without such reconciliation and that all would be required to 'dig deep' into their spiritual and moral values, which 'give us a heritage where acknowledgement of wrong-doing saying sorry – and the giving and receiving of forgiveness are not signs of weakness but of great strength and courage'.[43]

In 2013 a series of intense political negotiations between the five main political parties in Northern Ireland was established under the oversight of the American diplomats Richard Haass and Meghan O'Sullivan to address a range of contentious issues including flags, marching and legacy.[44] After seven drafts (all of which have been reviewed for this paper), legacy proposals ultimately made up more than half the document produced by the co-chairs, and apologies and acknowledgement featured more prominently than in any analogous effort before or since. It described sincere acknowledgements as 'a foundational step in the effort to contend with Northern Ireland's past'.[45] While being clear that the heaviest burden for addressing the past rested on those who acted outside the rule of law (whether state or non-state actors), it envisaged a role for acknowledgement by those who 'contributed to the

[39] HTR, *Acknowledgement and its role in preventing further violence* (Belfast, 2006), 14.
[40] Report of the Consultative Group on the Past (2009).
[41] For a more detailed discussion see HTR, *Dealing with the past.*
[42] HTR, *Dealing with the past*, 152.
[43] HTR, *Dealing with the past*, 190.
[44] The full title of the document is *Proposed Agreement (2013): An agreement among the parties of the Northern Ireland Executive on parades, select commemorations, and related protests; flags and emblems; and contending with the past* (Belfast, 2013).
[45] *Proposed Agreement*, 22.

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environment in which it flourished'.[46] It also stated that 'saying sorry is necessary but not sufficient' and set out what might be termed a choreography of acknowledgement which would include individuals, organisations, and governments working together on specific statements of acknowledgement to discuss language, timing and other matters privately before public statements were made, to maximise the benefits of such acknowledgement towards healing and reconciliation.[47] Sinn Féin were obviously part of the negotiations and Dr O'Sullivan also met with senior loyalists during the negotiations, with the deal ultimately foundering on unionist concerns regarding flags and parades rather than legacy.[48] Sinn Féin quickly endorsed the Haaas–O'Sullivan proposals on legacy and loyalists appear to have kept their counsel.[49]

One year later, the five political parties in Northern Ireland and the British and Irish governments concluded successful negotiations on a range of matters including dealing with the past. The Stormont House Agreement (SHA) incorporated a number of the legacy mechanisms provided for in the final version of Haass–O'Sullivan, including the establishment of an independent Historical Investigations Unit, a new Independent Commission on Information Retrieval (ICIR), an Oral History Archive and an Implementation and Reconciliation Group (IRG) established to oversee themes, archives and information recovery.[50] Unlike the Haass–O'Sullivan report, very little detail was provided with regard to the acknowledgement and apologies components. Rather the underlying principle of the Agreement was deemed to be the importance of 'acknowledging and addressing the suffering of victims and survivors'[51] and it was suggested that 'In the context of the work of the IRG, the UK and Irish Governments will consider statements of acknowledgement and would expect others to do the same.'[52]

[46] *Proposed Agreement*, 23.
[47] *Proposed Agreement*, 22–3.
[48] Chris Kilpatrick, 'Dr Meghan O'Sullivan goes to Ardoyne: Haass talks aide meets UVF man in loyalist protest caravan', *Belfast Telegraph*, 21 November 2013; Jonathan Este, 'Northern Ireland talks stumble over symbols of past troubles', *The Conversation*, 3 January 2014; Henry McDonald, 'Northern Ireland talks collapse as main unionist parties reject Haass proposals', *The Guardian*, 31 December 2013.
[49] At a press conference immediately after the proposed deal was published, Sinn Féin president Gerry Adams stated that the party's negotiating team would recommend it to the party's Ard Chomhairle (ruling executive): quoted in Noel McAdam, 'Failure of Haass talks reverberates across the globe', *Belfast Telegraph*, 1 January 2014. See also Gerry Adams, 'Lessons from the Irish peace process', *Georgetown Journal of International Affairs* 16 (1) (2015), 218–23.
[50] The Stormont House Agreement (Belfast, 2014).
[51] The Stormont House Agreement, 5.
[52] The Stormont House Agreement, 10.

Draft legislation to implement the SHA was produced in 2018 and publicly consulted upon in 2019. The commitment to the underlying principle of acknowledging the suffering of victims was included in the text of the draft bill and the explanatory notes that accompanied it.[53] However, the SHA was never implemented by the UK government. As detailed elsewhere, despite being agreed by the Northern Ireland parties and the two governments,[54] the SHA was abandoned by the Boris Johnson-led Conservative administration in favour of a drive to secure an amnesty for British soldiers and a determination to minimise effective legal and criminal justice investigations via the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.[55]

In sum, apologies and acknowledgement have featured as important elements of civil society debates on dealing with the past and elite-level political negotiations in Northern Ireland for almost two decades. Some of that civil society work was taken on board and developed during the Haass–O'Sullivan negotiations in 2013 and a slimmed-down variant of same was retained in the SHA (2014) and its draft implementation legislation of 2018. Despite the attempts by the UK government to frame its unilateral abandonment of the SHA as designed to achieve reconciliation,[56] and the long-standing linkage of apologies and acknowledgement to reconciliation in legacy debates, the terms 'acknowledgement' and 'apology' do not appear anywhere in the 2023 legislation, explanatory notes, briefing documents or any other official documentation explaining or rationalising the contents of the legislation. In effect, apologies and acknowledgement have been similarly abandoned as part of the Northern Ireland legislative framework by a Conservative administration that appears focused primarily on securing state impunity. At the time of writing that legislation is the focus of a series of legal challenges in the UK courts, and the Irish government has recently lodged an inter-state challenge to its legality at the European Court of Human Rights. In addition, the Labour

[53] The Stormont House Agreement, Clause 1. See also Northern Ireland Office, *Northern Ireland (Stormont House Agreement) Bill explanatory notes* (Belfast, 2018), 3.

[54] The Ulster Unionist Party never officially endorsed the SHA although its then leader committed to 'giving it a fair wind'; see further Bryson and McEvoy, 'Human rights activism and transitional justice advocacy in Northern Ireland'.

[55] Kieran McEvoy, Anna Bryson, Louise Mallinder, Daniel Holder, Gemma McKeown and Brian Gormally, *Model Bill Team initial response to Northern Ireland Troubles (Legacy and Reconciliation) Bill* (Belfast, 2022).

[56] In addition to appearing in the bill title, the term 'reconciliation' appears frequently throughout the explanatory note produced by the Northern Ireland Office that accompanies the legislation.

opposition has committed to repeal the legislation if elected in 2024.[57] If the transitional landscape is altered again as a result of these legal challenges and/or a change of government, apologies and acknowledgement will inevitably re-emerge and be informed by past experiences as to what is and is not viable. If loyalist armed groups are to be part of such a process, the starting place for their engagement will be the 1994 ceasefire statement.

THE 1994 LOYALIST APOLOGY: CONTEXT, PERFORMANCE AND PALIMPSEST

> In all sincerity, we offer to the loved ones of all innocent victims over the past twenty years, abject and true remorse. No words of ours will compensate for the intolerable suffering they have undergone during the conflict. Let us firmly resolve to respect our differing views of freedom, culture and aspiration and never again permit our political circumstances to degenerate into bloody warfare.[58]

While this apology was not the first to emerge from loyalists, it certainly remains the most iconic.[59] As noted above, in the focus groups we conducted across the island of Ireland, once asked which conflict-linked apology (if any) they could recall, it was the 1994 loyalist ceasefire apology that was referred

[57] Jude Webber, 'Keir Starmer vows to repeal controversial bill on Northern Ireland amnesties', *Financial Times*, 13 January 2023.

[58] CLMC, 'Ceasefire statement', 13 October 2004.

[59] Loyalist groups have apologised during the conflict and transition, albeit less frequently than their republican counterparts. The review of relevant media archives suggested that during the conflict and transition the IRA issued almost 300 apologies (over 70 per cent of the total from the armed groups), compared to approximately 40 from the UVF and 50 from the UDA. Two things should be borne in mind. First, the IRA killed many more people between 1969 and 1994 (1,771 people) than the UVF/RHC (547) and UDA/UFF (408): David McKittrick, Seamus Kelters, Brian Feeney and Chris Thornton, *Lost lives: the stories of the men, women and children who lost their lives as a result of the Northern Ireland Troubles* (Edinburgh, 1999), 1475. Second, the loyalist targeting strategy was often deliberately aimed at Catholic civilians, so there was arguably less need for apologise for 'mistakes' than was the case for republican organisations. 85 per cent of those killed by loyalists were civilians; only 4 per cent were republican paramilitaries. This compares to 35 per cent of those killed by republicans who were civilians and 52 per cent who were members or former members of the security forces: see further Malcolm Sutton, *An index of deaths from the conflict in Ireland* (2022), available at: https://cain.ulster.ac.uk/sutton/tables/Organisation_Responsible.html (16 January 2024). However, as discussed below, the UVF has apologised for the killing of civilians, including Catholic civilians.

to most frequently.[60] By way of illustration, one respondent at a focus group in north County Dublin suggested that the 1994 loyalist apology stood out because 'They had some incredible, at that time, a real strong leadership in that sector of the community when they needed it most and these guys was talking sense and they just came out with it. For someone down South here was like, oh okay, that's different!' Another respondent at the same focus group suggested that it had remained with him because of the words used and the lack of qualification—'true and abject remorse, exactly well that, whereas you never got that, on from the Republican side. There was always, "we are very sorry for what happened", but the reason why it happened was because of State you know they duh-duh-duh—so there was always a qualification in their apology.' Another respondent in Belfast suggested that the wording 'true and abject remorse' was crucial and noted that it was 'ironic' that the power of those words came from 'the loyalists, who were not particularly good at PR'. Another respondent in Galway remembered Gusty Spence and also focused on the wording, stating 'I remember them apologising and seeing that they knew that they had done wrong.' In short, the 1994 loyalist apology has proved very successful in terms of what public relations specialists term 'message retention', despite having been issued almost three decades ago.[61]

As one might have expected, the receptiveness of victims of loyalist violence to apologies was mixed in the immediate aftermath of the statement. Some victims responded positively, such as Josephine Fusco, whose husband was shot dead by loyalists and who told the *Belfast Telegraph*: 'It's great to see that it might all be over for the kids' sake. A lot of the worry for them has gone for now.'[62] A woman whose husband had been murdered eighteen months previously by the UDA said: 'I was hoping to hear that they would apologise for what they've done. After all, it's the human thing to do.'[63] On the other hand, the widow of a prison officer murdered by the UVF the previous year responded: 'I do not accept the loyalist apology offered to victims' relatives. My husband was a decent man and I want to know why he was shot.'[64] With the benefit of years of distance from the statement, victims' views remained

[60] Maruna, 'What do the public want from public apologies?'.
[61] Tom Watson and Paul Noble, *Evaluating public relations: a best practice guide to public relations planning, research and evaluation* (London, 2007); Kevin Moloney, *Rethinking public relations: PR propaganda and democracy* (London, 2006).
[62] Interview in *Belfast Telegraph*, 13 October 1994, 'Nationalists hail truce as end of fear.'
[63] Interview in *Belfast Telegraph*, 13 October 1994, 'Too late to halt heartbreak'.
[64] Interview in *Irish Independent*, 14 October 1994, 'No end to grieving for widows'.

[143.117.193.232] Project MUSE (2024-04-29 14:31 GMT) Queen's University, Belfast

divided. One prominent victim who was shot and paralysed by the UDA, writing on the 21st anniversary of the ceasefire, argued: 'I got my apology from Gusty Spence that crisp October day; abject and true remorse. I can't remember if I accepted it at the time but, in a way, in later years I did. I say in a way because it was not an apology from the individuals who were in my home but from loyalism as a collective.'[65]

For loyalists themselves, the ceasefire statement and its accompanying apology may be regarded as a critical juncture in their history. The notion of critical junctures is drawn in particular from the political science literature on historical institutionalism.[66] It requires a particular focus on the context and timing of key periods in an organisation's or institution's history, given that *when* things happen often directly affects *how* they happen.[67] Moreover, focusing on such important moments of organisational change can help elucidate why a particular pathway has been taken, the variables that informed the choices made and the short- and longer-term consequences of those choices.[68] The loyalist decision in October 1994 to call a ceasefire six weeks after the IRA ceasefire declaration and (unlike the IRA) to include an apology as part of that statement was self-evidently a key moment in the history of loyalism.

The relevant context for that event was both the broader political and military history of the groups involved and the immediate period leading up to the ceasefire. To summarise the broader context for the sake of brevity: as pro-state paramilitaries, loyalist armed groups have historically viewed themselves as reacting to republican violence, the related threat to the union with Britain and the failure of their state to respond effectively to republican terrorism.[69] As discussed further below, these groups have traditionally targeted Catholic civilians and economic or civilian targets in the Republic of Ireland,

[65] Paul Gallagher, 'A view on the Loyalist Community Council by one of their victims', *Slugger O'Toole*, 19 October 2015, available at: https://sluggerotoole.com/2015/10/19/a-view-on-the-loyalist-community-council-by-one-of-their-victims/ (16 January 2024). Gallagher was shot and seriously injured when the UDA took over his house to wait on a republican target. When that target didn't turn up, they shot Gallagher six times as they left his house, shattering his spine.

[66] See further Kathleen Thelen, 'Historical institutionalism in comparative politics', *Annual Review of Political Science* 2 (1) (1999), 369–404; David Soifer, 'The causal logic of critical junctures', *Comparative Political Studies* 45 (12) (2012), 1572–97; Giovanni Capoccia, 'Critical junctures', in Orfeo Fioretos, Tulia G. Falleti and Adam Sheingate (eds), *The Oxford handbook of historical institutionalism* (Oxford, 2016), 89–106.

[67] Charles Tilly, *Big structures, large processes, huge comparisons* (New York, 1984), 14.

[68] John Kingdon and Eric Stano, *Agendas, alternatives, and public policies* (Boston, 1984); James Mahoney and Kathleen Thelen (eds), *Explaining institutional change: ambiguity, agency, and power* (Cambridge, 2009).

[69] Steve Bruce, *The red hand: Protestant paramilitaries in Northern Ireland* (Oxford, 1992).

as well as republican activists when they could.[70] There are organisational and regional differences between the two principal loyalist groupings, with the UVF, whose leadership is Shankill-based, generally regarded as more organised and disciplined than the avowedly disparate and decentralised Ulster Defence Association (UDA).[71] A number of very capable political and community leaders emerged from the ranks of former loyalist paramilitaries during the peace process, including Gusty Spence, David Ervine, Billy Hutchinson, David Adams and Gary McMichael. However, most academic and security commentators have suggested that, in general, loyalist groups struggled to attract large numbers of recruits of equivalent calibre to their IRA counterparts precisely because of their pro-state armed group status.[72] Moreover, despite the obvious talents of some loyalist leaders, the loyalist-linked political parties have not seen the electoral success of the IRA's political wing, Sinn Féin.[73] Finally, both during and after the conflict, loyalist paramilitaries have struggled with issues of ordinary criminality, with different elements of the main paramilitary groupings using the organisational brands for criminal purposes.[74] All of these variables are relevant when considering loyalist apologies as part of attempts to address the past.

The more immediate context of the ceasefire statement was, if anything, even more interesting. One successful element of the evolving peace process in the early 1990s was a determination on the part of key stakeholders in civil society and elite-level politics to ensure that every effort was made to bring

[70] Jim Cusack and Henry McDonald, *UVF* (Dublin, 1997); James McAuley, *The politics of identity: a loyalist community in Belfast* (Aldershot, 1994).

[71] The smaller loyalist groupings were the Red Hand Commando (RHC), formed in 1970, which was historically very close to the UVF, and the Loyalist Volunteer Force, a group that split from the UVF in 1996 under the leadership of former UVF mid-Ulster commander Billy Wright. See Peter Taylor, *Loyalists* (London, 2000); Aaron Edwards, *UVF: behind the mask* (Dublin, 2017).

[72] For example, Bruce (*The red hand*, 272–3) has argued that since members of the Protestant/loyalist community who wished to fight to maintain the Union could do so legitimately by joining the British Army or the local police, 'which pay well and are respectable', this inevitably reduced the available pool for loyalist paramilitaries.

[73] The Progressive Unionist Party (PUP), the political wing of the UVF, won two seats in the 1998 elections to the Northern Ireland Assembly (David Ervine and Billy Hutchinson) but by the 2011 Assembly election there were no PUP MLAs and after the 2023 local elections the PUP had only one council seat. The Ulster Democratic Party, the political wing of the UDA, failed to win any seats in the 1998 Northern Ireland Assembly elections and dissolved as a political party in 2001. Following the 2022 Assembly election, Sinn Féin is the largest political party in the Northern Ireland Assembly.

[74] Carolyn Gallagher, *After the peace: loyalist paramilitaries in post-accord Northern Ireland* (Ithaca, NY, 2007). See too the Independent Reporting Commission, *Second Report* (London, 2019, HC 131). In November 2023 the Shankill-based leadership of the UVF ordered that its East Belfast leadership be 'stood down' for its involvement in serious criminality including drug dealing: Julian O'Neill, 'UVF leaders in East Belfast ordered to "stand down" by hierarchy', *BBC News NI*, 13 November 2023.

the bulk of loyalism as well as republicanism into the mainstream of politics.[75] Through a number of church figures, a conduit emerged to the Irish government. This culminated in a meeting in October 1993 between Gusty Spence, David Ervine and Fergus Finlay, a key adviser to the Irish foreign minister and tánaiste, Dick Spring. At the request of Mr Finlay, this meeting was followed up by a written submission which was approved by Combined Loyalist Military Command (CLMC).[76] That text appears almost word for word in paragraph 5 of the Downing Street Declaration published by the UK and Irish governments in December 1993.[77] In 1994, via a second line of communication through the Reverend Roy Magee, a secret meeting was arranged between the loyalist leadership and the taoiseach, Albert Reyolds, in a Dublin hotel before the ceasefire was called.[78] In the midst of this dialogue, at one juncture, the loyalist leadership were apparently considering a loyalist ceasefire in advance of the IRA declaration.[79] While the UK government was wary of direct dialogue with the loyalist leaders, a line of communication was also opened between them and prime minister John Major's office via Archbishop Robin Eames.[80] As one senior journalist with extensive experience of engaging with loyalists and republicans recounted:

> The loyalists are involved in a much wider conversation. They are thinking about going first and people are saying to them, a ceasefire that just says it is a ceasefire doesn't work, it needs to be over and above all of that. I think this is where the remorse stuff comes in … '94 to '98 is the most creditable period in loyalist history, you know. They are centre stage.[81]

Given that broader and immediate context, the loyalist ceasefire statement and the accompanying apology were a self-conscious act of public

[75] Albert Reynolds, *My autobiography* (London, 2009), especially Chapters 15 and 16.
[76] The CLMC encompassed the UVF, the UDA and the RHC.
[77] See Henry Singleton, *David Ervine: uncharted waters* (Dingle, 2003), 150–1.
[78] Reynolds, *My autobiography*.
[79] Jonathan Stevenson, *We wrecked the place: contemplating an end to the Northern Irish Troubles* (New York, 1996). Stevenson argues (at 204) that this plan was scuppered by the killing of three leading loyalists including UVF commander Trevor King in July 1994 by the smaller republican grouping, the Irish National Liberation Army. That claim is also made by some leading loyalists: see e.g. Billy Hutchinson, *My life in loyalism* (Dublin, 2020), 190.
[80] Hutchinson, *My life in loyalism*, 189.
[81] Interview with former senior BBC journalist, 15 October 2018.

memory-making by the groups involved.[82] The performative dimensions of that statement—what Edelman refers to as 'constructing the political spectacle'—were designed to portray a number of messages.[83] First, as noted, the statement was issued on behalf of all three major loyalist organisations under the CLMC rubric. It was thus a unified statement from a famously schismatic constituency.[84] Second, while all the groups were represented at the event, the statement was delivered by the one of founders and leaders of the UVF, Gusty Spence. Mr Spence, a former sergeant in the British Army, was a legendary figure in loyalist circles who had been imprisoned for murder in 1966, and he was chosen in part as the senior loyalist who had been there at the start and end of the campaign.[85] Third, the site for the historic press conference was also highly significant. It was Fernhill House in the former grounds of an estate previously belonging to staunch unionist Samuel Cunningham, who had used the grounds to train members and store the weapons of the original UVF in 1912 as it mobilised against Home Rule.[86] There was a willingness to include an apology from the outset and after much discussion among loyalist leaders and members of the Protestant clergy, it was retained in the final draft.[87] As one senior loyalist recalled:

> We must have went through 25–30 drafts before people were comfortable and happy with the text. I think at that stage there was a real sense of an ethical and moral imperative to say something meaningful to innocent victims, civilians if you like, who were killed as a result of the conflict … people were saying from the outset that there needed to be acknowledgement of the innocent victims that were killed. And to be frank about it, an argument

[82] For a discussion on different forms of memory-making see e.g. Paul Connerton, *How societies remember* (Cambridge, 1989); Nicolas Argenti and Katharina Schramm, *Remembering violence: anthropological perspectives on intergenerational transmission* (New York, 2010).
[83] Murray Edelman, *Constructing the political spectacle* (Chicago, 1988).
[84] Gareth Mulvenna, *Tartan gangs and paramilitaries: the loyalist backlash* (Liverpool, 2016).
[85] Jim Cusack and Henry McDonald, *UVF* (Dublin, 1997), 321. As the former senior UVF leader and subsequent leader of the PUP said with regard to Spence, 'Here was the alpha and omega, perceived by many to be the first of the violent men of this recent era, reading out a statement that pulled the curtain down, or we hoped would pull the curtain down, on a brutal and awful past', quoted in Peter Taylor, *Loyalists* (London, 1999), 234.
[86] Linda Stewart, 'Mansion where the UVF hid its guns during Home Rule crisis is given listed status', *Belfast Telegraph*, 26 March 2016. See also Timothy Bowman, 'The Ulster Volunteer Force and the formation of the 36th (Ulster) Division', *Irish Historical Studies* 32 (128) (2001), 498–518.
[87] Billy Hutchison, 'Belfast Agreement @ 25: Our expression of abject remorse was key to our 1994 ceasefire statement', *News Letter*, 6 May 2023. See also Hutchinson, *My life in loyalism*, 191.

[143.117.193.232] Project MUSE (2024-04-29 14:31 GMT) Queen's University, Belfast

> was made around the power of reciprocation. In other words, if this was said from your own volition almost that there was an assumption that the power of that voluntary action would elicit a reciprocation from others.[88]

As noted by the loyalist interviewee above, it was offered in part as an acknowledgement that loyalists had indeed deliberately killed significant numbers of civilians. Loyalists are now quite frank that their strategy was to attack the Catholic community to put pressure on the IRA.[89] However, at different stages throughout the conflict, albeit implausibly, loyalist statements had often claimed that what appeared to be indiscriminate attacks against Catholic civilians were in fact targeted assassinations against their republican enemy, the IRA.[90] Although such claims have continued sporadically, the apology arguably represented something of a Rubicon in terms of that tradition of loyalist denial, while remaining loyal to the cause.[91]

As with analogous apologies from republicans and the British state, the loyalist apology statement was accompanied by an explicit effort to reassure their own constituency. Within loyalism (and republicanism), what Thompson has referred to as the 'ethical obligation to remember' is a key element of political and ideological culture.[92] Thus the statement sought to reassure those who had lost loved ones for the loyalist cause that the ceasefire

[88] Interview with senior loyalist, 26 July 2017.

[89] See e.g. 'The basis of the UVF was that the only way to get rid of the IRA was to attack the Catholic community': former UVF commander Billy Hutchinson, quoted in Mark Simpson, 'Loyalists on the Troubles: better to die on your feet', *BBC News*, 15 August 2019.

[90] See e.g. Sarah Nelson, *Ulster's uncertain defenders* (Belfast, 1984); Bruce, *The red hand*; Colin Crawford, *Inside the UDA: volunteers and violence* (London, 2003).

[91] In his classic account of the different forms of denials, Cohen distinguished between literal denial (it did not happen), interpretative denial (the facts are true, but their meaning is different from what it appears to be) and implicatory denial (what is denied or minimised is the psychological, political or moral implications of what had been done) (Cohen, *States of denial*). In the extensive archive of both loyalist and republican paramilitaries' claims, rationales, explanations, obfuscations and outright rejections of responsibility for deaths during the conflict, all three styles of denial are self-evident. For a discussion of the challenges of remaining 'loyal' while engaging with the reality of past loyalist violence see Cheryl Lawther, 'The truth about loyalty: emotions, ex-combatants and transitioning from the past', *International Journal of Transitional Justice* 11 (3) (2017), 484–504.

[92] Jana Thompson, 'Apology, historical obligations and the ethics of memory', *Memory Studies* 2 (2) (2009), 195–210; James W. McAuley and Neil Ferguson, 'Ulster loyalism, memory and commemoration', in James W. McAuley, Máire Braniff and Graham Spencer (eds), *Troubles of the past? History, identity and collective memory in Northern Ireland* (Manchester, 2023). For an excellent discussion of the artistic outworkings of that obligation see also Connal Parr, *Inventing the myth: political passions and the Ulster Protestant imagination* (Oxford, 2017).

and apology were coming from a position of strength.[93] The statement 'paid homage to all our fighters, commandos and volunteers who paid the supreme sacrifice', reassuring the bereaved that 'they did not die in vain, the Union is safe'. It also paid tribute to their prisoners, committing 'to leave no stone unturned to secure their freedom', as well as those who had been 'physically and mentally wounded'.[94]

The 1994 statement also became a palimpsest upon which all loyalist approaches to dealing with the legacy of the past have been overwritten. In 2004, an important discussion document on the views of the UVF and the PUP reproduced the statement and described it as having 'paved the way for a new beginning for this constituency' but cautioned that while acknowledging the need to be 'bold and brave', there was also a requirement to be honest and realistic about 'what can be delivered within our current political context'.[95] The authors made clear that loyalists would not be compelled to 'stand up and say sorry' and that the 1994 ceasefire statement 'must not be misunderstood as a rejection of the political cause for which loyalists fought'.[96] It also expressed concerns that if any truth process were established and victims were expecting an apology, then the perceived 'lack of political remorse' on the part of loyalist ex-combatants might be viewed as 'salt rubbed into victims' wounds', which would in turn be unlikely to contribute to healing.[97]

More recently, in 2023, the apology was again reiterated as part of a lengthy process of engagement between the UVF and the son of a man murdered by the organisation in 1974. John Crawford's murder was never claimed as the organisation was briefly on ceasefire at the time. Mr Crawford's son approached the UVF via an interlocutor seeking the truth about his father's murder and a statement of acknowledgement. The process took several years, and involved the interlocutor and victim engaging in hundreds of meetings.[98] Finally, for the first time in its history, the UVF provided the victim in question with a report on its actions on headed UVF paper, addressed the specific

[93] For a discussion of the relationship between being seen as 'weak' and capacity to apologise see Smith, *I was wrong*; Michael Wohl, Matthew Hornsey and Catherine Philpot, 'Critical review of official public apologies: aims, pitfalls, and a staircase model of effectiveness', *Social Issues and Policy Review* 5 (1) (2011), 70–100.

[94] CLMC statement: available at: https://www.quillproject.net/m2/resource_collections/297/resource_item/20800 (16 January 2024).

[95] EPIC, *Truth recovery: a contribution from within loyalism* (Belfast, 2004), 1.

[96] EPIC, *Truth recovery*, 9.

[97] EPIC, *Truth recovery*, 9.

[98] Kieran McEvoy, *The killing of John Crawford: a victim-centred and co-designed truth recovery process* (Belfast, 2023).

issues raised by the victim and restated the 1994 CLMC statement of 'abject and true remorse' for the suffering of innocent victims.[99]

The statement has also had an afterlife in the related and often challenging conversations around the continued existence of the loyalist armed groups. It was repeated as part of the UVF's 2007 statement that its members would assume a 'non-military civilianised role' and when a similar commitment was made to a 'declaration of transformation' in 2010.[100] It was reiterated again at the launch of an event chaired by former Tony Blair chief of staff Jonathan Powell in 2015 when the Loyalist Communities Council (LCC) brought the three principal loyalist paramilitary groups together again to coincide with the 21st anniversary of the loyalist ceasefire in an initiative designed to help the loyalist armed groups transform away from paramilitarism and criminality.[101] Indeed, as part of its remit to monitor paramilitary activity and provide a framework for 'group transition' away from paramilitarism, the Independent Reporting Commission has consistently suggested that 'cooperation with legacy bodies' would be one concrete step whereby such groups could demonstrate their commitment to transformation away from illegality.[102] For their part, loyalists have consistently maintained that any such 'corporate engagement' will be on the basis of the 1994 ceasefire statement.

To recap, the loyalist apology of 1994 was undoubtedly a critical juncture in loyalist history and in the Northern Ireland peace process as a whole. While its reception was inevitably mixed at the time (and since) among victims of the conflict, it has retained a remarkable level of 'stickability' in the public consciousness both North and South. For loyalists themselves it has remained the starting point for any conversation about how these armed groups might further address past harms as well as how they can signal their intent to make a final transformation away from political violence or criminality.

[99] Seanín Graham, 'Man welcomes UVF account of the 1974 sectarian murder of his father', *Irish Times*, 16 May 2023; Rebecca Black, 'UVF provide answers to bereaved family 50 years after West Belfast murder', *The Independent*, 16 May 2023; Julian O'Neill, 'NI Troubles: UVF gives 1974 murder account to Crawford family', *BBC News*, 16 May 2023.

[100] Statement by the UVF, 3 May 2007, available at: https://cain.ulster.ac.uk/othelem/organ/uvf/uvf030507.htm (17 January 2024).

[101] Adrian Rutherford, 'Loyalist Communities Council launched with backing of UDA, UVF and Red Hand Commando', *Belfast Telegraph*, 13 October 2015.

[102] Independent Reporting Commission, *Sixth Report of the Independent Reporting Commission* (Belfast, 2023) 41. The IRC was formed in 2016 as a result of a treaty between the British and Irish governments and one of its key tasks was to 'report on progress towards ending continued paramilitary activity connected to Northern Ireland'.

CONCLUSION

At this juncture I want to make two final points about disentangling the responsibilities of loyalism from its complex relationship with the state and on the importance of language as illustrated by the 1994 statement.

In her work on loyalist ex-combatants' views on truth recovery, Lawther has argued that their general unease at such efforts was due in part to a sense that loyalists often felt that they were a sideshow 'while the state got on with the serious business of republican and nationalist facing truth recovery, itself emblematic of a broader surrender to the nationalist political project'.[103] A particular source of frustration for loyalists on legacy is the prominence of collusion-related debates. There have been numerous investigations focusing on collusive relations between state agencies and agents within the ranks of loyalist paramilitary groups.[104] For many loyalists, this emphasis (by republicans in particular) is used to dismiss loyalists, to deny or minimise their agency and to frame them largely as 'puppets' of the state.[105] This issue of collusion inevitably impacts on current considerations on the utility of apologies. One victim—who believed that there was a collusive element to a loyalist attack that left him a wheelchair user—suggested he had no interest in an apology from loyalists. He went on to say:

> it would be interesting to hear how they were manipulated by the state. How did the Special Branch make them become their killers? Apologies, yeah, it would have to be at the state level, saying it was a dirty war. I would be interested at that level and part of a bigger picture thing.[106]

[103] Lawther, 'The truth about loyalty', 493.
[104] Edwards, *UVF*. See also 'Historian rejects "popular narrative" of UVF collusion', *News Letter*, 26 June 2017.
[105] See e.g. Sinn Féin Motion, Northern Ireland Assembly, 27 February 2001, 'Security forces: Alleged collusion with loyalist paramilitaries'. In that debate Billy Hutchinson MLA argued instead that 'In the paramilitary organisations that I know of, everybody was told to join the security forces to learn what they could.' Noting that there had also been collusion between republican paramilitaries and both states, he continued: 'The difficulty is that republicans do not realise that loyalists are not thick, despite what some like to think. Loyalist paramilitaries have various means of gathering information; they do not always need to rely on the help of the security forces.' See also Edwards, *UVF*. On this issue of collusion between republicans and the Irish and British states see e.g. Peter Smithwick, *Report of the Tribunal of Inquiry into Suggestions that Members of An Garda Síochána or Other Employees of the State Colluded in the Fatal Shootings of RUC Chief Superintendent Harry Breen and RUC Superintendent Robert Buchanan on the 20th March 1989* (Dublin, 2013); Thomas Leahy, *The intelligence war against the IRA* (Cambridge, 2020); *Operation Kenova: an investigation into the alleged activities of the person known as Stakeknife*, available at: https://www.opkenova.co.uk (11 January 2024).
[106] Interview with victim of loyalist violence, 1 October 2019.

[143.117.193.232] Project MUSE (2024-04-29 14:31 GMT) Queen's University, Belfast

Such a state-centric focus on collusion is not unique to loyalism. From both right- and left-leaning perspectives, pro-state armed groups have often been framed historically as (broadly) state-directed 'counter-gangs', either armed, trained and instructed by state military or intelligence agencies or otherwise encouraged, facilitated or tolerated by the state to terrorise anti-state terrorists or their host communities.[107] However, in recent years, there is an emerging political violence literature that views pro-state armed groups as more than the proxy instruments of state counter-insurgency strategy.[108] Such scholarship examines the extent to which such groups are in tension with or indeed in outright opposition to *their* state and explores how they operate beyond the state's control.[109] In parallel, human rights and humanitarian law commentators have increasingly called for a closer analysis of 'how armed groups think', to take seriously their tactics, strategies and ideological positions in order to encourage them to, in turn, take seriously their own legal responsibilities while conflict is ongoing.[110] Transitional justice, which has also long been a state-centric framework, has only sporadically engaged in analogous work,[111] and the particular challenges thrown up by how pro-state paramilitaries address past abuses is underdeveloped.[112] Examining how loyalist paramilitaries engage with transitional justice remains a rich area of study.

To be clear, it does not obfuscate or minimise the reality of collusion and the culpability of the British state as a protagonist in the conflict to state clearly that there were harms for which loyalist paramilitaries were solely

[107] Frank Kitson, *Gangs and counter-gangs* (London, 1960); Jeffrey Sluka (ed.), *Death squad: the anthropology of state terror* (Philadelphia, 2000).

[108] Paul Staniland, 'Militias, ideology, and the state', *Journal of Conflict Resolution* 59 (5) (2015), 770–93; Uğur Ümit Üngör, *Paramilitarism: mass violence in the shadow of the state* (New York, 2020); Andrew Thomson and Dale Pankhurst, 'From control to conflict: a spectrum and framework for understanding government–militia relationships', *Studies in Conflict and Terrorism* (2022), DOI: 10.1080/1057610X.2022.2116972.

[109] Aldo Civico, *The para-state: an ethnography of Colombia's death squads* (Berkeley, CA, 2016).

[110] See e.g. Marco Sassòli, 'Taking armed groups seriously: ways to improve their compliance with international humanitarian law', *Journal of International Humanitarian Legal Studies* 1 (1) (2010), 5–51; Katharine Fortin, *The accountability of armed groups under human rights law* (Oxford, 2017).

[111] For example, Kieran McEvoy, Cheryl Lawther and Luke Moffett, 'Changing the script: non-state armed groups, restorative justice and reparations', *Journal of Human Rights Practice* 14 (2) (2022), 454–77; UN Special Rapporteur on Transitional Justice, *Role and responsibilities of non-state actors in transitional justice*, United Nations, A/HRC/51/34, 2022. The author (with Daniela Suárez) completed the research on which this UN report is based.

[112] For notable exceptions see Bill Rolston, 'Dealing with the past: pro-state paramilitaries, truth and transition in Northern Ireland', *Human Rights Quarterly* 28 (3) (2006), 652–75; Cheryl Lawther, *Truth, denial and transition: Northern Ireland and the contested past* (London, 2018); Philipp Wesche, 'Business actors, paramilitaries and transitional criminal justice in Colombia', *International Journal of Transitional Justice* 13 (3) (2019), 478–503.

responsible. Moreover, for loyalists themselves, part of the power of a collective apology is that it represents an act of *agency* on the part of the organisation or institution through which it is demonstrably taking ownership and 'moral responsibility' for its past wrongs.[113]

My final point is on the importance of language. In addition to stressing that their remorse was truthful, the CLMC 1994 statement invoked abjection. The term 'abject' probably emerged as a result of discussions between the loyalist leadership and Protestant clergymen prior to the ceasefire being called, and its broader usage across a range of academic disciplines is of interest for current purposes. In Kristeva's seminal account of the 'power of horrors', she explores abjection as linked to psychic origins of revulsion, repugnance, disgust, acts that haunt the subject 'unflaggingly, like an inescapable boomerang, a vortex of summons and repulsion'.[114] Acknowledging and apologising for loyalist past horrors represented a self-conscious effort to 'confront the abject' as Kristeva describes and in so doing to demonstrate the *seriousness* of their intent.[115] Barker suggests that all of us engage in 'language, etiquette and rituals' to legitimate our actions to diverse audiences as well as ourselves:[116] in these terms, the ceasefire statement was designed to speak to the loyalist base (paying tribute to dead or imprisoned volunteers and their families) while simultaneously using words that might find wider resonance with what Goffman terms 'the officially accredited values of the society' through the apology.[117] One of the key reasons why the 1994 statement was taken seriously and why it has retained durability in the public consciousness is that the CLMC got the language right.

Of course, the legacy context has changed since 1994. As discussed above, loyalism has lost a number of its most able leaders and its evolution into party politics has faltered. It has been also hampered by the continued involvement of elements of loyalism in ordinary crime, drug dealing and so forth. Unlike republicans, loyalists were not at the table negotiating the legacy provisions of the SHA including its provisions on statements of acknowledgement. While the Irish government has kept lines of communication open to loyalists, the UK government appears to have given no more heed to loyalism than to any

[113] Jana Thompson, 'Is political apology a sorry affair?', *Social and Legal Studies* 21 (2) (2012), 215–25; Michel-Rolph Trouillot, 'Abortive rituals: historical apologies in the global era', *Interventions* 2 (2) (2000), 171–86.
[114] Julia Kristeva, *Powers of horror: an essay on abjection* (New York, 1982), 1.
[115] Kristeva, *Powers of horror*, 209.
[116] Rodney Barker, *Legitimating identities: the self-presentations of rulers and subjects* (Cambridge, 2009), 6.
[117] Erving Goffman, *The presentation of self in everyday life* (Harmondsworth, 1990), 45.

other stakeholders in its determination to push through the Northern Ireland Troubles (Legacy and Reconciliation) Act in 2023.

Taking all these factors as a given, I would argue that an opportunity remains for loyalists to continue to demonstrate both their agency and their commitment to addressing the past through further apologies and statements of acknowledgement. The Independent Reporting Commission stated recently that 'criminality and gangsterism are but one dimension' to contemporary paramilitarism and that there are also people who remain involved for 'political and identity reasons' which reach back to the conflict era, and who articulate a positive wish to see paramilitarism end.[118] I concur with that judgement. In the same way that the CLMC statement of 1994 demonstrated leadership by 'going first' in organisational apologies for the conflict, there is nothing to prevent the current loyalist leadership from taking a similar role in doing the right thing before these organisations finally leave the political stage.

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[118] Independent Reporting Commission, *Sixth Report of the Independent Reporting Commission*, 13–14.