

4 *Justice Concessions in Northern Ireland*

Every year on January 30 there is a march in the Northern Ireland city of (London)Derry commemorating the events of Bloody Sunday. The annual gathering marks the day in 1972 when British soldiers killed fourteen people at a civil rights march in the city and wounded seventeen others. Immediately following Bloody Sunday, those killed at the event were labeled terrorists and rioters by the British Army and local press, accused of possessing firearms and shooting directly at soldiers. Witnesses and family members maintained the innocence of the dead. For decades, the happenings of that day remained fiercely debated. When I attended the commemoration march in 2010, speakers and attendees at the event were anxiously awaiting the release of a report from an international public inquiry into the killings. After three decades of advocacy, the British government had commissioned the Bloody Sunday Inquiry to adjudicate these competing accusations. When I spoke with attendees at the march, they were skeptical of the Inquiry's effort, poisoned by years of denial and obstructed investigations by the government, but there was also a sense of reserved optimism. Maybe this time the truth would be revealed. Maybe this time their loved ones would receive justice.

On the same research trip, I met a group of families from West Belfast who had all lost relatives during a three-day episode of violence in an area of the city called Ballymurphy. Between the nights of August 9 and 11, 1971, five months before Bloody Sunday, the British Army conducted a series of raids in the area. By the end of the third day, eleven people were dead, including the local parish priest, Fr. Hugh Mullan, and a forty-five-year-old mother of eight, Joan Connolly. Shortly before I met the families of those killed, they had started gathering as a group to talk about their experiences. With the help of a local human rights group, Relatives for Justice, these families began compiling information on the raids, including discovering the potential link between individual soldiers who had killed people

in Ballymurphy and then again months later on Bloody Sunday. Yet unlike Bloody Sunday, there had been no international inquiry for these families. Now mobilized, the Ballymurphy families began to advocate for recognition of these killings and to organize a campaign of accountability for those who killed their family members. I questioned whether these families would see justice for their loved ones. What would it take for the British government to acknowledge its wrongs?

Despite the size and density of the region, the people of Northern Ireland are deeply divided. These divisions are evident in the area's politics, religion, and culture. Perhaps these divisions are most evident in how people talk about the past and how they dream about the future. The societal tensions in Northern Ireland are sustained, in part, by the lack of accountability for past abuses during the conflict, particularly a lack of genuine acknowledgment of the violent role played by the British state. Abuses committed by British security forces undermine the legitimacy of the British government and threaten the consolidation of British influence in Northern Ireland. While the British government has worked to obscure the role of British security forces in the violence, reputation costs imposed by the international community and domestic pressure from powerful political actors have prompted the British government to adopt select mechanisms of transitional justice. Adopting transitional justice is a risky endeavor. The democratic nature of the British state makes it difficult for the government to use coercion to monitor and control its norm response, and independent institutions constrain government actions. Given these conditions, the government has pursued a strategy where transitional justice is targeted to specific aggrieved individuals or groups – *a strategy of concession*. A concessionary approach to transitional justice has allowed the British government to divide and rule: to accommodate certain constituencies, keep the demands of civil society fragmented, and thus appear to advance justice while leaving the British government and security forces functionally immune from accountability.

In this chapter I detail the British government's strategy of concession in which state impunity is advanced by limiting transitional justice to a select number of emblematic cases rather than addressing systemic patterns of state abuse. By engaging transitional justice for some events and not others, the British government has heightened divides across communities and further propagated the sectarian divisions that

legitimate British control in the region while appearing to comply with international norms of accountability. The chapter begins with a discussion of the conflict in Northern Ireland and outlines the wrongdoings committed by the British state. I then discuss the British approach to transitional justice to identify and evaluate the concessionary strategy in which only certain demands for state accountability are accommodated through transitional justice given the British government's low capacity to control its norm response. This examination leads to a discussion of the concessionary strategy in practice through a focus on a selection of public inquiries as the primary transitional justice response and the creation of the Historical Enquiries Team. These two mechanisms showcase the ways in which certain events and experiences have been thoroughly investigated and adjudicated while other incidents have been obstructed or ignored. Next, I present alternative explanations for impunity in Northern Ireland. To explore the strategy beyond the case of Northern Ireland, I examine transitional justice in the Central African Republic, another case in which low capacity for control of a government's norm response leads to concessions.

A Brief History of a Long Conflict

England has long acknowledged the importance of the island of Ireland economically, militarily, and politically (Rahman et al. 2017). The conflicts resulting from British colonialism on the island of Ireland are well over 800 years old. The Normans invaded the island in 1179; at the Battle of the Boyne in 1690, Ireland's Catholic elites were defeated as King William III fought the deposed King James II. After the defeat in 1690, the Penal Laws were put in place in Ireland that privileged the Anglican Church. The laws also forbade Catholics and Protestant dissidents from owning land, educating and raising their children as Catholics, Presbyterians, or Methodists, or holding public office (Rahman et al. 2017). The Penal Laws were accompanied by the plantation system that encouraged the settling of the Ulster region of Ireland by 'planters' from Scotland and England.

The island of Ireland has been divided since its partition in 1921. Following the Irish War of Independence, twenty-six (predominantly Catholic) southern counties seceded from the United Kingdom while six (predominantly Protestant) northern counties remained. The

divisions among the people of Northern Ireland¹ are born from a central question regarding the sovereignty of the six northern counties on the island of Ireland and the rights of the citizens living within those counties. This question has been disputed for centuries, with the Catholic, Nationalist community advocating for reunification with Ireland and the Protestant, Unionist community upholding the union with Britain. What followed was more than eight decades of violence contesting the rights of these two communities and the fate of the sovereignty of the six northern counties.

In the contemporary chapter of this violence, these divisions gave rise to a thirty-year civil war between Republican paramilitary groups aligned with Catholic interests, Loyalist groups protecting Protestant interests, and the British Army working at times in collusion with Loyalist groups to prevent reunification. The modern period of conflict began around 1968 with the rise of the civil rights movement (Deutsch & Magowan 1973). At this time, the Protestant majority dominated Northern Ireland politics, and there was pervasive inequality between Protestants and Catholics in education, employment, and housing. The resulting civil rights campaign was met with heavy repression by local security forces as well as by Protestant vigilante groups. In response to the violence, the political situation began to deteriorate; civil disobedience became increasingly violent, leading to riots, often involving petrol bombs, bricks, and barricades that injured police, demonstrators, counterprotesters, and bystanders.

In 1969, in the face of growing civil unrest, the Executive Committee of Northern Ireland, Northern Ireland's governing body, requested support from the British Army to assist the work of the Royal Ulster Constabulary, the police force of Northern Ireland. In response, the British Army launched Operation Banner, a campaign that would go on to be the largest deployment of infantry by the British Army since World War II and the longest continuous deployment in British military history, operating from 1969 through 2007.² In total, more than

¹ As with many things in Northern Ireland, the name of the geographic area itself is a contentious issue. Unionists tend to prefer the term "Northern Ireland" or "Ulster." Nationalists tend to refer to the area as the "North of Ireland" or "the Six Counties." I refer to the area as Northern Ireland, as this is the political term for the area used by both the United Nations and the European Union.

² "Operation Banner," www.dasa.mod.uk/modintranet/UKDS/UKDS2008/c7/table704.html (accessed January 1, 2011).

250,000 troops would serve in Operation Banner. The British deployment also included the Ulster Defence Regiment (UDR), a newly created locally recruited regiment of the British Army. Operation Banner changed the landscape of the conflict by establishing a permanent military presence for the British Army in Northern Ireland. While originally tasked with supporting local policing, Operation Banner's mission would grow to include fighting a sustained counterinsurgency campaign against Republican paramilitary organizations throughout the region.

In the face of a British military occupation, the early 1970s marked the rise of the Provisional Irish Republican Army (PIRA or Provos), a paramilitary group supporting violence in defense of Nationalist political aims and the Catholic community. While the Irish Republican Army (IRA) in its original configuration fought the Irish War of Independence, in 1969 a breakaway organization formed in Northern Ireland to defend Catholic communities from increasing sectarian violence. In 1971, the PIRA launched an offensive campaign with the primary goal of forcing the British Army to withdraw from the region. With atrocities against the Catholic community mounting, the PIRA stepped into the role of providing community policing and governance when the British government abdicated this responsibility, particularly in Republican strongholds in Belfast (Loyle 2021). Other Republican paramilitary organizations were active during the conflict, including the Original Irish Republican Army (OIRA) and the Irish National Liberation Army (INLA), but none dominated the political and military agenda like the Provos.

In the 1980s, the political party Sinn Féin emerged as the political face of Irish Nationalism in Northern Ireland, with strong ties to the PIRA. While originally there was much debate among Republicans about whether to engage in "illegitimate" (mainstream) politics, eventually Sinn Féin would begin to stand for and win local and national elections and become a major force in the political negotiations that ended the conflict. These elections would bring Republican icons such as Bobby Sands, Gerry Adams, and Martin McGuinness into power.

During this same period, there was a sharp increase in violence from Loyalist paramilitary groups. Paramilitary groups, such as the Ulster Volunteer Force (UVF) and the Ulster Defense Association (UDA), fought as pro-state terror groups to defend Unionist Protestant interests during the conflict and to violently suppress the rise of Irish

nationalism. Loyalist paramilitary groups carried out targeted assassinations and terrorist attacks, as well as more random civilian violence against Catholic neighborhoods. Violence from these groups accounted for about a third of all deaths during the civil war.

More than 3,700 people were killed during the conflict and roughly 47,000 people were injured.³ In a region of approximately 1.6 million people, nearly 3 percent of the population experienced direct physical harm as a result of the violence. Table 4.1 provides a breakdown of deaths attributed to each group as compiled by journalists David McKittrick, Seamus Kelters, Brian Feeney, Chris Thornton, and David McVea in *Lost Lives* (2008), a well-regarded accounting of every death during the civil war.

While most of the accounts of violence focus on the number of injuries and deaths that occurred in the region, for the majority of people in Northern Ireland the conflict was encapsulated more by the violations that came to be ubiquitous features of daily life. During the riots of the 1970s, thousands of houses were destroyed and entire sectarian communities were forcibly relocated. In July 1970, the British imposed a curfew in the Falls area of Belfast and established military checkpoints and roadblocks throughout Belfast. These checkpoints became sites of daily harassment and intimidation for civilians moving around the city or countryside for school or work. Home raids by security forces in search of weapons and military contraband were also a common occurrence. Often these raids were highly destructive with police and soldiers tearing up the floorboards of homes and destroying furniture in the process. Tens of thousands of people were arrested, and home searches and roadblocks were an almost daily occurrence for many people, particularly those in urban areas. The physical landscape of Belfast was reconfigured with the erecting of “peace walls” designed to separate Catholic and Protestant communities and prevent rioting. While originally conceived as a temporary measure, these barriers provided a physical division between communities long after the Belfast Agreement ending the conflict was signed in 1998. Families associated with the Ulster police and security forces were also affected, routinely checking their cars and houses for bombs. The scope and duration of the conflict impacted the economy, social

³ www.psni.police.uk/updates_fy_security_situation_and_public_order_statistics (accessed August 25, 2010).

Table 4.1 Actors, political objectives, and deaths by organization in Northern Ireland (coded from *Lost Lives* [2008])

Group	Political View	Representative Organizations	Deaths by Organization
Nationalist	Return to a union with the Republic of Ireland, opposition to British rule	Sinn Féin (political party)	–
Republican	Advocate violence to return to a union with the Republic of Ireland and to expel British troops from Northern Ireland	Provisional Irish Republican Army (PIRA), Irish National Liberation Army (INLA))	1,955
Unionist	Maintain union with Britain	Orange Order	–
Loyalist	Advocate violence in maintaining the union with Britain	Ulster Volunteer Force (UVF), Ulster Defense Association (UDA)	1,046
British Government	Historically supportive of Unionist rights	British Army, SAS (British Special Forces), Royal Ulster Constabulary (RUC)	360
Republic of Ireland Government	Historically supportive of Nationalist rights	Irish Police	5

services, education, and the psychological health of the entire population, yet the full legacy of these experiences has still not been determined (Muldoon et al. 2004). As one woman I spoke with from South Armagh reflected, “When you look back on it you realize . . . God did we live through that? Did we witness that?”⁴ For many people, these more mundane experiences had the greatest impact on their daily lives and generated the greatest resentment towards the British state.

Civilian Abuses by the British Army and Security Forces

Although there is a wide range of perpetrators of violence in Northern Ireland, the role of state security forces bears an explicit discussion. The British Army often failed in its role to protect civilians in Northern Ireland. While policing protests and engaging in counterinsurgency operations, members of the British security forces were involved in the deaths of more than 185 civilians.⁵ These include events such as the deaths of unarmed protesters on Bloody Sunday in (London)Derry as well as the death of children, such as the killing of eleven-year-old Francis Rowntree who was shot in the head by a rubber bullet near his home in Divis Flats in Belfast. There is further evidence of a deliberate attempt on the part of the British Army to sidestep legal conventions in the name of law and order, violating human rights and endangering civilians. The use of rubber bullets to quell riots (Ellison & Mulcahy 2001), the alleged “shoot-to-kill” policy of killing rather than attempting to arrest suspected IRA members (White et al. 2021), and the violent nature of home raids (Pickering 2000) all contributed to an environment in which the security forces chose winning the war over the safety and security of civilians. In making these decisions the security forces violated the trust of the communities living under their control, which has had a lasting impact on the relationship between these communities and the state.

⁴ Interview (SAC-1), South Armagh, Northern Ireland, May 2010, notes on file with author.

⁵ Given the level of detail with which deaths have been catalogued in Northern Ireland, there are several highly politicized discrepancies across data sources challenging the identity of deceased individuals, such as the categorization of civilian versus paramilitary group member. These discrepancies result in some counts being slightly higher or lower across categories. In this section I rely on the death count and identity distinctions from Malcolm Sutton’s Index of Deaths, <https://cain.ulster.ac.uk/sutton/> (accessed July 1, 2021).

Deaths by state forces account for just over 10 percent of all deaths in the conflict (365 people, according to Sutton 1994). The majority of state killings were committed by the British Army (more than 83 percent, 299 combatants and civilians, based on Sutton 1994). The next most active perpetrator of state violence was the Royal Ulster Constabulary (RUC), the local police force in Northern Ireland, which was responsible for fifty-five deaths (Sutton 1994). In his book on unlawful killings by the British state, Bill Rolston (2000) identifies the following categories of state killing based on the nature of the incident: (1) planned operations, such as the killing of Mairead Farrell, Sean Savage, and Daniel McCann during a raid in Gibraltar; (2) excessive use of force in public order situations, such as Bloody Sunday or the death of Francis Rowntree; (3) individual action by an armed member of the security forces (e.g., revenge, loss of temper, “mistake”), such as the killing of Peter McBride; and (4) collusion with Loyalist paramilitaries. Rolston argues that all of the people killed by security forces were “subjected to excessive or unnecessary force by a state which has signed up to international protocols relating to the use of appropriate levels of force” (Rolston 2000: x). The British state bears responsibility for the policies and lack of procedures, which resulted in the deaths of civilians and the extrajudicial killings of alleged militants.

Collusion between state forces and Loyalist paramilitary organizations deserves greater examination. Collusion is “the involvement of state agents, directly or indirectly, through commission, collaboration, or connivance in ‘wrongful acts,’ usually (although not exclusively) related to non-state political violence” (McGovern 2011: 3–4). Following a public inquiry conducted from 1999 through 2003 into alleged collusion in Northern Ireland, the resulting Stevens Report identified a range of collusion activities including the “willful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, through to the extreme of agents being involved in murder” (Stevens 2003: 16). In recent years evidence has emerged of British Army and security force collusion with Loyalist groups in which the army provided intelligence and weapons to aid paramilitary groups in carrying out their attacks (Cassel et al. 2006). The now infamous Force Research Unit of the British Army (established in 1982) was an intelligence unit implicated in the murder of nationalist lawyer Pat Finucane (discussed further below),

coordinating the purchase of South African arms for Loyalist paramilitaries, and providing information used in numerous other paramilitary attacks (McGovern 2013). There was likely both formal and informal collusion, with an estimated 15 percent of the members of the UDR in the 1970s linked with Loyalist paramilitary groups.

The strategy of collusion is very similar to the strategy of “locally recruited forces” used in conflicts throughout the British empire, whereby the Empire recruited and trained local forces to provide security in its colonial holdings. It is a tactic of the colonial policy of indirect rule in which the British government would identify and entrust local emissaries or elites to keep order rather than centering this responsibility with British soldiers. Local elites were then supported in that capacity by the British state. The tactic of recruiting local forces had the effect of mitigating the imagery of colonial occupation and deflecting anger at the Empire.

Evidence of collusion suggests that the British Army was not solely a stabilizing force in the conflict, but rather an actor in the conflict itself. The prevalence of collusion in Northern Ireland along with civilian abuses by British security forces undermines the legitimacy of the British government and has long-lasting implications for belief in British neutrality in the conflict. The abuses committed by the British security forces laid the groundwork for demands for state accountability in the post-conflict period. However, the political context in Northern Ireland has driven a strategy of concession where select state wrongdoings have been investigated while other seemingly similar experiences have not. The strategic adaptation of a concessionary norm response has led to only piecemeal accountability for British security forces, effectively aiding the state in escaping justice.

Ambiguous Accountability in the Belfast Agreement

The contemporary conflict in Northern Ireland ended in 1998 with the signing of the Belfast (or Good Friday) Agreement. The agreement included provisions for majority vote, policing reform, and the draw-down of British armed forces. A power-sharing government was created with political responsibilities split between Unionists and Nationalists with some policy areas still under the purview of the British government. The Belfast Agreement was negotiated as a broad framework designed so that details would be elaborated during the

implementation stage (Bell 2002). In this way a policy of “constructive ambiguity” (Bell & Cavanaugh 1999) underpinned the peace process, creating openings for the most powerful actors to subsequently influence implementation of the agreement.

Central to this ambiguity was the lack of a clear mandate for transitional justice. The Belfast Agreement is silent on the issue of addressing justice and accountability for past abuses, specifically failing to reach a consensus for dealing with issues surrounding redress for victims (Berastegi 2017). The British government was under strong international and domestic pressure to address state violations, but holding its own forces to account was a risky enterprise given the already tenuous power-sharing relationship between the British government and the Northern Ireland Assembly. Furthermore, as a growing political party, Sinn Féin was not eager to see PIRA members held to account. Together there was an elite agreement to defer the question of transitional justice until after the peace. Consequently, the Agreement does not stipulate a mechanism for accountability or truth telling, favoring instead more future-facing policies such as policing reform (Bell 2002).

The failure to explicitly address transitional justice during the negotiations of the peace agreement has resulted in ambiguity regarding which institutions are responsible for accountability policies and which government is responsible for implementing such policies. The ambiguity around accountability has facilitated the strategic adaptation of the British government’s norm response, which has combined an array of discrete transitional justice initiatives that offer concessions without addressing the systematic nature of state abuses, allowing the state to escape justice.

Northern Ireland offers a peculiar context for the study of accountability in that most of the traditional work of transitional justice, in terms of identifying victims and perpetrators, has already been accomplished. Police investigations and coroner inquests were conducted for events surrounding deaths during the conflict, and often paramilitary groups would claim responsibility for individual murders. In this way, much of the information regarding the violations committed during the conflict has already been collected. Of the 3,719 deaths recorded in *Lost Lives* (2008) almost 74 percent received a formal state inquest, and 27 percent of those cases went to trial (see Table 4.2).

Yet, investigations have not always resulted in accountability. As of 2003, the Police Service of Northern Ireland claim that out of 2,788

Table 4.2 *Inquests, trials, and resulting verdicts (coded from Lost Lives [2008])*

Deaths	Inquests	Trial and Inquest	Verdict
3,719	2,735 (73.5% of deaths)	984 (26.5% of deaths)	Guilty: 836 (22.5% of deaths) Acquitted: 111 (3% of deaths) No Verdict/Mistrial: 37 (1% of deaths)

murders between 1969 and 1998, 955 murders resulted in persons subsequently being charged (Bell 2002). Furthermore, there has been bias as to which crimes are investigated, how that information is disseminated to the public, and who is held accountable for violations once an investigation has been completed. Deaths attributed to Republican and Loyalist paramilitaries, for example, were more likely to go to trial. Relying on data coded for the Northern Ireland Research Initiative from *Lost Lives* (Loyle et al. 2014), Table 4.3 demonstrates the disparities in trials and inquests between those deaths perpetrated by insurgent and paramilitary groups and those deaths allegedly perpetrated by the British Army and RUC. While 26 percent of all Republican cases and 36 percent of all Loyalists cases resulted in a trial or inquest, only 11 percent of state-perpetrated deaths went to trial. Furthermore, of those cases that went to trial, Republicans were found guilty in 22 percent of cases, Loyalists were found guilty in 32 percent of cases, and the army and police were found guilty in only 5 percent of cases. Disparities in justice during the conflict have led to continued calls for state accountability.

Several seemingly transitional moments have presented opportunities for progress toward greater accountability in Northern Ireland, but these moments have been consistently stymied by key actors or undermined by centuries of mistrust. As but one example of this pattern, consider the Consultative Group on the Past, formed as the first official attempt to design a shared strategy about how to address the past and resolve some of the ambiguities of the Belfast Agreement (Berastegi 2017). The Consultative Group, established in 2006 by

Table 4.3 Inquests, trials, and resulting verdicts by perpetrator (coded from *Lost Lives* [2008])

Perpetrator of Death (Alleged)	Deaths	Inquests	Trials and Inquest	Verdict
Republican	1,955	1,454 (74.4% of deaths)	501 (25.6% of deaths)	Guilty: 432 (22% of deaths) Acquitted: 56 (3% of deaths) No Verdict/Mistrial: 15 (0.8% of deaths)
Loyalist	1,046	667 (63.8% of deaths)	379 (36.2% of deaths)	Guilty: 332 (31.7% of deaths) Acquitted: 32 (3% of deaths) No Verdict/Mistrial: 13 (1% of deaths)
Army and Police	360	322 (89.5% of deaths)	38 (10.6% of deaths)	Guilty: 18 (5% of deaths) Acquitted: 19 (5% of deaths) No Verdict/Mistrial: 1 (0.3% of deaths)

Secretary of State Peter Hain, was an independent group that sought cross-community input on the best way to deal with the legacy of the past. The Group's Eames-Bradley report (named after the joint chairs of the group, Lord Robin Eames and Denis Bradley), released in January 2009, recommended the creation of a "Legacy Commission" headed by an international figure to take over ongoing outstanding investigations by the Police Service of Northern Ireland. The report also suggested a reparations payment for the families of all people killed during the conflict. The Group and its report were immediately and unceremoniously sidelined by the Labour government in Britain. Ultimately these recommendations were never implemented due to a lack of agreement on how to define victims of the conflict (Berastegi

2017), and the British government was able to marginalize the Group's recommendations on the grounds that there was a lack of consensus for how a truth recovery project should proceed (McGovern 2013). Despite genuine consultative proposals for accountability, there has been little movement on an overall strategy for transitional justice. Rather, the British government has engaged calls for accountability through limited concessions that effectively diffuse British responsibility for wrongdoings on the island, helping the government escape justice.

The Threat of Accountability in Northern Ireland

Given the ambiguity of the Belfast Agreement, pressure mounted for the British government to engage with the violence of the past. The international reputation of the British government suffered as the government continued to advance calls for accountability globally without holding itself to the same standard at home. Court cases brought and won before the European Court of Human Rights (ECtHR) challenged the ways in which the British government was addressing its culpability in the conflict. Yet, the British government had much to lose by engaging transitional justice that would reveal its own hypocrisy on the international and domestic stage. The government's options for strategic adaptation of the accountability norm are limited by institutional constraints and the checks and balances of a democratic regime. The high level of institutionalization of the British state, the independent judiciary, and a robust civil society all challenge the British government's ability to control its norm response. Under these conditions, the government was leery of adopting a transitional justice policy it would be unable to control. Responding to pressure for norm compliance and the potential threat of accountability, the government worked hard to limit the reach of state investigations, offering limited concessions to powerful constituencies in lieu of a more robust transitional justice strategy. A strategy of concession has been effective, to date, in ensuring that only select government actors and allies are held accountable for their past wrongdoings. Structuring transitional justice in this way has allowed the British government to escape justice under the guise of accountability. The following sections detail the susceptibility of the British government to international pressure and the risks to the government imposed by the threat of norm compliance.

An International Reputation for Accountability

International pressure on the British state to address its role in Northern Ireland comes primarily from three sources: the role of the United Kingdom in the global human rights arena, obligations from international commitments such as membership in the ECtHR, and lobbying from the United States. These factors combine to create an environment where it is difficult for the British government to ignore calls for accountability in Northern Ireland.

Given its geopolitical strength, the British government is less susceptible to international pressure than countries reliant on international trade, foreign aid and budget support, or other forms of international assistance, but the government is not immune from international pressure. Because of the central standing of the British government in the global arena, international pressure for accountability has come mostly in the form of international reputation costs. Human rights NGOs such as British Irish Rights Watch (now Rights Watch), Amnesty International, and Human Rights Watch have launched several “naming and shaming” campaigns against the British government for policies enacted during the conflict and continue to monitor the human rights behavior of the government in the post-conflict period. In 1978, for example, Amnesty International drew global attention to allegations of cruel and inhumane treatment of prisoners in Northern Ireland (Amnesty International 1978). Amnesty International’s report documented allegations of human rights violations such as torture and detention without trial under the Emergency Provisions Act. The report concluded that “maltreatment of suspected terrorists by the RUC has taken place with sufficient frequency to warrant the establishment of a public inquiry to investigate it” (Amnesty International 1978). The British government has struggled with the hypocrisy of its behavior in Northern Ireland given its role as a global advocate of human rights. On April 15, 2021, following a debate regarding the Overseas Operations Bill to limit investigations into historic war crimes of British troops, including the violence in Northern Ireland, the Chinese Foreign Ministry spokesperson, Zhao Lijian, accused the United Kingdom of being in “the habit of politicizing human rights issues and applying double standards” (Cohen 2021).

A second source of international pressure on the British state has been its international treaty obligations. The United Kingdom is a

signatory to numerous regional and international human rights conventions, which has influenced the ways in which the British government has chosen to address the past. The government became and remained a signatory to regional and international human rights conventions throughout the conflict, and therefore it is accountable through international human rights institutions for its behavior in Northern Ireland. As a signatory to the European Convention of Human Rights, the British government is under the jurisdiction of the ECtHR, which became an arbitrator for many legal challenges during the conflict. Under the European Convention, the British government has principal obligations to protect the right to life; to refrain from torture or cruel, inhumane, or degrading treatment; and to provide effective remedy to anyone whose rights or freedoms under the Convention have been violated (Cassel et al. 2006). The ECtHR has arbitrated numerous cases regarding state behavior, including cases concerning the independence of investigations by the police service into alleged police atrocities and the requirements of an effective investigation (*Finucane v. United Kingdom*, July 1, 2003). Cases brought before the ECtHR have profoundly impacted the transitional justice landscape where processes, such as Public Inquiries and the Historical Enquiries Team (discussed further below), are under scrutiny to be Article 2 compliant (Rolston 2013). Article 2 of the European Convention on Human Rights affirms the right to life, simply stating that “Everyone’s right to life shall be protected by law.”

Prominent cases before the ECtHR have challenged the British government’s behavior during the conflict. For example, in 1988, three members of the PIRA were killed by British undercover operatives in Gibraltar. The Gibraltar Three, as they came to be known through media coverage, were suspected of planting a bomb at the changing of the guard ceremony at the governor’s residence and were shot dead. The suspects were later found to be unarmed at the time of the shooting. Local witnesses reported that the three PIRA members had their hands in the air and were shot without any attempt at arrest, an example of the British Army’s shoot-to-kill policy. In 1995, the ECtHR ruled that in shooting the unarmed suspects rather than arresting them, the British state had violated Article 2 by “not doing everything feasible to ensure their right to life” (Rolston 2013). A further European Court ruling in the 2002 case of Peter Shanaghan added additional pressure on the British state to hold its own to account. Shanaghan was

a Sinn Féin member killed by Loyalists in 1991. While there was no evidence that British state forces had colluded with Loyalists in killing Shanaghan, the European Court ruled that the state had not done enough to investigate and prosecute the killers after the event – another breach of Article 2 (Rolston 2013).

A third significant source of pressure on the British government has been the interest of the US Congress, specifically on the issue of Irish Catholic rights in Northern Ireland (Guelke 1996). Historically there has been a strong Irish American lobby within the United States, spearheaded by Friends of Ireland in Congress, the Irish National Caucus, and the Irish Northern Aid Committee (Noraid). These organizations have been central to efforts to pressure the US government to advocate for Irish reunification and greater civil rights on the island (Smyth 2020). The Irish National Caucus, for example, is an Irish American lobby group that works to promote greater US involvement in Irish affairs. One of the main activities of the Irish National Caucus has been a lobbying effort for the MacBride Principles that compel US companies doing business in Northern Ireland to actively take a stance against discrimination and abuse. The Irish National Caucus was a force in the creation of the Congressional Ad Hoc Committee on Irish Affairs. This committee worked with the US State Department in its August 1979 decision to suspend all sales and exports of US arms to the Royal Ulster Constabulary based on Section 502(b) of the Foreign Assistance Act, which prohibits aid to state violators of human rights. The blockage of arm sales strained US–UK relations and embarrassed the Thatcher administration (Sanders 2014). The committee was also effective at having Northern Ireland included in the State Department's Country Reports on Human Rights Practices, beginning in the late 1970s, which went on to detail violations of human rights, particularly by the RUC. US pressure has combined with international attention to British wrongdoings in the conflict in Northern Ireland to raise the costs of noncompliance with the accountability norm.

The British Government's Risks of Accountability

The risks of accountability for the British government in Northern Ireland are high. The question of the British role on the island remains unresolved, raising very real questions about Britain's future role in Northern Ireland. After the Belfast Agreement, the PIRA and

Republican groups have largely transitioned away from violence but have instead launched a staunch political campaign for reunification. The strength of the Republican political party, Sinn Féin, threatens the influence of political parties aligned with Britain. British political influence would be further undermined by an erosion of legitimacy if it were to acknowledge its past wrongdoings. This section outlines the threat posed to British influence by the increasing rise of Sinn Féin and the powerful armed forces lobby.

The demographics of Northern Ireland have been rapidly shifting. As of the most recent census, Catholics outnumber Protestants in the area for the first time in centuries (Creighton 2023). These changing demographics have given rise to political changes. In May 2023, Sinn Féin became the largest party of local government in Northern Ireland, weakening the political hold of the Democratic Unionist Party, a party supporting unification with Britain. The political rise of Sinn Féin is attributed to shifting demographics as well as the party's attempts to appeal to a broad base of voters on social and political issues, such as recent cuts to public services. Demographic and political shifts illustrate a worrying trend for the British government. Shifting political pressure signals the weakening legitimacy of the British government in Northern Ireland. Being held accountable for wrongdoings during the conflict in Northern Ireland would only serve to weaken the government's political and social influence further.

The government is also under pressure from members of the British armed forces to ensure impunity for veterans of the conflict. To appease this constituency, the Conservative government sponsored the Overseas Operations Bill (OOB) in 2020. The bill prevents the prosecution of military service personnel more than five years after the alleged crime except in exceptional circumstances and provides a presumption against prosecution. The bill was revised in the House of Lords to provide an exemption for war crimes, torture, and crimes against humanity, but the spirit of the bill remains intact. It was originally designed to prevent prosecution for accusations of abuses committed in Iraq and Afghanistan but has broad applications to other areas of military engagement, including Northern Ireland. The OOB has strong support within the armed forces and members of the Conservative Party's political base. The OOB illustrates the threat of transitional justice for the British government given the political importance of the armed forces in British politics. Despite pressure

for British accountability for wrongdoings during the conflict, holding its own forces to account threatens the political and social standing of the British government in Northern Ireland.

Strategic Adaptation under British Control

Despite the overall high capacity of the British government in England, its power is contested and constrained in Northern Ireland, weakening the government's ability to exert control over transitional justice. While the British government has an incentive to deflect accountability for the abuses of British security forces, the government strategically adapts its norm response to minimize the risks of accountability. My theory of strategic adaptation suggests that a government's adaptation strategy is impacted by the capacity of the government to monitor and control its norm response. While the British government has high institutional capabilities, it is the democratic nature of independent domestic institutions that constrains the government. Responding to calls for accountability could lead to the creation of institutions and policies that evolve beyond government control. Constraints on the coercive capacity of the government further complicate the ability of the government to monitor and control its norm response. These conditions call for a strategy of concession wherein the government has an incentive to adapt transitional justice by selecting which wrongdoings will be addressed and which will be ignored. The government cannot control its norm response, and so concessions are made that offer limited accountability. The government offers transitional justice as a concession to certain individuals and groups but advances impunity by strategically selecting which wrongdoings will be brought to account.

The British government is constrained in its norm response by robust democratic institutions. Despite contestation over governance, Northern Ireland is a democracy and remained one throughout the civil war (Ní Aoláin & Campbell 2005). The nature of representation in democratic institutions impacts post-conflict policy options. Particularly relevant for the question of state accountability, Northern Ireland has a strong tradition of civil society organization and a free press that remained active throughout the conflict. Civil society, particularly those groups aligned with international human rights organizations and the Nationalist movement, remains highly

organized. Civil society groups include human rights organizations such as the Campaign for Social Justice and the Committee on the Administration of Justice, Republican-focused victim's organizations such as Relatives for Justice and the Pat Finucane Center, prisoner support groups, and community groups for the relatives of security forces such as the RUC George Cross Foundation and FAIR. Relatives for Justice and the Pat Finucane Center provide legal support and advocacy for families pursuing legal actions in particular cases. Domestic campaigns have also been successful in harnessing an international following, such as the United Campaign Against Plastic Bullets, which publicized conflict events that violated international law. Domestic NGOs have been highly effective in submitting cases to the ECtHR, which has activated legal restrictions on the ways in which historical cases of wrongdoings are investigated. These civil society groups have been central in challenging the transitional justice status quo and pushing accountability for state abuses.

The free press has served as a vehicle for amplifying the campaigns of domestic civil society organizations in their calls for state accountability. Northern Ireland has a dynamic and wide-ranging free press that informs a highly engaged citizenry. People in Northern Ireland have greater access to media output than any other group of people in mainland Britain or the Republic of Ireland (Bairner 1996). The prevalence of the media challenges the British government's ability to promulgate a state narrative of past abuses, increasing the costs of transitional justice. During the conflict, there were three local daily newspapers, the *News Letter*, the *Irish News*, and the *Belfast Telegraph*, as well as many local papers that serve small communities, such as the *Andersonstown News*, which reports on a neighborhood in West Belfast. The BBC offers a Northern Ireland service, as well as the Independent Television Authority's Ulster Television (UTV). There has been minimal state interference in press reporting both throughout the conflict and during the post-conflict period. For this reason, people in Northern Ireland are often well informed of politics and events and highly politically engaged.

Despite the strength and independence of civil society and the media, organizations representing different categories of victims of the conflict have often diverged on their transitional justice demands. Competition around transitional justice has weakened the constraining power of civil society. The lack of a unified call for transitional justice has

enabled the British government's concessionary norm response, allowing the government to negotiate concessions with some actors while ignoring others. Competing responses from civil society have been compounded by a lack of leadership from opposition political parties, such as Sinn Féin. Because of the complicity of paramilitary organizations in past wrongdoings, these organizations have also been only half-hearted in their push for accountability. Transitional justice itself has become a contested proposition, with some groups claiming a right to "truth recovery" and others seeing the quest for justice as a purely sectarian issue. This contestation, as well as the historical legacies of the conflict, have prevented meaningful cross-community calls for government accountability.

Domestic civil society has further been hampered in its coordination by disagreement over the definition of a conflict *victim*, and therefore which conflict experiences are worthy of further investigation. The primary focus of accountability demands has been on those families who experienced the death of a loved one. The Nationalist community has tended to give preference to individuals killed by the security forces, while the Unionist community has focused their calls for justice on individuals killed by Republican paramilitaries. But there are a wide range of other conflict experiences that are excluded from this formulation. For example, there are Catholics who were killed by Republican paramilitaries either by accident or for being accused of an offense against the organization. There are similar experiences of Protestants killed by Loyalist paramilitaries (Graham 2004). Deaths associated with a particular campaign, such as the Bloody Sunday Justice Campaign or the United Campaign Against Plastic Bullets, have received more coordinated attention than other deaths, particularly those that do not neatly adhere to a palatable definition of victim. Finally, a focus on those individuals who died obscures many of the other conflict experiences that shed light on the systematic nature of violence and discrimination in Northern Ireland, including people who were injured, experienced property violations, or were forcibly removed from their homes. The inability to extend the definition of victim and therefore the focus of accountability efforts has limited the ability of domestic civil society to mount a coordinated effort to pressure the British government for accountability.

Domestic political conditions in Britain hamper the government's ability to control its norm response. The creation of new and

independent transitional justice institutions could threaten the government's hold on power. Yet pressure to comply with international norms makes it impossible to pursue a policy of amnesty or amnesia. These conditions suggest a strategy of concession where compliance with international norms is pursued for certain high-impact cases but resisted for others. Demands from civil society have been effective at advancing some calls for accountability, while the government has successfully blocked other efforts. By strategically engaging its norm response in this manner the government can reduce the risks of accountability. In the case of Northern Ireland, the government's response to the accountability norm is to offer concessions to powerful actors to limit the possibility of more broad-reaching accountability processes that could threaten the British government's legitimacy in Northern Ireland. In what follows I explore how this strategy is adapted through the public inquiries system and through the creation of the Historical Enquiries Team.

Escaping Justice through Concessions: Inquiries in Northern Ireland

In the discussion of accountability in Northern Ireland, the British government has a central role to play in its ability to sanction or stymie investigations into the actions of British security forces in the conflict. As the governing power during the conflict, now that the conflict has ended, the British government currently has the most to gain and lose from being held to account for its past wrongdoings. For these reasons, the actions of the British government are central to understanding how transitional justice has and will progress in Northern Ireland. While the British government has much to lose from holding its own to account, it is also highly constrained in its ability to strategically adapt its transitional justice strategy.

A strategy of concession is one in which the government chooses to acknowledge specific demands for accountability through transitional justice while monitoring and controlling transitional justice to explicitly exclude other claims. Rather than risk widespread accountability for past abuses, a concessionary strategy allows the government to accommodate accountability for certain wrongdoings that implicate specific government actors without extensive recognition of state abuses. In the case of transitional justice in Northern Ireland, a strategy

of concession has meant that certain experiences of state violence and wrongdoings by the British Army have been acknowledged through a system of limited public inquiries without widespread investigations into the conduct of the security forces. For example, following the inquiry into the events of Bloody Sunday, the British government acknowledged that security forces were responsible for the deaths of unarmed civilians. However, the findings from this single event did not translate into a broader investigation or reckoning with the role of British security forces in other violent events during the conflict, such as the deaths in Ballymurphy discussed in the introduction to this chapter.

Transitional justice in Northern Ireland has focused on investigations into individual deaths. Rather than systematically evaluating patterns or legacies of violence, one-off investigations provide information, often very specific details, to family members of individuals who lost their lives. These investigations function as concessions offered to specific victims or groups successful at pressuring the British government for accountability rather than a broad-based attempt to investigate state violence and abuse during the conflict. Furthermore, even when investigations have taken place, state culpability in the violence has been fastidiously obscured through witness intimidation, destruction of evidence, and classifying reports.

In practice, the British government's concessionary strategy of impunity closely resembles the divide-and-rule approach used to consolidate power in the former Empire's colonial holdings. When concessions have been made on the issue of state accountability, they have been made strategically to individuals or groups deemed to be the most powerful or capable of exerting the most pressure, without evidence of a genuine attempt to systematically reckon with the government's role in the conflict. As with the case of Bloody Sunday, discussed in detail below, some events have even received a formal apology, and on rare occasions select individuals have been punished. What is important in this framework, however, is not that these experiences were acknowledged, but that other similar experiences such as the deaths in Ballymurphy or the assassination of lawyer Pat Finucane have not received the same level of engagement. The public inquiry system has been particularly useful for selecting individual cases and events for which to pursue accountability without adopting a more independent, or far-reaching, transitional justice policy. Constraints on the British

government make an independent accountability process a high-risk endeavor. Concessions are necessary to mitigate the risk of accountability. These risks have, furthermore, led to a reliance on state institutions, rather than new institutions, for addressing accountability.

The concessionary strategy of transitional justice has resulted in fragmented and often competing justice claims that have divided domestic civil society – eerily reminiscent of the governance outcomes of the colonial divide-and-rule strategy. In the remainder of the chapter I trace the British government’s concessionary strategy toward impunity through engaging the public inquiry system and later the creation of the Historical Enquiries Team. Both systems have been adopted to investigate specific cases of violence, almost exclusively with a focus on deaths during the conflict. Both systems also offer examples of the way in which the British government has been selective in engaging certain claims for state accountability but has not broadly engaged with the abuses of British security forces. The public inquiry system and the Historical Enquiries Team illustrate the ways in which transitional justice has been selected with an eye toward appeasing certain constituents while still allowing the British government to maximize state impunity.

Public Inquiries

The most prominent mechanism for addressing past abuses in Northern Ireland has been the use of the public inquiry system. Public inquiries are a mechanism for judicial redress that exists within the UK legal system under the Tribunals of Inquiry Act of 1921. Public inquiries are designed to examine one specific event or occurrence usually of “public concern.” Public inquiries differ from inquests or trials in that they are convened not only to identify the facts of what happened in a particular event and apportion blame for that event but also to establish what can be done to prevent a similar event from occurring in the future. Inquiries can be held for any one of three reasons: (1) when the facts of an event require public investigation, (2) when the facts are unknown and there is a reason for public concern, or (3) when the facts are known but have been denied or contested in the past (Hegarty 2002). Inquiries are generally driven by public pressure for an accounting of certain events. In the United Kingdom, public inquiries have been sought by a wide range of people

including rail crash victims and families of patients who were killed by their doctor (Hegarty 2002). In Northern Ireland, public inquiries have become a principal transitional justice mechanism convened by the government both during and after the conflict to address allegations of abuse or misconduct around specific events.⁶

The British government often agreed to conflict-related inquiries under intense public pressure, both domestic and international (Hegarty 2002). Rather than demonstrating a genuine commitment to accountability, the public inquiry system displays a concessionary approach on the part of the British government. The inquiry system has been a convenient strategy for offering targeted concessions, as inquiries into individual events offer one-off examinations of state abuses without a more robust truth process. Because inquiries are investigated in isolation from other events, as per their mandates, this mechanism allows the propagation of “bad apple” narratives, specifically regarding investigations into alleged state abuse. Bad apple narratives allege or simply assume that it is specific individuals or security units that are responsible for isolated events of abuse, rather than acknowledge or engage an evaluation of systemic violence. Furthermore, the selection of specific events for inquiry implies that these are the only incidents in which government abuse took place; these events are treated as aberrations rather than widespread practices and strategies.

In addition to isolating events, the inquiry system’s focus on particularly irregular or egregious acts that capture public attention elides the systematic violations that were everyday occurrences for people living in Northern Ireland. When I conducted community interviews in 2008, I was struck by the number of people who said that they had not personally experienced any violations during the conflict but then would go on to list a litany of abuses including house raids, property destruction, physical altercations with security forces, and other

⁶ Several inquiries took place during the conflict, including the Cameron Inquiry into civil disturbances surrounding the civil rights movement in 1968, the Compton Inquiry regarding state brutality in the prison system, the Parker Inquiry to investigate interrogation procedures of terrorist suspects, the Widgery Inquiry into Bloody Sunday, and the Scarman Inquiry into rioting in 1969 (Hegarty 2002). New inquiries have been initiated following the peace agreement. In the case of the Bloody Sunday Inquiry, some investigations have been reopened because of alleged lack of due diligence in previous inquiries.

damaging encounters (see Appendixes A and B). The inquiry system propagates a focus on murders and deaths as the sole conflict violation rather than a more detailed analysis of conflict-related abuses and subsequent grievances, along with the British government's role in those experiences.

Finally, as with a strategy of containment, because the public inquiry system is an existing mechanism within the British legal tradition, it makes the process more predictable for the government. In some cases, the government is able to exercise a large amount of control over the process, including oversight in the selection of judges and the structuring of inquiry mandates. For example, the proceedings and final report of public inquiries are not always made public; the government controls the dissemination of information. At the Widgery Inquiry,⁷ for example, certain key testimony from British soldiers was kept confidential. In other cases, such as the Stevens Inquiry into collusion, only summary documents, absent primary evidence, were made public. While domestic institutional constraints make it difficult for the government to control state institutions, situating transitional justice within existing structures make the process more predictable for the government.

The concessionary nature of public inquiries has allowed select claims for state accountability to be acknowledged as long as they do not threaten the legitimacy of the British government. Inquiries that prove too threatening have been met with the deliberate obfuscation of justice. For example, in the summary of his third inquiry, Sir John Stevens, then Commissioner of the Metropolitan Police Service, wrote that throughout his inquiry into allegations of collusion between British security forces and Loyalist paramilitaries his work was hindered. He cited this obstruction as "cultural in nature and widespread within parts of the Army and the RUC" (Stevens Report 3.1). He also writes of the destruction of evidence that occurred when his office caught fire. "This incident, in my opinion," Stevens writes, "has never been adequately investigated and I believe it was a deliberate act of arson" (Stevens Report 3.4). Accusations of government interference are further strengthened by the endemic delays in holding inquests and in publicly releasing the findings of these inquiries.

⁷ The Widgery Inquiry was one of the original inquiries into the events of Bloody Sunday.

In 2005, a new Inquiry Act was passed that substantially reduced the independence and potential effectiveness of future inquiries by introducing a greater degree of political influence over the structure and conduct of public inquiries (McGovern 2013). The Ministry of Defence raised concerns about the growing number of ongoing investigations of British soldiers, resulting in calls for a revision of the 1921 Act. The revised Inquiry Act gives ministers greater power over the remit of inquiries and the dissemination of information from inquiries. The 2005 revision of the Tribunals of Inquiry Act of 1921 demonstrates a further attempt by the British government to prevent widespread accountability for the alleged crimes of British soldiers.

In the section that follows I turn to an overview of two prominent inquiries to further explore these patterns: the Bloody Sunday Inquiry and the murder of Pat Finucane. The two cases illustrate the concessionary nature of the inquiry process highlighting one area in which an inquiry was convened due to high levels of domestic and international pressure (the Bloody Sunday Inquiry), and another case that has been systematically obstructed despite these pressures given the growing evidence of collusion in the case (the murder of Pat Finucane). In the case of the Bloody Sunday Inquiry, two largely contradictory reports on the event have been released. In the case of the murder of Pat Finucane, the British government has repeatedly silenced information on this event despite the increasing revelations of new condemning evidence.

The Bloody Sunday Inquiry

Bloody Sunday involved the shooting deaths of fourteen Catholic civilians by British soldiers on January 30, 1972 in the city of (London)Derry during a banned civil rights march led by the Northern Ireland Civil Rights Association. The march was in protest of the British government's controversial policy of internment without trial for those suspected of being involved with the PIRA. Twenty-six people were shot by soldiers from the First Battalion of the Parachute Regiment of the British Army (1st Para), an elite unit first deployed to Northern Ireland to assist local police in addressing rising levels of civil unrest between Catholic and Protestant communities. The shootings took place during an outbreak of rioting in the Bogside, a predominantly working-class Nationalist neighborhood in Derry.

In the immediate aftermath of the incident, the British government claimed that 1st Para had opened fire in self-defense against armed

“gunmen and bombers” suspected to be associated with the PIRA who were taking advantage of the riot to launch a sustained shooting and nail-bombing attack against army soldiers. Two days later, on February 1, responding to intense domestic and international pressure, British Prime Minister Edward Heath announced a Tribunal of Inquiry to investigate the event. The inquiry, headed by Lord Chief Justice John Widgery, was tasked to “try and form an objective view of the events and the sequence in which they occurred” (Widgery 1972: para. 2). Ten weeks later, the Widgery Report was released.

The Widgery Report largely exonerated the soldiers of 1st Para of wrongful action during the incident and concluded that ultimate responsibility for the deaths on Bloody Sunday rested with those who organized the illegal civil rights march. The report further concluded that the soldiers involved in the civilian deaths had justifiably opened fire only after coming under sustained shooting and bombing attacks by armed Republican assailants. The report also implied that the civilian victims themselves were complicit in the attacks against 1st Para, noting that while “none of the deceased or wounded is proved to have been shot whilst handling a firearm or bomb,” there nevertheless remained “a strong suspicion that some others had been firing weapons or handling bombs in the course of the afternoon and that yet others had been closely supporting them” (Widgery 1972: para. 10). Almost immediately after its release, the Widgery Report was widely derided by local human rights organizations and Republican groups as being an intentional cover-up by the British state. The deaths on Bloody Sunday, along with the perceived “white-washing” of events by the British government, were seen as a double injustice to the Nationalist community and further served to entrench mistrust of the government and security forces (Hegarty 2002: 1165). The incident stood as a watershed moment for the conflict itself, uniting support for the PIRA and Republican cause.

For the next twenty-five years, the events of Bloody Sunday and the failed Widgery Inquiry would continue to galvanize international and domestic public opinion around the conflict in Northern Ireland and the British role in the violence. The event was even memorialized in the hit song by U2, *Sunday Bloody Sunday*, released in 1983. New information continued to emerge that challenged the findings of Widgery (Aiken 2015). The Bloody Sunday Justice Campaign formed on the twentieth anniversary of the event to demand a new investigation and

prosecutions for those responsible. Five years later, in 1997, the movement organized a march of more than 20,000 people in Derry. That march culminated in a petition signed by more than 40,000 people calling on the UK Prime Minister to reopen the investigation as well as a campaign in the US Senate to lobby the British government for greater accountability (Campbell 2013).

Responding to growing domestic and international pressure, in January 1998, Prime Minister Tony Blair announced the establishment of a new judicial inquiry into Bloody Sunday. Established under the Tribunals of Inquiry Act of 1921, the inquiry was headed by Judge Lord Mark Saville, an English Court of Appeal justice (Bell 2002). While not the international inquiry that the Bloody Sunday Justice Campaign had demanded, the inquiry included two international judges: William L. Hoyt, a Court of Appeal judge from New Brunswick, Canada, and John L. Toohey from the High Court of Australia (Bell 2002). The Bloody Sunday Inquiry became the largest single public inquiry undertaken in the United Kingdom. Over the course of the Inquiry, the Tribunal interviewed and received statements from more than 2,500 people and amassed a huge collection of audio-visual evidence including 13 volumes of photographs, 121 audiotapes, and 110 videotapes (Aiken 2015). The scale of the Inquiry's work was reflected in its overall expense with total costs estimated to exceed £190 million (about US\$340 million) (Report of the Bloody Sunday Inquiry 2010).

The Final Report of the Inquiry was officially released to the public on June 15, 2010. While the report did not specifically mention the conclusions of the Widgery Report, it overturned several of its key findings. In particular, while Lord Saville's report presented evidence that some of the civilians shot on Bloody Sunday had been throwing stones and other projectiles at soldiers during the riots, the Bloody Sunday report remained unequivocal that "none of the casualties shot by soldiers of Support Company was armed with a firearm . . . or bomb of any description" and that "none was posing any threat of causing danger or serious injury" to the members of 1st Para at the time they were shot (Report of the Bloody Sunday Inquiry 2010: 78). The publication of the Bloody Sunday report then led to a statement from British Prime Minister David Cameron stating that "what happened on Bloody Sunday was both unjustified and unjustifiable . . . [i]t was wrong" (BBC 2010).

While there was much public support for the Inquiry's final report, there were also areas where the work of the Inquiry fell short. Responsibility was placed on the commander of the 1st Para Regiment, but the investigation did not move up the chain of command, nor did it link to any of the other civilian deaths caused by the British Army before or shortly after Bloody Sunday. For example, in August 1971, 1st Para conducted a search and raid of the Ballymurphy area of West Belfast in which security forces killed eleven people, but this pattern of abuse was not addressed.

Given evidence of the potential systematic nature of state abuse in Northern Ireland, particularly violations committed by 1st Para, the Bloody Sunday Inquiry has served to offer redress to a highly vocal yet small population of victims. The British government was able to offer concessions to this group through a massive public inquiry, and later public apology, while still resisting an investigation into other violations by the British security forces. The Bloody Sunday Inquiry serves as a telling example of the way in which a concessionary strategy can bring accountability for certain harms while continuing to advance impunity for others.

The Pat Finucane Case

While an investigation into the events of Bloody Sunday is central to the government's transitional justice response, other events have not received the same concession. One such event was the murder of human rights lawyer Pat Finucane. Finucane came from a prominent Republican family in Belfast and was the lawyer for Republican clients, including hunger-striker MP Bobby Sands. On February 12, 1989, Finucane was murdered in his home in front of his family by members of the UDA under the cover name of the Ulster Freedom Fighters. He was shot fourteen times by two masked gunmen while eating dinner. Despite strong domestic pressure for an investigation into these events, the British government has assiduously resisted an international inquiry. Instead, there have been several domestic investigations that have presented evidence of collusion, but these investigations have been marred by irregularities and obstruction. The Finucane family has publicly stated their suspicions that this lack of attention is because the chain of command involved in setting up and covering up Finucane's murder possibly goes to the top levels of the British political establishment, making this case particularly threatening to the British government and security forces (Rolston 2013).

Pat Finucane's murder is one of the most discussed cases of collusion among human rights groups in Northern Ireland, and the progression of the investigation into Finucane's murder provides one of the most documented instances of the government's approach to collusion allegations. The use of death squads and other breaches of human rights law by democratic states have been widely documented (Carey & Mitchell 2017; Jackson, Murphy, & Poynting 2010; McGovern 2011). The underlying issue in Northern Ireland is whether the violence practiced by the state or state agents was systemic or, rather, an exception to the rule (i.e., the work of a few "bad apples"). The answer to this question determines whether the British government's primary role in the conflict was that of peacekeeper or armed actor. Most killings in Northern Ireland were committed by nonstate groups (mainly the PIRA and Loyalist groups), but the practice of covert violence by the British security forces links the British state more directly to this violence, particularly the violence of Loyalist paramilitary groups. Furthermore, evidence of collusion implicates the British government directly in violating the human rights of British citizens.

Numerous investigations and inquiries into the murder of Pat Finucane have revealed evidence that has been denied, obstructed, and destroyed. An initial RUC investigation into the murder occurred immediately following Finucane's death, revealing allegations of collusion. Given these allegations, in 1999, John Stevens, then the deputy commissioner of the Metropolitan Police, was tasked with conducting an inquiry into the murder and alleged British state culpability. Specifically, Stevens was asked to investigate how classified security force documents ended up in the possession of Loyalist paramilitaries. While Stevens's first report did not contain evidence of systematic collusion in the original case, he did cite obstruction of his investigation. For example, in January 1990, the room being used by the Inquiry team in the Royal Ulster Constabulary station in Belfast burned down. While a later investigation concluded the fire was an accident, Stevens publicly maintained doubts. A second investigation into the relationship between the security forces and loyalist paramilitary groups occurred later. In 1999, Stevens launched a third inquiry specifically into the death of Pat Finucane. Only a twenty-page summary of Stevens's third report has ever been made public; the evidence has remained classified.

In 2001, under continued domestic and international pressure, retired Canadian judge Peter Cory was tasked with conducting a

review of six cases involving allegations of collusion. In addition to Finucane's case, Cory's mandate included the murders of: Rosemary Nelson, a human rights lawyer murdered by Loyalists; Robert Hamill, a Catholic killed by a Loyalist mob while the RUC was close by; and Billy Wright, a leader of the Loyalist Volunteer Force killed by members of the Irish National Liberation Army while in prison. The information uncovered in the investigation led Cory to recommend an inquiry specifically into the Finucane case. Yet, this inquiry also experienced obstruction. As has recently been reported, in 2002, MI5 entered Judge Cory's London office, removed all of the Inquiry's computer hard drives, and returned them erased.⁸

Following from the Cory report, a proposal emerged to hold an inquiry into Finucane's murder under the terms of the Public Inquiries Act of 2005. Supporters of an international inquiry have opposed the proposal, raising concerns of the level of control given to government ministries over the remit, conduct, suspension, and termination of inquiries (McGovern 2013). In 2012, Prime Minister David Cameron asked Desmond de Silva, a prominent war crimes prosecutor, to conduct a review of the Finucane case. While the review fell far short of an international inquiry, the report documented extensive evidence of British collaboration with Loyalist paramilitaries. The final report resulted in Cameron acknowledging "shocking levels of collusion" and offering an official apology to Finucane's family for the role the British Army and police intelligence played in his murder.⁹ While there has been a public apology and acknowledgment of state complicity, the actual details of this collusion remain classified as of this writing and there have been no prosecutions in this case.

Despite decades of lobbying and advocacy on the part of Pat Finucane's family, this case has not received the same level of accountability as Bloody Sunday. While the civilian deaths on Bloody Sunday have been linked directly to the actions of British soldiers, the assassination of Pat Finucane has the potential to bring to light more pernicious behaviors on the part of British security forces and high-level government officials. Conclusively linking British soldiers to unlawful

⁸ www.bbc.com/news/uk-northern-ireland-49963689 (accessed October 29, 2023).

⁹ www.nytimes.com/2012/12/13/world/europe/cameron-apologizes-for-british-role-in-finucane-killing.html (accessed October 29, 2023).

killings by Loyalist paramilitaries has proven to be a much more threatening proposition to the British government and one that the government has successfully sidestepped through a strategy of concession, deflecting attention to other events.

Strategic concessions through transitional justice in Northern Ireland have caused deep resentment across the population. A former Loyalist paramilitary member who served time in prison for his involvement in the conflict discussed collusion and the fate of Loyalist paramilitary organizations, acknowledging British government involvement while also doubting that the government would ever be brought to book for their role.

I am not really into all these inquiries for what went wrong because there's that many lies. The British controlled the paramilitary factions. Looking back now, we were all merely puppets on the string that was being dictated from someone in a higher place.

I said to my wife last night, I would never go back to a paramilitary organization again even if it did kick off. Not with the things that I know. How the British government controlled everything. Nobody knows who was working for who, but they were all working for somebody. And the British were playing God. They were deciding who would live and who would die. That is really where the inquiry should be. Because the guys who pull the trigger are all just part of a puppet system that is being led by somebody that we will never know about.¹⁰

A Catholic community member from a particularly hard-hit area of rural South Armagh said, "I think the British government would be quite happy to have this all airbrushed. They are quite happy to live in denial."¹¹ Another woman I spoke with from a neighboring farming town further acknowledged state culpability in the violence. "I think maybe people are beginning to realize that they were not entirely to blame for everything that happened here," she warned. "We know there was someone stirring a big pot somewhere."¹²

¹⁰ Interview (UA-7), Upper Ardoyne, Northern Ireland, May 2010, notes on file with author.

¹¹ Interview (SAC-9), South Armagh, Northern Ireland, May 2010, notes on file with author.

¹² Interview (SAC-9), South Armagh, Northern Ireland, May 2010, notes on file with author.

Historical Enquiries Team

While the inquiry system remains the centerpiece of the transitional justice effort in Northern Ireland, it has not quelled demands for justice for the thousands of remaining un- or underinvestigated conflict-related deaths and disappearances. While some of these deaths were investigated by police and the army during the conflict, the lack of due diligence in these investigations led to an outpouring of requests to the Police Service and the Coroner's Office for reinvestigation in the post-conflict period. In the years following the signing of the Belfast Agreement, the Police Service of Northern Ireland (PSNI) and the Coroner's Office were overwhelmed by these requests. Responding to public pressure in 2005, Chief Constable Hugh Orde established the Historical Enquiries Team (HET) to streamline the many outstanding requests for information and reinvestigate murder and disappearance cases from the conflict.

The HET was a unit within the PSNI tasked with reinvestigating all deaths related to the conflict.¹³ At the time of its founding, the HET had 100 assigned investigators and a budget of £30 million. The objective of the HET was to “assist in bringing a measure of resolution to those families of victims affected by deaths attributable to ‘The Troubles’ in the years 1968 to 1998; to re-examine all deaths attributable to ‘The Troubles’ and ensure that all investigative and evidential opportunities are examined and exploited; to do so in a way that commands confidence from the wider community” – to conduct a professional reinvestigation of cases at “the current level of analysis and professionalism.”¹⁴ The HET relied on existing state agents for those investigations, allowing the government to ensure control over the process. The HET also confined accountability to individual cases, which prevented a systematic review of the underlying cases of the conflict and larger systemic patterns of abuse.

The HET was created to address the lack of information that many families had surrounding the deaths of family members. Often information was either not collected or not revealed to the families during the original police investigation. The HET reviewed existing evidence

¹³ Of note, the new Legacy Investigations Branch extended this time frame through March 1, 2004.

¹⁴ www.psni.police.uk/historical-enquiries-team/het-our-role.htm (accessed January 4, 2010).

and sought new information on conflict-related cases that was then turned over to the family of the victims through a final report. Where applicable, the HET had the authority to present information to PSNI for new charges or arrests to be made regarding these cases. PSNI calculated that there were 3,268 deaths attributable to the conflict arising from 2,546 separate incidents that required investigation. Cases were taken in chronological order except in cases of “humanitarian concerns,” such as a victim with an aging family member. Work on cases began in January 2006. Approximately 1,800 cases were completed before budget restructuring took place in 2014 and the HET was replaced by a much smaller investigative unit within PSNI, the Legacy Investigations Branch. In 2016, the Department of Legacy and Justice was created within PSNI as an even more reduced version of the HET.

The HET was also created, in part, to avoid further Article 2 violations from the ECtHR (Lundy 2009). To enshrine the “right to live,” Article 2 requires that the investigations of deaths take place independent of those individuals or organizations under (or potentially under) investigation and that investigations should involve the family of the person killed. This is particularly relevant for accusations of state abuse in which the British government is challenged to designate independent, nonstate investigators for crimes. The HET was created to meet this requirement and address the high number of unresolved cases without further Article 2 violations. Central to the work of the HET, for example, is that it allegedly meets international human rights standards and is in compliance with Article 2 of the European Convention of Human Rights (McGovern 2013).

The HET was designed to address specific demands for accountability without initiating a broader transitional justice process. Its structure offered limited concessions to victim families without opening up the political or legal space for broader claims for accountability. The HET only investigated deaths during the conflict, not other forms of human rights violations. Furthermore, the positioning of the HET within the PSNI suggests that the police themselves could not be systematically responsible for any of the deaths under reinvestigation; they are deemed able to serve as a neutral arbiter in the new investigations. Yet many of the people working for the HET were former RUC officers, including former Special Branch officers (Rolston 2013). Potential allegations of police misconduct, either related to a death or

the original police investigation, were subsequently reinvestigated by the current police force. These reinvestigations reinforce the false idea that past infractions are not linked to persistent patterns of injustice. Yet for many this seemingly endless loop of police self-policing validates a deeper mistrust of the whole state system. While the HET was mandated to look at “links” between cases that had common characteristics and patterns, systematic patterns of state abuse were not included in the HET’s investigation. Furthermore, this structure curtailed any potential investigation into the strategic decisions of the security and intelligence sectors through the HET.

The HET received mixed reviews. Originally, family members and victim’s groups were hopeful that the reinvestigation of their cases would be a viable means toward the prosecution of perpetrators previously unidentified or not held accountable. Critiques of the HET, however, have drawn attention to structural problems within the investigation process. The first problem is simply the lack of historical evidence. The inadequacy (or absence) of investigations at the time many of these deaths occurred, as well as the deliberate destruction of documents, means that historical cases frequently have no “valuable paper trail” (Rolston 2013). The lack of (new) evidence means there is little chance of a meaningful reassessment of these cases. More procedural critiques have also been leveled. For one, many of the reinvestigations were simple “desk-based operations involving gathering existing information with no new investigation” (Rolston 2013: 147). Furthermore, Rolston (2013) documents evidence that the HET made less robust efforts in pursuing evidence from potential state perpetrators. For example, in some cases soldiers were not interviewed for fear of antagonizing the Ministry of Defence. HET investigations are another manifestation of a concessionary strategy in which select government wrongdoings are addressed to strategically accommodate pressure for accountability without a unified, independent attempt to wrestle with the abuses of the past.

People I interviewed questioned the one-sided nature of transitional justice in Northern Ireland. A Republican community activist, or “inactivist” as he jokingly labeled himself, and former IRA member from Ardoyne remarked:

What about the government? [Transitional justice] all seems to be [the paramilitary] groups here, but what about state violence? There was an

*awful lot of state violence in a community such as this. If the government is not going to be held accountable, why we should be held accountable? [The government] has never admitted to being involved in anything.*¹⁵

A similarly strong opinion acknowledging the futility of transitional justice in Northern Ireland and the lack of government accountability was expressed to me by a former Loyalist paramilitary member turned community organizer working in the Upper Ardoyne area of Belfast. When I spoke with him in the community youth center he now runs, he did not believe it would ever be possible to hold the state to account.

*That Nelson Mandela stuff is just bollocks! It doesn't fit here. If it worked in South Africa fine, but it will not fit here. Our war was too dirty and a lot of the people who were responsible will never be brought to book for it. I am talking about the British government who were making most of the dirty decisions. So why should I go into my dirty laundry if they don't want to go into theirs? If [the British government] wants to come in, then we will all go into it. But I know they will never go into it. They hide behind the Secrecy Act, the 30-year rule, and the 100-year rule. It just doesn't work for me. I don't think it is going to get anyone anywhere! It's all a lot of nonsense. There is no truth.*¹⁶

Alternative Explanations

In this chapter I make the argument that the lack of accountability for government wrongdoings in Northern Ireland is best understood as a process of strategic adaptation in which the British government adopted transitional justice as a concessionary measure to appease demands for accountability while ensuring its own security forces escape justice. Alternative explanations for state impunity in the age of accountability would suggest that the norm of accountability has not proliferated domestically in Northern Ireland or that institutional resources were lacking to pursue state crimes. There is little evidence to support either of these claims.

The impunity outcome in Northern Ireland is not because of a lack of public demand for justice. There have been several local initiatives

¹⁵ Interview (A-1), Ardoyne, Belfast, Northern Ireland, May 2010, notes on file with author.

¹⁶ Interview (UA-7), Upper Ardoyne, Belfast, Northern Ireland, May 2010, notes on file with author.

that seek to pursue state accountability and speak to the domestic resonance of the accountability norm. In the absence of a government-sponsored accountability effort, local organizations have taken to addressing outstanding justice needs within excluded communities. The Ardoyne Commemoration Project stands as one such example. Ardoyne is a small area of Belfast that had a population of approximately 11,000 people during the conflict. In part because of its Republican paramilitary leanings, Ardoyne had one of the highest concentrations of people killed during the conflict. Ninety-nine people were killed from the Ardoyne area out of 1,500 people killed in Belfast from 1968 through 1998 (Sutton 1994).¹⁷ The majority of violence experienced in the Ardoyne area was the result of rioting, police and army raids, and paramilitary attacks (Ardoyne Commemoration Project 2002). As a community response to this experience, two local academics, Patricia Lundy and Mark McGovern, helped launch a commemorative documentation effort. The Ardoyne Commemoration Project conducted more than 300 interviews in the Ardoyne area and published a 500-page book recording the lives and deaths of the people killed from the area. There has also been select, cross-community calls for more inclusive transitional justice. Healing Through Remembering, for example, is an initiative that focuses on remembrance efforts rather than justice and accountability. In 2001, the organization launched a broad public consultation on the issue of memory and collected 108 submissions from individuals, groups, and organizations regarding how to remember and heal, and have made proposals regarding a day of remembrance, storytelling, and a living memorial museum.¹⁸ The popularity of these efforts suggest that there is broad resonance of the accountability norm within Northern Ireland.

There is also little evidence to suggest that the British government lacks the capacity to adopt a robust transitional justice program. Both England and Northern Ireland have a robust legal system and the financial means to pursue accountability. They have the investigative skills and data to examine past wrongdoings. Given the high level of state capacity of the British state, it is unlikely that the failure to hold state agents to account for their wrongdoing is a product of a lack of

¹⁷ The Ardoyne Commemoration Project was later faulted for its failure to include members of the Protestant community who were born in Ardoyne but later left (or were forced to leave) due to the changing political climate (Lundy 2009).

¹⁸ <https://healingthroughremembering.org> (accessed October 29, 2023).

resources or capabilities to respond to the accountability norm. Any decisions to avoid accountability are likely intentional.

Concessions for Transitional Justice in the Central African Republic

It may be tempting to assume that a concessionary norm response is limited to states constrained by democratic institutions. For that reason, a potentially unlikely case of comparison with the democratic British government is the fragile, authoritarian government in the Central African Republic. Since its independence in 1960, the Central African Republic has grappled with instability and recurrent violence. Conflict reached a crescendo in 2013 when rebels seized power through a coup d'état and government forces retaliated. All sides committed serious human rights violations, crimes against humanity, and war crimes, leaving thousands of victims searching for justice. A ceasefire agreement signed in 2014 led to a series of transitional justice initiatives including a Special Criminal Court (SCC), ICC referrals, and a truth commission. Central African Republic is a case where the low capacity for control of the government's norm response led to a strategy of concession where select cases of wrongdoings have been advanced. Notably, these concessions did not result in accountability for the government. While in the case of Northern Ireland it is the democratic constraints on the British government that largely impede the ability of the government to control its norm response, in the Central African Republic it is the overall weakness of the state. The case of the Central African Republic offers an additional exploration of the theory of strategic adaption in a state with low capacity to control its norm response.

The Central African Republic experienced decades of civil conflict due to ethnic and religious divisions. Violence reached its peak in 2013 when Michel Djotodia was installed as president in a rebel-backed coup. Djotodia resigned in early 2014 amid international pressure, giving way to first a transitional government and then the election of Faustin-Archange Touadéra. However, violence continues, with rebel groups still active in the country (International Center for Transitional Justice n.d.; Uppsala Conflict Data Program n.d.). Against this backdrop, the post-Djotodia government sought to implement a series of transitional justice processes, including the establishment of

an SCC tasked with investigating human rights violations, the referral of cases to the ICC, and the formation of the Truth, Justice, Reparation and Reconciliation Commission.

Following the 2013 coup, the international community pressured the Central African Republic to hold violators of human rights to account. The government is highly reliant on the support of foreign militaries to maintain power. The government was first backed by France, whose support was replaced in recent years with Russian paramilitaries (Ling 2023). There was also a peacekeeping mission, initially led by the African Union and later transferred to the United Nations (UN Peacekeeping n.d.). The government's reliance on foreign forces has given international actors strong leverage over domestic policy. In 2014, the UN Security Council authorized an ICC investigation into the violence during the civil war (Al Jazeera 2014). The UN pushed for other transitional justice processes with both the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and the UN Development Program (UNDP) directly assisting with the development and implementation of these policies (UN Secretary-General 2015). As part of these efforts, the UN Security Council passed a resolution calling for reconciliation and urging the government to establish the SCC (UN Security Council 2015). There was also high engagement from NGOs like Human Rights Watch that emphasized the importance of transitional justice processes for future stability (Human Rights Watch 2017, 2019). While the international community championed accountability and reconciliation, the government had much to fear from being held accountable for its past wrongdoings. Violence persists in the country. Major parts of the country remained under rebel control as the government simultaneously debated accountability.

The capacity of the government to control its norm response and mitigate the potential risks of transitional justice are low. While the British government's capacity to control its norm response was hampered by domestic democratic constraints, in the Central African Republic weak control is primarily the result of limited governance capabilities. According to Freedom House (2022), the Central African Republic lacks an independent judiciary, and the government is unable to enforce judicial decisions. Other state institutions remain similarly weak; the government is unable to provide basic services beyond the capital (International Center for Transitional Justice n.d.). The level of

public support for the government is also uncertain. Although Touadéra won the latest election with 53 percent of the vote, the election took place in the wake of intense fighting amid high levels of ballot stuffing, vote buying, and voter suppression (Freedom House, 2022). Most notably, the government lacks fully independent coercive capabilities, as it has come to rely increasingly on Russian paramilitaries to prop up the weak government (Fasanotti 2022). Touadéra's rule is fragile and dependent on outside assistance, which points to a low capacity to control its norm response.

The international community has been centrally involved in transitional justice in Central African Republic, and constraints on the government require accountability concessions. In 2015, the government established the SCC with jurisdiction over serious human rights violations and violations of international humanitarian law committed since January 1, 2003. The SCC is a hybrid court with a mix of both domestic and international staff. In 2021, the Central African Truth, Justice, Reparation and Reconciliation Commission joined the slate of transitional justice processes. The Commission's work goes back further in history, investigating human rights violations back to 1959.

These institutions have allowed the government to engage a strategy of concession advancing specific cases of wrongdoings without aggressively engaging in transitional justice for members of its own cadre. For example, the government has worked to obstruct the SCC's investigations into crimes committed by other armed group leaders who have integrated into the government, government forces, and the Wagner company's Russian mercenaries. In November 2021, Hassan Bouba, Minister of Livestock and Animal Health, was arrested under order of the SCC for crimes committed while he was the leader of the Union for Peace rebel group. Later that month national gendarmes escorted Bouba out of prison and took him home. He has continued to serve as minister despite being a fugitive (Mudge 2023). Furthermore, the national truth commission has been given a large mandate and few resources, limiting its effectiveness while seemingly addressing international calls for accountability (Le Roi Benga 2023).

The government has worked hard to maintain its concessionary strategy in the Central African Republic. It is limited in its capacity to control transitional justice outcomes given the weak position that the government holds. High levels of international pressure and leverage forced the government to begin a transitional justice process

despite the high level of domestic threat it faces and low capacity to control its norm response, resulting in a strategy of concession.

Conclusion

Decades after the conflict ended, community divides remain visible on the physical landscape of Northern Ireland. During walks in Belfast, you pass the remnants of Peace Walls built to prevent intercommunal violence between Catholic and Protestant communities in the city. You pass emotive murals commemorating individuals lost in the struggle, events of resistance, and pledges to peace or threats of violence. Shop window displays are carefully curated to avoid the colors orange and green. And you can mark your physical location among these divides by the flags hung from houses, businesses, and electricity poles – British flags, Irish flags, even flags recognizing the struggles of other secessionist movements such as the Palestinians and the Basques. Central to these images is the persistent question: Given the history, the violence, and the repression experienced in Northern Ireland, whose stories will get to be told?

The British government's concessionary strategy has worked effectively to consolidate power and legitimacy for itself while also working to propagate domestic divides. The public inquiry system and the Historical Enquiries Team demonstrate a selective policy of investigations designed to consolidate the political control of the British government in the post-conflict period. A concessionary strategy has been particularly effective in limiting accountability for the wrongdoings committed by British security forces during the civil war. Rather than acknowledging the violations committed, the British government has worked to advance state impunity. The Overseas Operations Bill is further evidence of the British government's continued intention to escape justice.¹⁹ The exclusion of accountability claims against British security forces has served to reduce threats to British government legitimacy both domestically and abroad.

¹⁹ www.irishcentral.com/opinion/others/uk-government-legacy-provisions-stormont-house-agreement (accessed October 29, 2023); www.bbc.com/news/uk-northern-ireland-51935718 (accessed October 29, 2023); www.bbc.com/news/uk-northern-ireland-52464240?intlink_from_url=https://www.bbc.com/news/northern_ireland/northern_ireland_politics&link_location=live-reporting-story (accessed October 29, 2023).

Select concessions through transitional justice have been central to the ability of the British state to maintain plausible deniability that the British government bears no responsibility for the genesis or progression of the conflict. Rather than seeking to address historical legacies of injustice and violence in Northern Ireland, the concessionary strategy only heightens divides across and within communities, preferencing some conflict experiences over others. Because the past and its abuses are so inherently divisive, politicians eager to achieve other post-conflict goals have an incentive to avoid the issue altogether. While this calculated ignoring of the past can have short-term benefits for political expedience, it does not help advance the agendas of community reconciliation. “There may be peace,” a Republican activist from Belfast asserted, “but I don’t think there is reconciliation because you still have two diametrically opposed opinions, Unionism and Nationalism. For now, there is just peace.”²⁰

²⁰ Interview (A-1), Ardoyne, Belfast, Northern Ireland, May 2010, notes on file with author.