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Northern Ireland Peace Talks: Endgames

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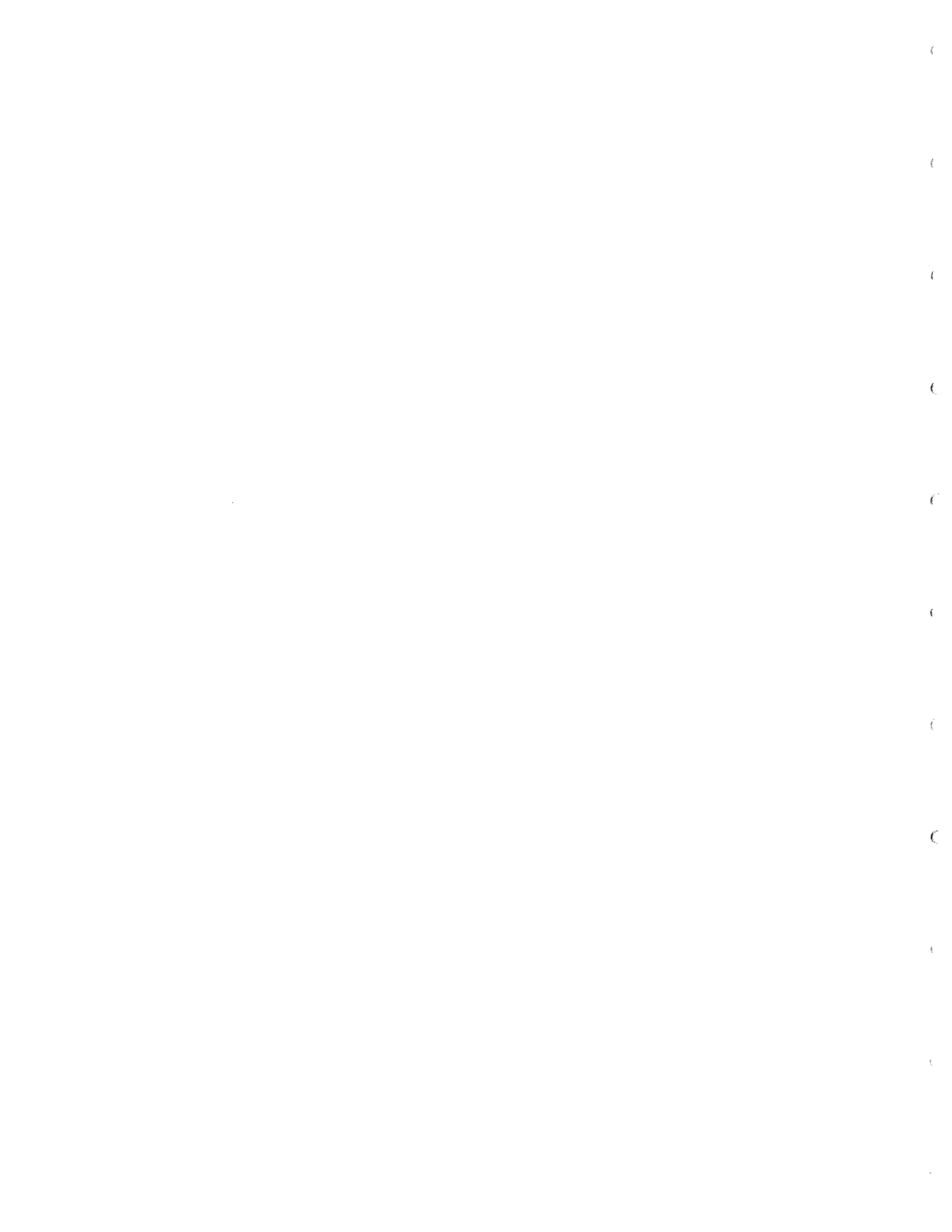
NORTHERN IRELAND PEACE TALKS: Endgames

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Countdown

***by
Padraig O'Malley***

March 1998



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NORTHERN IRELAND PEACE PROCESS: ENDGAMES

Observations at the beginning of the end

March 1998

With days to go before the Northern Ireland peace talks come to a formal close, things are, to use the immortal words of Fluther in Sean O'Casey's play, *The Plough and Stars*, "in a state of chasis."

Months of interminable bickering, the unwillingness of some parties to directly talk with others¹, a process in which it often appears that the key players spend more time trying to get one another thrown out of the process than with trying to bring those who are outside in, the insidious slide to more volatile sectarianism as armed extremists on both sides take random but deadly aim at ordinary Catholics and Protestants, have done much to dispel the mood of public confidence that a settlement is possible to which all parties to the conflict could subscribe, however begrudgingly, before their mandate runs out in early April.

Not that the British and Irish governments have given up. *Au contraire*, their zeal --and ingeniousness-- in trying to sort out the unfathomable is a feat of political gymnastics that would put many a good spinmeister on this side of the ocean to shame. Neither is about to throw in the towel. They express, but are careful not to exude optimism; they caution with the usual caveats. But the mood is upbeat. Come May, they vow, there will be referendums, North and South, on proposals regarding the internal governance of

¹ Sinn Fein and the Ulster Unionist Party (UUP) have yet to have a one-on-one meeting. Although Sinn Fein has repeatedly called on the UUP to meet with them, the UUP to date has refused to do so in the belief that the IRA cease-fire is simply tactical, and Sinn Fein's pledge to uphold the Mitchell Principles a cynical charade. David Trimble, leader of the Ulster Unionist Party, says: "Mr. Adams and Sinn Fein are simply out of court. The views they put forward are not serious and they are not realistic. Adams just simply isn't a serious player. I don't think Sinn Fein is seriously engaged in these talks. They are certainly not trying to achieve agreement." *Irish Times* 9 March 1998. See also footnote # 25

Nationalists, on the other hand, believe the unionists are "still not fully engaged in the talks process." *Irish times* 5 March 1998.

Northern Ireland and the nature and extent of the relationship between the two parts of Ireland.² Whether they are the product of agreement among the parties themselves or cobbled together by the civil servants who have had to sit through every meretricious twist and turn of the infinitely tedious proceedings, is moot.

The parties themselves are, however, decidedly less upbeat, some, especially the non-speaking, even pessimistic.³

Some weeks ago, the two governments appeared set to come up with a prescriptive paper that would outline their views regarding the likely parameters of a settlement. Indeed, Irish Prime Minister Bertie Ahern had gone to London to press British Prime Minister Tony Blair on the precise steps the two governments should adopt to shape the proposals they would jointly present to the parties before the end of March, with a view to securing the parties' agreement by Easter, and paving the way for a May referendum. But after consideration, both sides agreed to put the prescriptive paper on hold since they thought it might be misused and that its unintended appearance as "a stick with which to beat the parties" could be counter-productive. In addition, there was an explicit acknowledgement

² On 1 March, Paul Murphy, the North's Political Development Minister told the BBC Radio Ulster: "I am certainly of the view that we are moving closer and closer and faster and faster to an agreement we can put to the people at the beginning of May." There is, he said, "a surprising amount of agreement on a number of issues. The parties have reached the stage where they could 'bank' a fair part of what could form an agreement and then work on outstanding issues." *Irish Times* 2 March 1998. A few days later he waxed even more enthusiastically about developments. Speaking at the University of Galway, he said the parties had reached "a surprising amount of agreement on many crucial issues. "Despite the recent violence from those outside the process who are opposed to compromise and pessimism from those with only destructive criticism to offer, he went on," there is a feeling among the political parties that the time has come to finalize a deal." *Irish Times* 5 March 1998.

In contrast, the *Irish Times'* Northern Editor, Deaglan de Breadun reported that: "The atmosphere in the talks has been described as one where the parties exchange opinions in the knowledge that their real audience is not one another but the civil servants and government ministers who are listening, taking note and trying to work out a set of proposals everyone can live with. There was no real negotiation taking place: 'The sense is almost palpable that we're not negotiating. We're trying to sell our case to others who are going to do it for us.'" *Irish Times* 25 February 1998.

³ According to *Irish Times* correspondents: "Talk insiders say the optimism of the governments is not reflected at inter-party level. UUP sources said they had not held a bilateral in which serious negotiations took place with the SDLP for about six months. 'The two governments are making it up.'" *Irish Times* 25 February 1998.

that any proposals presented as a *fait accompli* might run into opposition on all fronts.⁴

In an interview with the *Irish Times* on 28 February the Northern Secretary Dr. Mo Mowlam “was at pains to emphasize the responsibility of the parties themselves to negotiate, and the role of the two governments to facilitate agreement between them.”⁵

In a sense, however, both governments have already committed themselves to a subtle

At a press conference in Dublin on 5 March, Gerry Adams warned about the over-optimism about the Northern talks being concluded at their May deadline: “I could not share the optimism of the two governments unless the British government bends its will to the type of fundamental changes which are required. This would include policing, which many people believe goes to the core of the conflict.” He said any change would have to “irreversibly” change the situation in the North in a “very fundamental way” and would be seen “as part of a rolling process.” *Irish Times* 6 March 1998.

On 9 March, Sinn Fein issued a new discussion paper, *A Bridge to the Future*, which sets out its minimum requirements for any political settlement. These include North / South bodies with executive powers, the disbanding of the RUC, the withdrawal of British troops, the definition of the national territory of Ireland in terms of a 32 county state. Commenting on the paper Adams said: “Whatever agreement is produced by this talks process, it will be judged on whether it effectively tackles and removes the causes of conflict, and whether it moves us all, as part of a rolling process or on a transitional basis, towards Irish unity and independence” (my ital.) *Irish Times* 10 March 1998.

Reg Empey, a senior UUP negotiator “accused the British and Irish governments of exaggerating the amount of progress being made at the talks.” *Irish Times* 7 March 1998.

Steven King, special adviser to the UUP Deputy Leader John Taylor, writing in the *Irish Times* said: “At this stage the tendency among the UUP delegation is to shrug their shoulders when they hear the governments talking up the tremendous amount of agreement. It is obviously expedient for London and Dublin to pretend that this consensus exists and that a week in the sun will simply allow a few ends to be tied up.

“The truth is that considerable, if not insurmountable, differences remain between the UUP and the SDLP and the Irish government, and if Frank Millar [one of the *Irish Times*’ main analysts on Northern Ireland] is correct about Sinn Fein’s centrality to the process, no amount of sangrias or shots of Bushmills will bridge the gulf.” *Irish Times* 9 March 1998.

Meanwhile, the Northern Secretary, Dr. Mo Mowlam said that a peace agreement was within reach. “The parties want it, the people want it, and the two governments want it. They are seizing this real chance despite the attempts of others to prevent it.” she said. *Irish Times* 9 March 1998.

⁴ See Frank Millar, *Irish Times*, 27 February 1998. Media reports, encouraged by both governments convey the impression that the two are working hand in glove. Yet, Millar reports that “[Irish] government sources had confirmed they were working on a draft agreement and were proceeding on the assumption that Britain was doing likewise, although Downing Street had apparently assured Mr. Trimble this was not the case.” *ibid.*

⁵ Frank Millar interview with Dr. Mowlam, *Irish Times* 28 February 1998.

but unmistakably crucial shift in emphasis with regard to the *outcome* of the problem, one that signals a fundamental reinterpretation of the nature of the conflict on their part.

Rather than seeing peace as an outcome, it is seen for what it is--largely illusory, something that might emerge down the road, or at the end of a highway with no off-ramps, if an agreement is forthcoming and is given the political ground to take root.

There is a deeper appreciation that the conflict itself reflects mirror images of intersecting social phenomena; that it is not susceptible to what, in the nomenclature of "normal" societies, would be rational explanation to say nothing of resolution, but rather that it is the ritual re-enactment of existential internecine communal discord, where the discord itself provides the lifelines for the identities of both communities. *Peace is seen as a desired outcome of the process, but not necessarily the defining one.*

Hence, "settlements" must be addressed in terms of their capacity to minimize the opaque transgressions of the cultural and political norms the two communities use to measure their differences, especially the intangible ones. The two governments must, above all, distinguish between traditional forms of conflict and protracted ethnic conflict. Implicit in the case of the former is the assumption "that the disputed resources, goals and interests are negotiable and that a compromise is achievable within the existing balance of power between the parties."⁶ No such assumptions are even remotely implicit in the latter.

When the talks process got underway, neither government entertained such hard-to-swallow realities. The premise underpinning the talks was that if all parties in Northern Ireland could be brought into a negotiating process, under conditions of their being a level playing field *i.e.* that all would foreswear the use of violence to achieve their political objectives, they would thrash out some form of accommodation in which no side

⁶ Rouhana, Nadim N. and Kelman, Herbert C. "Promoting Joint Thinking in International Conflicts: An Israeli-Palestinian Continuing Workshop." *Journal of Social Issues* Vol. 50. No.1.1994. pp.157-178.

would be perceived as a clear winner, but as importantly, no side would be perceived as a clear loser. The two governments would provide the frameworks to guide deliberations; but it would be up to the Northern Ireland parties themselves to give *content* to the frameworks. Having been provided with the floor plans for the building, they would sketch their competing designs and mold them into a single architectural composite. Governments would play the role of *draughtsmen*; political parties assume the mantle of *architects*.

However, in the real world of the thrust of give-and-take of politics, it has become egregiously clear that the would-be architects are not only hopelessly at odds over the design of the political edifice they were contracted to construct but are incapable of even lining up the negotiating bricks.⁷ Mary Holland, perhaps the most perceptive commentator on Northern Ireland, recently observed that : “The hope that the local parties could prove capable of negotiating their own structures has proved illusory. The mantra of successive British governments that decisions about the future were a matter for Northern Ireland’s politicians has been quietly dropped. This may well turn out to be the most important development to emerge from the frustrations which have dogged all parties to the talks.”⁸

The *modus operandi* of the two governments in the coming weeks may provide a better

⁷ See Suzanne Breen, *Fortnight* No.368: “After five months there is no sign that our politicians, by themselves, will ever reach an historic compromise....At every stage, it has been London and Dublin breathing life into the process. It would have floundered a long time ago if the parties had been left to their own devices.” Mary Holland in the *Irish Times*: “The Northern Secretary, Mo Mowlam, has urged the parties to take ‘ownership’ of the process. But what is needed, more urgently, is that the two governments demonstrate that they have a clear strategy and that they will not be deflected from it by whoever seems to be adopting the more threatening posture at any given moment.” *Irish Times* 29 January 1998.

Mary Holland again: “The two governments are determined to have the shape of a deal worked out by Easter....Every attempt will be made to get the agreement of the parties to this, but Dublin and London are now driving the process.” *Irish Times* 26 February 1998. And the *Irish Times* opinion leader. “During the next six weeks, the two governments, in association with the United States administration, will bring all of their influence and persuasion to bear on the parties in an attempt to reach an historic compromise on a three-stranded political settlement. *Given the yawning gulf that separates the various negotiating positions, particularly those of the Ulster Unionist Party and Sinn Fein, the task will be extraordinarily difficult.*” (my ital.) *Irish Times* 28 February 1998.

⁸ *Irish Times* 26 February 1998

indicator of how a post-agreement Northern Ireland will be run than the actual provisions of the agreement itself, if one manages to stumble out of the political undergrowth that is choking the process.

Besides, it is the essence of processes set up to deal with “intractable” conflicts to “park” the most contentious issues until “crunch” time *i.e.* the last moment. Unfortunately, in the case of Northern Ireland most of the major issues are highly contentious -- a power-sharing Assembly for Northern Ireland; the extent, and most important, the executive remit of all-Ireland bodies, London/Dublin relationships, police reform, who has responsibility for security, the ‘equality’ agenda, amendments to the Irish constitution and countervailing British legislation regarding sovereign claims to the territory Northern Ireland, whether the settlement is permanent or transitional, the definition and scope of the principle of consent both in the immediate and longer term⁹ -- and given the additional constraint that *nothing is agreed until everything is agreed*, “crunch” time is likely to produce either a series of “quick and dirty” trade-offs or stalemate.

At this point, every party knows what its bottom lines are; each has invested an immense amount of energy and time in what for the most part has been arduous drudgery, but investments once made, even bad ones, are hard to walk away from, and the threat of being labelled the spoiler, the party whose intransigence brings to naught the efforts of all has a powerful psychological impact on the stakeholders. Better go along with the herd than to stand accused of being responsible for driving the herd over the cliff. The art of successful negotiation, according to one of the world’s most successful practitioners, is the art of selling-out your constituency while bringing the constituency along with you.¹⁰

Whatever emerges will be cobbled together at the last minute with more reluctance than enthusiasm, the calculus of the lowest common denominator of aspirations, more the product of pressure than of pragmatism, punctured somewhat by the knowledge that the

⁹ See page #31

¹⁰ Cyril Ramaphosa, former Secretary General of the African National Congress, who was chief negotiator for the ANC during the South African negotiating process 1991-1996.

agreement itself will not bring peace nor a cessation of violence, nor an end to sectarian confrontations. **A cobbled-together settlement, perhaps; a copperfastened settlement, no.**

The extremes -- Continuity IRA (CIRA), the Irish National Liberation Army (INLA), dissident elements of the IRA as yet unnamed, and the Loyalist Volunteer Force (LVF) -- will continue to try to undo by violence what has been achieved by either grudging give-and take or under the duress of two governments yielding the Big Stick.

But -- and this is the crux of the matter -- if Sinn Fein can hold the constitutional ground it has now staked out and hold IRA defections to a minimum, it can bolster the shaky center and give the settlement a chance. But settlements, it should be remembered, are not solutions.¹¹

Three recent polls suggest an endemic ambivalence about constitutional questions, a flexibility on the part of Catholics that has no counterpoint in the Protestant community, and an inflexibility among Protestants regarding any association with the rest of Ireland that borders on the pathological, and which suggest that Catholics are willing to reach an accommodation with their coreligionists on grounds that have less to do with the ideology of historical nationalism/republicanism than with an accommodation on issues relating to equality -- the so-called equality agenda. They want to be seen as equals in a society that has historically treated them as suspect citizens, as the enemy within whose

¹¹ It is a "major worry" to the Irish police that dissident republicans will regroup to become a significant terrorist threat, according to Garda Commissioner, Mr. Pat Byrne. "It's quite evident," he said that the level of experience available to these people who have carried out attacks has led to a certain level of sophistication. As time progresses, the cohesion may become more evident. [Those responsible for recent bomb attacks] are whether you call them splinter groups or sinister elements or whatever, it is a fact that they are from the republican family." Moreover, "There has been a progressive 'upping of the ante' in relation to attacks, with a more concentrated and continuous effort being made by these elements. And the closer we get to a resolution the more it's in these people's interests to destabilize the situation." *Irish Times* 26 March 1998.

"...security and republican sources agreed that IRA dissidents are posing an increasing threat to the peace process....The IRA members who withdrew their loyalty to the leadership last year are believed to have been responsible for recent mortar attacks...[some] republican sources say they pose a major threat to the leadership. "They have shown what they are capable of and the leadership are very, very worried,"" said

sole interest is perceived in terms of their being hell-bent on destroying the state rather than accepting, albeit grudgingly, its existence if they are afforded the rights of the equality of their tradition, and an acknowledgement of their nationhood. They want the rights of equal citizenship, of being Irish, of a minority whose concerns are regarded as legitimate as the concerns of the majority, where the political and judicial machinery is in place to ensure that equality, which is prepared to take remedial measures where it is not.

The first poll covered five areas: aspects of a settlement that were most important to Protestants and Catholics, Internal Structures (Strand One), North/South Relations (Strand Two), East/West Relations (Strand Three), and Constitutional Issues. The survey was conducted in December 1997, and must, of course, be read in the context of developments that have since occurred, resisting, of course, the temptation to ask: what developments. In order to tease out subtleties, interviewees were asked to draw distinctions between what they considered to be essential, desirable, acceptable, tolerable, or unacceptable with regard to each of more than two hundred propositions that might form part of a lasting settlement.¹²

one. *ibid*

“On the other hand, one worrying element has been the LVF’s acquisition of commercial explosives, probably from other loyalists. The LVF’s bombs are still technically crude, but are improving. It is almost certain that they will try to attack a target in the Republic.... Those paramilitary groups currently allowing the process to go forward are the Provisional IRA (PIRA), the Ulster Defence Association (UDA), the Ulster Volunteer Force (UVF), and the Red Hand Commandos (RHC).

“While these groups keep their cease-fires it would appear that any political settlement should have a good chance of success. However, according to senior security sources, there are signs that these groups have become increasingly edgy recently.

“Usually reliable sources say that PIRA, UVF and UDA have been secretly ‘targeting’ each other’s members again, in anticipation of a break in one or the other’s cease-fire. The same type of activity preceded the last cease-fire breakdown.

“There are concerns that the PIRA cease-fire is the most likely to break – possibly before the summer... *Irish Times* 30 March 1998.

¹² The poll was carried out by three academics for the Fortnight Educational Trust and carried out with facilities provided by the Institute for Irish Studies at Queen’s University and with finance from the Rowntree Charitable Trust. The sample consisted of 1,000 individuals, interviewed in their own homes, only 8 per cent of whom refused to respond. The questionnaire was the outcome of a year of discussions with the ten parties represented at that time in the talks forum.

According to Tom Hadden, Professor of Law at Queen's University, and one of the outstanding analysts of the conflict for thirty years, the results clearly show a number of things:

- With regard to aspects of a settlement most important to both communities: 81 per cent of Protestants and 82 per cent of Catholics considered *the disbanding of all paramilitary groups* as either essential or desirable; 91 per cent of Catholics and 67 per cent of Protestants thought a *Bill of Rights to ensure equality for all* essential or desirable. Also of priority to both communities was the inclusion in the Bill of Rights of "*provisions to protect the culture of each community.*" With regard to security, 89 per cent of Protestants and 58 per cent of Catholics regarded "*stronger anti-security measures*" either essential or desirable. Majorities in both communities also supported "*the right to peaceful demonstrations and parades.*"
- The items on which there was the most disagreement were: "*the integration of Northern Ireland into the UK,*" essential or desirable to 57 per cent of Protestants, but unacceptable to 65 per cent of Catholics; "*completely reforming the police,*" essential or desirable to 83 per cent of Catholics, but unacceptable to 53 per cent of Protestants, and "*ending the Republic's claim on Northern Ireland,*" essential or desirable to 81 per cent of Protestants, but unacceptable to 59 per cent of Catholics.
- With regard to policing, there are clear-cut differences between the two communities on the name of the RUC, its emblems and symbols, and on police membership of loyal orders, such, for example, the Orange Order. What Catholics regard as essential changes in these areas, Protestants reject as unacceptable. Nevertheless, while Protestants unreservedly reject disbanding the RUC to create a new police force, they could accept or at least tolerate the creation of new community policing units either as part of or separate from the RUC.

Hadden's concludes: "These results suggest that the protection of individual rights must figure prominently in any generally acceptable settlement and that new structures for

government are relatively low on the priority list.” But, he is at pains to point out: “New structures and some compromise on the most divisive issues are in practice necessary to achieve the conditions in which rights can be effectively protected.”¹³

- On Strand One issues, 86 per cent of Protestants and 80 per cent of Catholics considered *an elected Assembly* at least acceptable, although only 40 per cent of Catholics considered it essential or desirable, reflecting the lingering memories of the old Protestant-dominated Stormont regime. With regard to the nature of the Assembly, 75 per cent of Protestants and 79 per cent of Catholics found it at least acceptable for *the Assembly to have the power to make laws*; 74 per cent of Protestants and 67 per cent of Catholics also found it at least acceptable that *members of the Executive should be in proportion to party strength*, while 70 per cent of Protestants and 57 per cent of Catholics considered it essential or desirable that *the leader and deputy leader of the Assembly should be directly elected by the membership*, and that one should be drawn from each community.

That there will be an elected Assembly, in the event of an agreement is not in doubt. What remains to be worked out however, is how it will be elected, the extent of its remit, whether it will have powers to enact legislation, and most important, how decisions will be agreed on.

- The responses to questions on Strand Two, encompassing the nature and extent of *North/South relations*, once again exposed this issue as *the Achilles heel* of the attempts to formulate a broad-based acceptable settlement. More than 50 per cent of Catholics thought it essential to have North/South bodies for consultation and co-operation and 67 per cent thought it essential or desirable for them to have administrative or all-Ireland powers. In contrast, having North/South institutions with all-Ireland powers was unacceptable to 70 per cent of Protestants and giving them administrative powers was tolerable to just 51 per cent. When the question of

¹³ *Fortnight* February 1998 No 368

North/South bodies having consultative or co-operative functions was put to Protestants, both were acceptable to more than half, but only desirable to one-third. Subjecting any North/South body to the joint control of the Dublin Parliament and the Northern Ireland Assembly was considered at least acceptable to 78 per cent of Catholics, but again to only 51 per cent of Protestants, and while a provision that all decisions of North/South bodies should be reached by unanimity was at least acceptable to 67 per cent of Catholics, again only a small majority of Protestants -- 53 per cent -- were prepared to countenance such an arrangement.

- On the question of what matters might come under the remit of North/South bodies, Protestants could accept their involvement in matters relating to the environment, agriculture, fisheries, tourism, health services, roads, public transport, communications, water, gas and electricity, and trade.
- In a pinch, they could just about tolerate their involvement in industrial development, training and employment, broadcasting, social services, education and human rights, and joint representation in Europe. But, as the former Taoiseach Dr. Garret FitzGerald points out: "...[while] this is a very wide range of activities, the fact that involvement of North/South bodies would be individually acceptable, or at least tolerable, in each of these areas does not mean that extending the scope of these bodies to all or even most of them would be accepted or tolerated."¹⁴ Indeed, it is safe to assume or at least to posit that as the proposed number of activities that might come under the auspices of North/South bodies increases, Protestant acceptance or toleration would drop commensurately.
- The idea of a *Council of the Isles*, made up of members of the Assemblies in Northern Ireland, Wales and Scotland, and the two governments was at least acceptable to 72 per cent of Catholics, but, in keeping with Protestant attitudes regarding relationships with entities outside of Northern Ireland, only 52 per cent were at best supportive of

¹⁴ *Irish Times* 14 February 1998.

the idea.

- On the issue of constitutional change, 56 per cent of Protestants and 59 per cent of Catholics accepted the *replacement of Articles 2 and 3 of the Irish Constitution to make unity subject to the consent of a majority in Northern Ireland, and for a similar provision in the constitution of Northern Ireland*. More surprisingly perhaps, was the finding that *both communities could accept the replacement of the present constitutional status of Northern Ireland as part of the United Kingdom by a provision for full and guaranteed rights to British citizenship for all members of the unionist community in the island of Ireland. And Catholics would accept, and Protestants tolerate the replacement of the South's constitutional claim over the North by full and guaranteed rights of Irish citizenship for all members of the nationalist community in Northern Ireland*¹⁵
- There was, not unexpectedly, strong opposition from Protestants to joint authority: 75 per cent found it unacceptable, and repartition was opposed by substantial majorities in both communities -- to 68 per cent of Protestants and to 69 per cent of Catholics.
- The responses to another question -- whether any settlement should be final or subject to periodic review --put the spotlight once again on the insecurities of Protestants. While 79 per cent of Catholics thought that any settlement should "allow for an *interim agreement* that can be reviewed after a period of time," this was acceptable to only 51 per cent of Protestants.¹⁶

This question, of course, is bound to surface before negotiations come to an end, and it is one that is of paramount importance to republicans. Gerry Adams speaks in terms of an

¹⁵ *ibid.*

¹⁶ *ibid.* Hadden remarks regarding the responses to the review question: "Agreement on an interim constitution was an integral part of the settlement process in South Africa; but the final constitution was subject to certain basic principles agreed at the onset. A similar approach to the drafting of an interim and final constitution might help to assuage fears of the unknown on both sides."

agreement that is “part of a rolling process,”¹⁷ the British and Irish governments in terms of “a lasting and inclusive political settlement.”¹⁸ Where the twain shall meet is, at this point, one of the many imponderables that has been conveniently left unaddressed, but addressed it has to be; otherwise ambiguity will fill the vacuum ensuring that divisions will continue to thrive, and healing to wither on the vine of equivocation.

The second poll, commissioned for BBC Northern Ireland’s *Hearts and Minds* program,¹⁹ indicates that *three-quarters of nationalists are prepared to settle for less than a united Ireland in the peace talks, that just over half of Sinn Fein’s supporters and 90 per cent of the SDLP’s would accept such an outcome.*²⁰

- As regards contact between the UUP and Sinn Fein at the talks, 55 per cent of Protestants would support contact and 45 per cent would oppose. On the more narrow question of whether David Trimble, leader of the UUP should meet with Gerry Adams, leader of Sinn, Protestant reaction is split down the middle with just 50 per cent of Protestants saying he should.
- Two-thirds of interviewees support a power-sharing Assembly and a Bill of Rights. But divergence of opinion emerges on the question of *a North/South body with executive powers* -- 47 per cent would favor such a body and 53 per cent oppose. However, these figures do not reveal the extent of the cleavage between the two communities. *While the proposal is supported by 84 per cent of Catholics, it finds support among only 22 per cent of Protestants.*

¹⁷ See footnote # 35.

¹⁸ See joint statement the Anglo-Irish Inter-Governmental Conference issued on 5 March. *Irish Times* 6 March 1998.

¹⁹ The survey was conducted by Coopers & Lybrand and is the largest ever conducted in Northern Ireland with more than 1,600 people interviewed across the 18 parliamentary constituencies.

²⁰ Asked to comment on this finding, Gerry Adams said: “It can be a very reasonable and logical position for people to say they are going for less than a united Ireland in the talks.” *Irish Times* 6 March 1998.

Perhaps the political impasse on this issue -- there is no sign of compromise on either the part of unionists or Nationalists on the question -- the escalating level of sectarian violence, or the experience of the first cease-fire accounts for *an increasing lack of belief that the IRA cease-fire will hold -- belief that it will has fallen from 52 per cent in January 1996 to 23 per cent.*

The public mood of pessimism regarding the direction the talks are taking expresses itself in the belief of 82 per cent of people who believe the actions of paramilitary groups not currently on cease-fire --CIRA, INLA, and the LVF -- could derail the whole peace process.

A third survey, commissioned by the de Borda Institute and carried out by Ulster Marketing Surveys to calculate the levels of support in the community for several constitutional outcomes, based on submissions by the parties to the Stormont talks.²¹

- The survey indicated that there is no clear consensus in Northern Ireland on a single political outcome. *It found absolute rejection among Protestants of any involvement by the Irish Government in the North's affairs. The most popular opinion was for Northern Ireland to remain part of the UK with a devolved assembly, a Bill of Rights, and no North/South bodies. The second most popular choice was for Irish unity with a new written constitution, and a Bill of Rights. However, as a basis of consensus this was the least successful proposal.*
- The de Borda Institute states: "Sinn Fein have made no headway in persuading unionists to support a united Ireland. While this is the second --most popular first-preference option, it is the least preferred option of by far the largest number of respondents." As a basis for consensus it commanded only a 29 per cent support level.
- The survey concluded that while the North remained divided on the constitutional

²¹ Over 1,000 people took part in the survey.

option, Northern Ireland remaining part of the UK with a devolved assembly involving “power and responsibility sharing” would be regarded as the best arrangement. This arrangement would also involve North/South co-operative bodies alongside co-operation between Britain and Ireland and a Bill of Rights.

- The Assembly would possess tax-raising powers. It would also have a second House to represent civil associations such as trade unions, employers, and voluntary bodies. The survey found 58 per cent consensus for this option.
- The report concludes: “Accordingly, the referendum survey suggests that this option should be adopted as an interim measure only and that a further , more comprehensive survey should be held.
- **“In a similar fashion, the peace process will not end with the referendum in May, and some comprehensive form of dialogue will still be necessary to seek a more inclusive compromise.”** (my bolding).²²

The fact that the playing field, despite the cease-fires of all the key paramilitary organizations, has proved to be somewhat less than level -- no paramilitary group can control the more extreme splinter groups that invariably arise in situations of this kind, nor can any one paramilitary group, especially in a culture steeped in the traditions of violence, be held unilaterally accountable for actions of maverick extremists or even well-organized elements on its fringe who want to wreck the process -- is not the problem; indeed, in conflict situations of great stress, transition is invariably accompanied by an increase in violence.

The problem arises from the way in which the political parties have gone out of their way to *contextualize* the violence and use it to further drive a wedge among themselves, rather

²² *Irish Times* 24 March 1998.

than using it as an instrument to commit themselves more determinedly than ever to finding ways out of their often self-imposed impasses.

David Trimble, leader of the Ulster Unionist Party (UUP), and in many ways the key figure in the talks process, despite the high media profile Gerry Adams, leader of Sinn Fein enjoys in the United States, reduced the proceedings to one of the many semantic low points they continually manage to surpass when he argued that Sinn Fein's temporary exclusion from the talks due to the IRA being held responsible for two murders, thereby putting Sinn Fein in breach of the Mitchell Principles,²³ should be extended beyond the 9th March date set by the two governments for its readmission. He alleged a disparity between the treatment of the Ulster Democratic Party (the political adjunct of the Ulster Defence Association) and Sinn Fein (the political adjunct of the IRA), maintaining that while the IRA and the UDA had each killed three [*sic*] people, the terms of Sinn Fein's two week suspension (the UDP had been suspended for four) implied that the IRA's victims were only half as important.²⁴

No mention here that the UDP commanded less than two per cent of the Protestant vote, while Sinn Fein could claim forty-five per cent of the Catholic vote. No consideration to the fact that without the participation of Sinn Fein there can be no lasting settlement. No understanding that in communal conflict no principle is inviolate to the point where it becomes an impediment to progress, that elasticity of interpretation rather than literal adherence to the imperfections that words try to conceal is called for. No taking into account the fact that when parties to a conflict finally begin to warily circle each other in an attempt to square their differences, violence invariably increases, as those most

²³ The Mitchell Principles, *inter alia*, require that all parties to the talks process renounce the use of violence to achieve their political objectives. Unless a party was prepared to adhere to this principle, it did not qualify for participation in the talks. Furthermore, political parties aligned with paramilitary organizations --the Ulster Democratic Party (UDP), the Progressive Unionist Party (PUP), and Sinn Fein (SF) are held accountable for the actions of their respective paramilitary wings, and acts of violence committed by the latter are grounds for expelling their political counterparts from the talks.

²⁴ *Irish Times* 26 February 1998. Indeed, Trimble appeared to go further. Emerging from a meeting with British Prime Minister Blair on 27 February, he reiterated that Sinn Fein's scheduled re-entry of 9 March was too soon, and repeated his earlier threat of disruptive action should Sinn Fein resume its place at the conference table on that date. *Irish Times* 28 February 1998.

threatened by the prospect of change or most ideologically committed to their positions resort to violence either out of a sense of impending betrayal or impending loss of power. The “miracle” in South Africa is much alluded to; less alluded to are the devastating levels of violence that accompanied the transition prior to the elections in April 1994. Indeed, more people were killed between 1991-1994, the years of transition and negotiation, than in any three years of apartheid’s forty three-year reign of oppression.

For its part, Sinn Fein adamantly and angrily refuted the allegations of IRA involvement, threatened court action to challenge its temporary expulsion, and came up with a slew of conditions that would have to be met before it would resume its place in the process, including a prior meeting with Blair.²⁵ And true to its word, Sinn Fein negotiators did not return to the Storming on the 9th, since no meeting with Blair had taken place. Whether, in fact, Sinn Fein would rejoin the talks, it further announced, would only be decided after the party met with Blair.²⁶ And, of course, after all the posturing, they did.

Although the evidence convincingly pointed to the IRA’s involvement, the IRA did not “own up” to the murders. (Owning up to the murders your organization commits is more or less a matter of honor in Northern Ireland, regardless of the gruesomeness of the acts

²⁵ Five days before they were eligible for renewed participation in the talks, Gerry Adams was still insisting on a meeting with Blair “to get assurances” before deciding to return to the peace talks. *Irish Times* 4 March 1998. Blair indicated he would meet with Sinn Fein, but only after they rejoined the talks. Scheduling difficulties appeared to rule out a meeting on the 10th while Adams departed for the United States on 11th According to the *Irish Times*, “In the absence of an encounter [between Blair and Adams] before Monday [9th March] it is unlikely that either Mr. Adams or the party’s chief negotiator, Mr. Martin McGuinness will attend the talks then. However, it is possible that Sinn Fein officials will.” *Irish Times* 6 March 1998. When Blair did not accede to their request before 9 March, Adams, McGuinness and other senior party figures decided not to attend the talks in the week prior to everyone’s departure for the United States. The party said it would not make a decision on whether to rejoin the talks until it met with Blair. *Irish Times* 9 March 1998.

Unionist leaders reacted angrily to Blair’s decision to meet Adams (although he met with UDP leader Gary McMichael after that party was readmitted to the talks) Ken Maginnis, one of the UUP’s senior negotiators and the party’s spokesperson on security matters described it as “foolish.” He said: “There is still some degree of wishful thinking as far as the administration and indeed the Prime Minister is concerned. They believe that somehow Sinn Fein want to be part of a political settlement. Those of us who come from Northern Ireland know that is not the case.” *ibid*.

and even if they are “mistakes.” Paramilitary organizations, especially the IRA, see themselves as “armies,” and like to adopt the trappings of armies; and since legitimate, “disciplined” armies give an accounting of their military actions, even when they go awry, the paras feel bound by a similar sense of *noblesse oblige*).

No one would take issue with the proposition that the Mitchell principles were a necessary prerequisite for the cease-fires that followed, since there was no political or moral reason for parties committed to non-violence to sit at the same table with parties committed to the use of violence, and no political or moral suasion that could be advanced to compel them to. Besides, since the conflict could not be construed by any stretch of the imagination as being a mass-backed revolutionary uprising where the oppressed struggled to oust their oppressors, for either the British or Irish governments to countenance negotiations under circumstances of virtual duress would have been met with the furious clamour of public disapproval. It would simply have been seen as capitulation to the small minority who believed that only violence would “force” the enemy to the table. It would have irreparably damaged the political and moral standing of any government that advocated such a course of action.²⁷

The brouhaha with Sinn Fein also raised yet again the nature of the symbiotic relationship between the IRA and Sinn Fein. Sinn Fein insists that it does not speak for the IRA (it draws almost theological distinctions between being in a position to talk *to* the IRA and being able to speak *for* the IRA: to having *influence with* the IRA and having *control over* the IRA. Both governments regard Sinn Fein and the IRA as being virtually interchangeable with leadership structures that dovetail; that in fact Sinn Fein *does* speak

²⁷ The situation in Northern Ireland should not be confused with the situation in South Africa. There, President de Klerk released Nelson Mandela and unbanned the ANC without any prior undertaking on their part that a suspension of the armed struggle would follow. Indeed, Mandela persuaded his colleagues to unilaterally suspend the ANC’s armed struggle only months after his release in order to give De Klerk some breathing space, thus opening the way to substantive negotiations. Moreover, whereas the ANC spoke for the overwhelming number of Blacks, and was the instrument and voice of the masses in a war of national liberation. Neither Sinn Fein or the IRA could claim such a mandate on behalf of the people of Ireland, although they assumed to. One should also distinguish between “contacts” between the IRA and the British government, which happened periodically to test the waters, and negotiations which necessarily would have had to involve all the political parties in Northern Ireland, or at least those that represented the critical mass of the population.

for the IRA; all protestations of Sinn Fein to the contrary are treated with the proverbial grain of salt. After Sinn Fein was held to account for the IRA killings that led to their exclusion from the talks, Martin McGuinness vehemently denied Sinn Fein's involvement and went to great lengths to emphasise again and again that Sinn Fein was not politically accountable for the actions of the IRA *i.e.* that the IRA was an autonomous body that made its decisions without regard either to or in consultation with Sinn Fein, that there is "no organic root" between Sinn Fein and the IRA²⁸

It may well be that there is some truth in this statement, but whatever the truth it is an issue on which the IRA itself is conspicuously silent. There has been no disowning of Sinn Fein on its part -- the cock has not crowed three times. Indeed, the rules of the Movement call for an organizational structure which makes Sinn Fein subordinate to the IRA in the hierarchy of command,²⁹ and whatever Sinn Fein says to the contrary, many of its leading negotiators have been inextricably linked to the IRA at some point in their careers.³⁰

²⁸ At a press conference on 16 February, Martin McGuinness said his party was not "politically accountable" for any IRA action or the action of any armed group. His party, he said, was responsible for bringing about a process of negotiations "which will end all armed actions by all armed groups in our society." He added: "There are no organic roots between Sinn Fein and the IRA." *Irish Times* 17 February 1998.

He also intimated that the Dublin government did not back the call for Sinn Fein's expulsion. But the Taoiseach Bertie Ahern "was emphatic in dismissing suggestions that the governments were divided in their approach to the matter." *Irish Times* 17 February 1998.

Moreover, on 23 February, Ahern went out of his way to say that "he had to work extraordinarily hard" to ensure that the exclusion from the talks process was for just two weeks. He said he hoped nobody would underestimate how formidable that work had been." *Irish Times* 24 February 1998.

According to Denis Coghlan, Chief Political Correspondent for the *Irish Times*: "While Sinn Fein has vociferously protested its separate nature within the republican movement, the IRA has not been so technical. In setting out the terms required from the British government for its current cease-fire, it listed the early admittance of Sinn Fein to the talks process. It clearly regarded Sinn Fein as its voice, no matter what the political wing said. And, within the rules of the Movement, Sinn Fein is required to take direction from the IRA." *Irish Times* 18 February 1998.

In terms of popular belief, the man in the street makes no distinction between the two, and is, if anything, depending on his political persuasion either angered or amused at Sinn Fein's attempts to separate itself from the IRA.

²⁹ *Irish Times* 18 February 1998

³⁰ *Irish Times* 17 February 1998

It also may be a quasi-truth the two governments choose to ignore, or at least are in denial of, since it is more comforting at this point for both to believe the opposite. First, the dynamics that drive policy decisions and political calculations are driven by the governments' belief or knowledge that the two organizations are twins in drag. Second, there has been no division of opinion between the two governments on the question of the relationship, despite their considerable and public differences on other issues over the years. Third, it is the reason why both governments spent so much time trying to "woo" Sinn Fein into the process. Fourth, the early admission of Sinn Fein into the negotiating process was a precondition for the IRA's second cease-fire,³¹ which in the non-existence of any "organic relationship" between the two would appear capricious in circumstances that suggested otherwise. And fifth --and most important -- both governments are depending on Sinn Fein to "sell" whatever settlement might emerge from the miasma of confusion, contradiction, and outright contrariness that has characterized the talks proceedings to the IRA.

Despite Sinn Fein's protestations, it was a foregone conclusion that it would be excluded from the talks for some period. Had it not, the Ulster Unionist Party (UUP) would simply have walked out, setting the stage for a far greater crisis. However, because of the timing of the incident -- the days the parties spent in Dublin for talks on Strand Two -- Sinn Fein's machinations to extricate itself from the mess it found itself mired in dominated the political agenda. It prevented serious discussion in the Strand Two talks. The three days of scheduled talks in Dublin were to have prodded the willingness of the various parties to accept North/South bodies with executive powers. "But Sinn Fein's tactics prevented any discussion of those matters in its absence and the SDLP was consigned, once again, to the role of onlooker."³²

³¹ *ibid.*

³² *Irish Times* 18 February 1998.

For many unionists, the Dublin trip was a “waste of time.”³³

Ironically, however, because of Sinn Fein’s vehement insistence that there is “no organic root” between Sinn Fein and the IRA, that Sinn Fein is an organization wholly committed to peace and to the achievement of its political objectives by peaceful pursuits may mean that it will fall to Gerry Adams to play the role of FW de Klerk rather than Nelson Mandela. For it will be he who will have to sell to his followers -- and of far greater importance to the IRA Army Council -- the fact that a united Ireland is not in the cards either now or in the foreseeable future, that the Republic’s claim to Northern Ireland as part of its national territory is being dropped, that the *raison d’etre* of republicanism itself -- Northern Ireland as an illegitimate state -- has lost its essential ground of being.

But he, and other senior members of Sinn Fein who have formed the vanguard of their peace initiative have, it would appear, made their choice -- even if the agreement, if an agreement emerges, is not to their liking, or even if they should oppose one that does emerge, they will cast their lot with the constitutional politics they have wrapped themselves in -- their vehement protestations that there is “no organic root” between Sinn Fein and the IRA is something they cannot be repudiate, if they ever wish to be taken seriously again.³⁴

And if they sustain their position, even in the reality of an outcome not to their liking, then further disputation regarding their *bone fides* is merely further grounds for the kind of dissembling that has been an historical analogue of the conflict. Of course there will be defections, but the odds at this point, is that they will be “containable.” Or, then again, perhaps the odds are not.

³³ *Irish Times* 17 February 1998

³⁴ See footnote # 24.

See also, *A Bridge to the Future*, by Gerry Adams in which he reiterates that “Sinn Fein is totally wedded to the search for a democratic peace settlement. Sinn Fein has no exit strategy.” A summary of the document is published in the *Irish Times* 13 March 1998.

But Sinn Fein has set its markers. Writing in *Ireland on Sunday*, Adams gave advance notice to his constituency that the present peace talks would not lead to a united Ireland, but vowed in no uncertain but non-militaristic terms that Sinn Fein remained committed to republican objectives (*i.e.* to a 32-county republic), and would view ***“any agreement in this phase as being part of a transitional process to Irish unity.”***

Sinn Fein’s “bottom line” for a settlement includes powerful cross-Border bodies with executive powers, operating independently of any new assembly set up in the North. Policing and the courts must come within the remit of the new all-Ireland institutions. The RUC must be disbanded; the British army withdrawn; and all paramilitary prisoners released.

Sinn Fein is also requiring that the proposed Bill of Rights be guaranteed by a new “all-Ireland constitutional court.” It is also demanding voting rights for Northerners in Southern elections, and insists that any changes to the Irish Constitution do not dilute the definition of the Irish national territory.³⁵

³⁵ *Ireland on Sunday* 7 March 1998.

Trimble dismissed Sinn Fein’s minimum requirements for a peace deal in the North as unrealistic. He said: “Mr. Adams and Sinn Fein are simply out of court. The views they put forward are not serious and are not realistic. I don’t think Sinn Fein are seriously engaged in these talks. They are certainly not trying to achieve agreement.” *Irish Times* 9 March 1998.

The Irish government has indicated that it is ready to drop the definition of the national territory if there is an overall agreement on a political settlement for Northern Ireland. Articles 2 & 3 of the constitution which assert the Republic’s claim to the 32 counties of Ireland as the country’s sovereign territory would be replaced. The Irish nation will be defined in terms of its people rather than its territory in the new wording of Article 2; the new Article 3 will enshrine the principle, while expressing the “wish of the Majority” of the people in Ireland for a united Ireland. “It is also our intention,” the Taoiseach, Mr. Ahern said, “to ensure that the achievement of a united Ireland, by agreement and consent, is, and remains, a legitimate goal, and the door to a peaceful evolution towards that will remain open.”

Government sources were also at pains to make it known that the Irish nation will not be defined in Twenty Six County terms. Aware that nationalists see Articles 2 & 3 as their “birthright,” these sources were also stressing that nationalists in the North, who see themselves as Irish, will have this reflected in the Constitution.

Sinn Fein, however, has made it clear that it is opposed to any changes in Articles 2 & 3 which diluted national sovereignty or sought to redefine the Irish national territory as anything other than the entire 32 counties.

However politically incorrect it may be to say so, the Mitchell principles have had an unintended, perhaps inescapable negative side effect: they made negotiations hostage to the arithmetic of capricious murder, giving the extremes a capacity to destabilize the process they were quick to capitalize on, and a sense of self-aggrandizement they are eager to reinforce. Before the process is wound up, anything is possible in terms of violence.³⁶

Some time ago, the Mitchell principles outlived their usefulness.³⁷ If the murder of a

On the Unionist side, Reg Empey, one of their senior negotiators said changes in the Constitution should be separate from the rest of the negotiations. "Our view," he said, "is that Articles 2 & 3 shouldn't be there in the first place. So we see that as an issue that should be resolved by the governments and separate from the rest of negotiations. *Irish Times* 7 March 1998.

When the Irish government talks about changes in Articles 2&3, it does so in the context of "balanced" constitutional change in which the corresponding offset for changes in Articles 2 & 3 would be in the form of amendments to section 75 of the Government of Ireland Act (1920) which enshrines British sovereignty over Northern Ireland.

³⁶ Even as I write this sentence on 4 March, a news-flash came through that three loyalists are being questioned about the killing of two men in a bar in Poyntzpass, County Armagh the night before. Damien Trainor, a Catholic and his lifelong friend Philip Allen, a Protestant, were shot dead by two men wearing balaclavas shortly after 9.00 p.m. on Wednesday 3 March. The families of the victims were visited jointly by local MPs Seamus Mallon of the SDLP and David Trimble of the Ulster Unionist Party. Trainor and Allen had known each other since childhood. Allen had asked Trainor to be best man at his upcoming wedding.

Speaking in the Dail on 4 March, the Taoiseach, Mr Bertie Ahern, warned that further attempts to destroy the peace process could be planned. "Unfortunately, as sure as we are here talking about these issues this morning, there are others somewhere else working out their next moves - that is the brutal reality of these things."

Anti-peace process loyalist and republican paramilitaries are becoming embroiled in a sectarian battle in the area formerly known as the Murder Triangle. The attack on the Catholic bar in Poyntzpass was the expected loyalist response to republican bomb attacks on the mainly Protestant towns of Portadown and Moira the week before. *Irish Times* 4 March 1998.

³⁷ See Mary Holland: "The dithering over whether the UDP (the UDP is the political wing of the Ulster Freedom Fighters [UFF] which admitted to the murders of three Catholics for reasons that seemed pretty reasonable to the UFF at the time, but it was now pleased to announce that the dirty work was over with, and that its cease-fire was once again in full effect) should be allowed to remain in the talks is a prime example of the kind of muddle and indecision that abounds. Nobody wanted to be seen to be taking a step which might threaten the whole process and provoke further loyalist violence. Equally, no one dared to question the validity of the Sacred Mitchell Principles, although everyone knows that these have already been violated by groups linked to several parties in the talks....In other words, we have now reached a stage where the solemn adherence to the Mitchell Principles threatens to frustrate progress, but nobody is prepared to say so because of all the trouble these and other barriers to inclusive talks have caused in the past," *Irish Times* 29 January 1998.

single individual is invested with the potential of being able to bring negotiations to a halt or to be so disruptive as to undermine the basis for a settlement, then the extremes are being encouraged to do their damndest to ensure such murder occurs, and the more random the more effective. Moreover, if the parties to the negotiations have, after their months of negotiations, so little trust in each other that a murder or even a series of murders, which are likely the work of rogue elements within paramilitary organizations committed to their cease-fires or paramilitary organizations which have contemptuously rejected a cease-fire, will cut the umbilical cord that binds them however unamicably to each other. There was no basis for a process in the first place, the whole exercise has been one grand sting operation, giving credence to the often opined but rarely articulated belief that the foundations for a settlement never existed, that any settlement entered into under circumstances of such pervasive suspicion, distrust and disrespect for the position of the other will collapse when the new governance bodies, given birth to with such forebodings of abandonment, have to face their first crisis.

During the week of 17 March, in honor or lack thereof of St. Patrick, leaders from all parties converged on the White House in Washington D.C. to be wined, dined, pampered, have the requisite photo-ops with President Clinton, be privy to his private importuning to grasp this last opportunity for peace, mix with the high and mighty, and hear themselves endlessly lauded for their efforts to produce the "peace," something all enthusiastically subscribe to but few can bring themselves to face. And, given the inscrutable ways of Washington in these matters, each party also felt the iron pressure of the velvet squeeze -- get your acts together or you've enjoyed your Last Supper in the

The SDLP also tried to address the issue setting out four criteria which it believed should be applied to each incidence of violence before a political party could be expelled from the talks. First, it had to be shown that "there was a clear and unmistakable demonstration by those who asserted it that there had been a dishonoring of the Mitchell Principles." Second, it had to be shown that "it was the intention to act otherwise than in accordance with publicly stated commitments to democratic and exclusively peaceful means." Third, it had to be demonstrated that "the use of force was intended to influence the course or the outcome of all-party negotiations." And fourth, it had to be demonstrated that the acts complained of were carried out under the authority or at the direction of the party accused, or that the relationship between the two organizations was such that the party accused must of necessity be answerable for the actions of the other, in relation to the Principles." *Irish Times* 18 February 1998.

White House.

The political parties in Northern Ireland resumed talks in Belfast on 23 March for a final effort to hammer out a “comprehensive” settlement before Easter.³⁸ Senator George Mitchell, Chairperson of the talks set a deadline -- 9 April for winding -up the proceedings. Either there would be an agreement by that date or the process would be over.

In the Republic, at least, they are not yet holding their breaths: Only 9 per cent believe the May deadline for a settlement will be met, while 53 per cent said there will be no settlement in the foreseeable future.³⁹

Among the items to be agreed

The considerations within the three strands:

Strand One

- An elected Assembly in Northern Ireland
- Method of election
- The form of power-sharing:
- An Executive *vs* a committee system
- Remit: Legislative *vs* Administrative: Welsh *vs* Scots models
- What powers would be devolved?

³⁸ In Washington, before Senator Mitchell set his deadline, David Trimble, leader of the UUP said: he was “somewhat uneasy” about the way the British government was “talking up” the prospects for the Northern Ireland talks and giving the impression a settlement could be easily achieved. “There are still serious problems to be overcome. They will take hard work and a greater degree of commitment than we’ve seen from some parties. So I don’t know whether it will be done, I’m a wee bit cautious about it,” he said. *Irish Times* 17 March 1998.

Regarding the resumption of talks on 23 March, “There was,” said the *Irish Times*, “Little hope for optimism as parties return to the fray. It also added that “The mood of cautious optimism from diverse political sources was not shared by the news media covering the resumed talks. There was a time when journalists were almost the only ones with a glimmer of optimism. That situation has been reversed...SDLP sources assess the prospects for agreement at 50-50, but unlike the others, including the two governments, they characterized the recent Sinn Fein document, *A Bridge into the Future* as a hardline statement for the republican faithful” *Irish Times* 24 March 1998

³⁹ See poll in *Sunday Independent*, 29 March 1998. At the same time only one in ten say they would vote against a package that contained the key elements of an agreement, as already discussed

- Security?
- Policing?
- Taxation?
- *Catholics fear that the Assembly would turn into another Protestant-dominated body, such as ruled Northern Ireland from 1920-1972.*
- How would decisions be made: consensus; sufficient consensus; concurrent majorities?

The UUP is coming under strong pressure to agree to the formation of a decision - making executive to head the Northern Ireland Assembly, and to accept a “sufficient consensus” rule to govern the operation of the Assembly itself.

- The probabilities that Sinn Fein would run in elections for, and take their seats in such an Assembly. **Historically, a Northern Ireland Assembly, the cornerstone of an “internal solution” is an anathema to republicans.**
- What would be the *quid pro quos* be for participating?
- The trade-offs between Strand One and Strand Two.

Strand Two

- *See Attachments from the Irish Times which provide the full text of the “synthesis paper” prepared by the independent talks chairmen on North/South structures.*
- A North/South Council: for the island as a whole
- North/South structures for specific areas of authority
- Membership of: Heads of Departments? Ministers?
- Consultative/Co-operative?
- Voluntary?
- Administrative functions?
- Executive functions?
- **All-Ireland executive functions?**
- To whom would these bodies report?

The parameters of disagreement on this issue:

Framework Document vs. Propositions on Heads of Agreement

The sticking point:

- **Nationalists are adamant that North / South bodies have executive powers; Unionists are equally adamant that they do not.**

Unionists see bodies with executive powers as tantamount to incremental unification.

- Adams requires N/S bodies with strong executive powers to argue that he hasn't given the whole republican agenda away; that the struggle of the last 30 years hasn't been an exercise in nihilistic futility;
- At a minimum he needs them to argue his case for the settlement "as a rolling process."
- The IRA cease-fire has to bring some tangible benefits, that are not only there but are seen to be there.

What trade-offs?

- It is difficult to see what "stick" can be used to move the Unionists on this issue. With Sinn Fein there is little they can/will offer in terms of Strand One, since they would just as well see Sinn Fein boycott the Assembly. And Sinn Fein may well boycott the Assembly in any event. On the question of North/South bodies with all-Ireland executive powers, Sinn Fein and the SDLP will have to stand together. If not, it will signal a parting of the ways between the two, so carefully cultivated by the Hume/Adams initiative. ***There will have to be a Unionist "give" on executive powers or there will be no settlement.***

Possible areas of compromise

- Executive powers for some bodies i.e. Fisheries, where the powers surrendered are relatively minor.
- Vague wording
- See "synthesis paper." (Attachments)

To whom would North/South bodies be accountable?

- See “synthesis paper.”
- Would they make unanimous recommendations to their respective governments, and would it be binding on Belfast/Dublin to enact legislation to give expression to such recommendations?
- Unionists would like the defining relationship to be between the North/South council and the proposed Council of the Isles (Strand Three), thus diluting the role of Dublin.
- ***Unionists are adamantly opposed to the suggestion that in the event of the failure of the North/South Council to reach consensus on a particular issue that fell under its remit, Dublin and London would step in. This is the precursor to the dreaded joint authority***

Given the nature of Trimble’s support within the UUP -- as of Christmas 1997, four of his nine parliamentary colleagues wanted the UUP to withdraw from talks, while another one or possibly two sat on the fence, the reality is that he has very little room in which to manoeuvre -- a right wing dogging his every move, McCartney/Paisley looking over his shoulder; keeping an eye on the elections in June for a new Assembly where he would stand accused of having “sold-out” the Union.

Trimble has no intention of becoming another Brian Faulkner.⁴⁰ For a cautious man, Trimble has to move even more cautiously. But if he does not find a way to manoeuvre in this area, there will be no settlement. In UUP circles, his decisions not to yield to Clinton’s plea that he meet with Gerry Adams was greeted with admiration. No one was about to tell the Unionists what to do --even the most powerful man in the world. Following Trimble’s speech to the Ulster Unionists at their A.G.M. on 21/22 March 1998, Deaglan de Breadun, Northern Editor of the Irish Times, wrote that: “Speaking to senior Unionists after the meeting. It was clear that their earnest desire is still to cut a deal with the SDLP and leave Sinn Fein out in the cold. Apart from the obvious political differences, they simply do not trust the republicans and are worried that recent acts of

⁴⁰ Brian Faulkner was the last Prime Minister of Northern Ireland, elected as a result of the Sunningdale Agreement (1974). The Agreement --and his government--collapsed when militant Loyalists went on a strike, bringing the province to a halt, to express their opposition to the all-Ireland Council that was a mandated part of the Agreement. Seamus Mallon, deputy leader of the SDLP often refers to the present talks as “Sunningdale for Slow Learners.”

violence may have been sanctioned by the IRA leadership.⁴¹

Strand Three

- At first glance, appeared to be the easiest of relationships to settle.
- Since the Anglo-Irish Agreement (AIA) 1985, relationships between the two governments have improved immensely, despite the occasional hiccup.
- The fact that the present intention is for the Irish government to maintain offices at Maryfield will, if adhered to, prove to be a major stumbling block for Unionists. This would really drive Unionists to the barricades, one that could sink the ship. Their understanding is that any new agreement abrogates the AIA, and with the AIA, Mayfield.

The Council of Isles

- Initially envisioned as a body that would meet once or twice a year. UUP wants it to be a more powerful body, one to which the North/South Council would be subordinate to. Again, their aim is to dilute the role of Dublin.

Constitutional Issues

- Articles 2 & 3: The Republic's claim to Northern Ireland as part of its national territory.
- Section #75 of the Government of Ireland Act (1920): Britain's claim to sovereignty over Northern Ireland.
- Defining nationhood in terms of people, not territory.
- Including consent formula *re* North in Constitution.
- Constitution to express the aspiration to unity.

Sticking points

- Sinn Fein's insistence that the nation of Ireland be defined in terms of the whole island.

⁴¹ *Irish Times* 23 March 1998. "Senior Unionists are confident that there is a wing of the SDLP, reflecting elements in the nationalist population, which is prepared to agree a settlement in the teeth of Sinn Fein opposition. They assert that if John Hume, the SDLP leader, is prepared to turn his back on Sinn Fein, there can be a settlement; otherwise no deal."

However, if the SDLP were to abandon Sinn Fein, dissolve the Hume/Adams partnership and sign on with the UUP, what would the consequences be at the polls?

- Grass-roots resistance in Fianna Fail.

The Equality Agenda

- Bill of Rights: Individual rights vs Group rights
- Justice: Diplock Courts *et al*
- Policing: How do you reform what must be abolished?⁴²
- Release of political prisoners.

The British government proposes to set up three international commissions to look into ways to deal with each of these volatile issues. Unionists will probably find their recommendations unacceptable, and Catholics will probably find them unacceptable.

One way or the other, these issues cannot be dealt with before the 9 April deadline.

- Employment: Catholics are still more than twice as likely to be unemployed. The British government has issued a white paper outlining an ambitious plan to equalize employment levels.
- Integrated schooling
- Language and Culture
- Flags and Symbols
- Parades, and the routing of: The British government has established a Parades Commission. The fact that its membership includes two well-known "loyalists" has raised the ire of republicans, who already see the commission as being hopelessly biased. Nationalists have made their objections known to the British government, complained bitterly, but to no avail. The commission will issue recommendations regarding the routing of parades, especially contentious ones such as Drumcree, but their recommendations will not be legally binding. Meanwhile, the Orange Order has announced that it intends to "walk all" its traditional routes," during this year's marching season, raising fears of another summer of confrontation, and putting whatever new agreement might emerge in the line of its first potential torpedo.⁴³

⁴² In response to a question at the Anglo/Irish Inter-Parliamentary Body, the Taoiseach, Bertie Ahern said: "If we don't have major reform of policing, things won't work. The initial changes by the Secretary of State [for Northern Ireland] are useful, but they don't go far enough. The issue of policing in Northern Ireland has to be finalized. For the nationalist community, this is essential." *Irish Times* 31 March 1998.

⁴³ Mr. George Patton, the order's chief executive, said senior Orangemen felt betrayed by the British government after the order had called off a number of controversial parades last year. The order took this decision after the most contentious parade was allowed to go down the Garvaghy Road in Portadown, despite protests by Nationalist residents.

The Lower Ormeau Concerned Community (LOCC), says that agreement on an Apprentice Boys parade down the Ormeau Road on Easter Monday is now impossible. *Irish Times* 28 March 1998.

- Equality of traditions: no community should be in a position to dominate the other.

The imponderables

- What will the IRA and fringe elements do? Call an end to the cease-fire, if a proposed settlement is not to their liking?
- Where will this leave “Gerry and the Peacemakers”?
- Whither Sinn Fein on an Assembly?
- The matter of consent: What does consent mean? Any agreement will provide that the constitutional status of Northern Ireland as part of the United Kingdom will not change until a majority of the people in Northern Ireland want it to change. All political parties in Ireland, North and South, with the exception of Sinn Fein, subscribe to this principle – the consent principle. All, however, are equally nonplussed when it comes to defining precisely what constitutes consent. Even if Catholics were to emerge as the majority of the electorate at some point—and presuming that the vast majority of them wanted to become part of a single all-Ireland state, or even presuming that a significant proportion of Protestants were to undergo a seismic change of heart with regard to their intense antipathy to having anything to do with the Republic, the consent formula would be inoperable without the consent of a sufficiently large number of Protestants to forestall a Protestant backlash against forced incorporation into an all-Ireland state. Moreover, Protestants are more determinedly against an all-Ireland state than Catholics are for it. Simple majority consent cannot deliver what it promises. Even if 50 per cent plus one gave their consent to a united Ireland, a recalcitrant 49 per cent, say some 750,000 Protestants, would be just as much an obstacle to unity as would one million. This begs the question: *How large a majority is necessary to give expression to the consent of a majority?*⁴⁴
- How periodically will the level of consent be measured? If the level of consent of a majority is used as the yardstick that measures support for remaining in the UK, then the concept of the principle itself has to provide for some in-built mechanisms to monitor on a periodic basis what level of consent exists for the *status quo*.
- If too often, then it is a barrier to the two sides working together; if too infrequently; then the new arrangements might actually take hold, effectively eviscerating republicanism.

⁴⁴ See *A Citizens' Inquiry: The Opsahl Report on Northern Ireland*, ed Andy Pollak. (The Lilliput Press 1993: Dublin).

- Will the new arrangements be “transitional” or “permanent.”?⁴⁵
- Or “permanently transitional?”
- There will be one agreement, but it will be sold to two communities with a different message for each. One will be told it “copperfastens the Union” and abrogates the AIA; the other will be told it is part of a “rolling process,” that is going to roll all the way to a united Ireland.
- How would changes in consent in the North be reflected in the South?
- Would there have to be a corresponding referendum in the South to see whether the people there continue to “aspire”/ want a united Ireland -- attitudes there can be expected to change over time. And what if they did not want a united Ireland?
- Security: who has control of?
- Withdrawal of British troops? In the face of a rump IRA campaign of violence?
- The role of the police *re* political violence.
- Would police fall back into their old habits in the absence of swift reforms?
- What do any new arrangements do to address the Fourth Strand: Sectarianism?
- Who is looking over whose shoulder? UUP *vs* DUP: SDLP *vs* Sinn Fein.
- The language problem: opposing propensities for directness and indirectness. In the final hours when the pressure is really on, Nationalists will settle for loosely-worded, rather vague statements, Unionists will want everything spelt out in unambiguous language.⁴⁶
- Unbanning of paramilitary groups /
- Decommissioning of arms’ caches.

⁴⁵ According to the *Irish Times*: “The Taoiseach is proposing polls “every so often” in Northern Ireland on its status within the United Kingdom as part of an overall peace settlement. Government sources pointed out that provisions already existed in British legislation for such polls at 10-year intervals. Under an Act passed in 1973, a referendum was held in 1974, but it was boycotted by nationalists and the vote was overwhelmingly in favor of the status quo. Further polls were not held.

Ten year gaps are seen as too long by the Irish Government. It is felt by sources close to the Irish Government that, in the context of an overall agreement, and of demographic changes over the last 25 years, nationalists would not be likely to boycott such polls now. *Irish Times* 31 March 1998.

Unionist participants in the Stormont talks firmly rejected Mr. Ahern’s proposal. The UUP’s chief negotiator, Mr. Reg Empey said : “ The idea is one of the worst I have ever heard. It’s absolutely out of the question. We are going for an agreement here. That would put a question mark over the constitutional future of the province, which is what we are here to remove.” *ibid*.

To which the Taoiseach replied: “I have told my party we will have polls. There is no agreement on that, but you can take it that in the system there will be polls. People will have a say every so often.” *ibid*

⁴⁶ See Pdraig O’Malley, *Conflict and Religion: The Case of Northern Ireland*. Mc Cormack Institute Occasional Paper, University of Massachusetts 1993.

The key criteria for evaluating successful negotiations

Negotiate with your enemy, not your friend.

- The refusal of the UUP to meet with Sinn Fein is a fundamental breach of what is probably the immutable law of negotiations.

The actions of parties to the negotiations should not be antithetical to the objectives of the negotiations. They must engage with each other, and demonstrate by their actions that they are seriously committed to achieving the desired results.

- Instead we've had parties constantly hurdling accusations at each other; the constant invocation of the Mitchell Principles, threats of walk-out, and a contextualizing of the violence that has intermittently occurred that drove wedges between the political parties rather than the driving the process forward with a fuller commitment to arrive at an inclusive settlement. Also, parties on both sides are constantly accusing each other of bad faith, of "not being fully engaged in the process."

The importance of trust. Progress only comes when negotiating parties learn to start trusting each other. When one party addresses another, especially in bilaterals, it must do so with particular sensitivity to the other party's politics and the difficulties it may be facing with its own community -- or even within the party's own ranks. Parties must put themselves in the shoes of their protagonists. They must help their protagonists to bring their communities with them. In the end successful negotiations are not so much about bringing your community along with you, as you being able to help your protagonists bring their communities along with them. Respect for the other's positions is germane to the process.

- In two years, there is not a tincture of evidence that any progress has been made in these regards. Adams putting himself in the shoes of Trimble: What are Trimble's difficulties, and how can he mollify them? Which ones come from intra-UUP considerations, and which are bottom lines he can't deliver on?. Whither the DUP, and how could it use an agreement to maul the UUP at the Assembly elections? Trimble putting himself in the shoes of Adams: What are the extent of the divisions within the republican movement *re* peace process? If he acquiesces on consent -- as he has effectively done with his admission that there will be no united Ireland this time around, on Articles 2 & 3, on a Northern Ireland Assembly, on North/South bodies, what does he say to the IRA to

ensure the continuance of the cease-fire? What would you be looking for if you were in his shoes.?

At every level, negotiations should involve the inherent risk of compromise. Indeed, compromise is the essential ingredient of negotiations, without which there can be no negotiations. Unless negotiators understand this in the literal sense, unless they build the confidence-building mechanisms that risk-taking requires, the prospect of reaching any kind of accommodation is dead in the water. Each compromise is a building block. As parties grow to trust each other and move from one compromise to the next, with concessions, though difficult, being made on all sides, every party becomes invested in the process, each develops a stake in seeing the other succeed, a sum of mutual investments develops, which provides the cushion when it comes to the "crunch" issues.

- This process has not incubated in the last two years. The confidence-building measures never reached a critical break-through mass; compromise has always been an abstract word. To believe that it will somehow materialize in the last three weeks of talks is to engage in the most wishful of thinking --the kind Tony Blair engages in when he speaks almost reverentially of a settlement being "agonizingly close."

A lot of the blame for the risk-taking required not being forthcoming is directly attributable to the formula "*nothing is agreed until everything is agreed.*" That formula set up a poker table rather than a negotiating table, encouraging the parties to hold their negotiating cards close to their chests in the hope that trade-offs among strands would yield better results than what appeared to be on the table in any given strand. Hence, the rumblings that Trimble is playing his cards too close to his chest, or that the parties are not fully engaged in the process.

Time-tables are imperative. They concentrate minds, force participants to meet deadlines, encourage compromise, especially when progress has been made on a number of fronts, or risk the loss of progress made up to that point.

- The Stormont talks, by stipulating a single wrap-up date, oversimplified the time-frame dimension. There should have been a series of deadlines, with defined goals having to be met before parties could move on to the next part of the process.

All parties must feel an equal ownership in the process. They must regard the process as being theirs, the result of their deliberations and agreements, of their sweat and tears, that the governments are parties to the process, not the owners of it.

- In Northern Ireland, the Unionists certainly felt no “ownership” in the process as it was originally designed, since it appeared to be the brainchild of Nationalists and the two governments. Only when it came to drawing up the procedural rules and the agenda did Unionists make their muscle felt, and then they were accused of being obstructionists, of delaying for delay’s sake. All they were doing was trying to exercise their “right” to ownership. Or to establish their “right” to ownership. Sinn Fein certainly feels no ownership. Given what has already been pointed out *re* the role of the two governments, fewer and fewer of the parties feel any real ownership of the process -- the expulsions of the UDP and Sinn Fein only added grist to the mill of discontent *re* the process itself. They have ceded ownership, either willingly or unwittingly, or because of their own acute paralysis to the two governments.

There should be transparency in the negotiating process.

- At Stormont everything is done behind closed doors. The media are not allowed into Castle Buildings. No party, but especially the UUP, has prepared their constituencies for the kinds of change that may be at hand. sides of The public has been excluded from the debate, gving more credence to the whispers of “sell-out.” on both the divide.

The concept of “sufficient consensus” rather than being fixed in an arbitrary, arithmetical way must be defined more flexibly as that level of consensus that allows the process to move on to the next step or does not result in the process breaking down.

- See previous observations *re* consent.

Other issues:

- The size of the Northern Ireland Assembly.
- Where it will be located.
- The location of the North/South Council and its permanent secretariat.
- The operation and location of the Maryfield secretariat, which services the Anglo/Irish Inter-Governmental Conference following the establishment of the Assembly
- The remit for the independent commissions to report on questions of policing, justice and prisoners.
- **The “entry requirements” for parties associated with paramilitary organizations to the Assembly and North/South bodies in terms of demonstrating an enduring commitment to the Mitchell Principles of democracy and non-violence**

- This latter issue and the question of decommissioning have been moving up the UUP agenda in the final days of negotiation. Ministers are concerned that the UUP should not reinstate decommissioning as a “precondition” for Sinn Fein participation in any new structures established as part of an overall agreement

Attachment #1

THE IRISH TIMES

ON THE WEB

FRONT IRELAND FINANCE WORLD FEATURES SPORT OPINION LETTERS

FRONT PAGE

Monday, March 23, 1998

Gardai link bomb to dissident IRA members

Wide gap revealed on role of new structures



Plug into Irish-America

IRA dissidents may have made Dundalk bomb

Mitchell paper shows UUP and Government still at odds



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SF gives dissidents membership ultimatum

By Gerry Moriarty and Geraldine Kennedy

The wide gap still to be bridged between the position of the Government and the Ulster Unionist Party on the establishment of North/South bodies is revealed in the latest peace talks document.



The Michael Smurfit Graduate School of Business, UCD

Sinn Fein back talks enter crucial phase

Cross-Border structures will be discussed at a Cabinet meeting in Dublin today as the talks resume at Stormont.

UUP would back 'sensible' agreement

Though Mr David Trimble has given "broad agreement" to the principle of formal North/South structures, the latest "synthesis paper" circulated by the chairman of the Northern talks, Senator George Mitchell, just before the participants left for Washington, shows that nothing has been agreed on these structures.

Faithful stifle doubts and back Trimble

The paper, dated March 10th, sought "to identify the common ground and the main points which still appear to remain unresolved". It is published in full on page 6. It confirms that major differences still exist on the structure, membership, role, remit, functions and decision-taking and implementation powers of the proposed North/South Ministerial Council.

Paper sets out areas on joint structures

However, the UK Unionist Party leader, Mr Robert McCartney, said the paper proved that the UUP and Mr Trimble were now signing up to new North-South political structures. This was a "gigantic retreat" from Mr Trimble's previously stated opposition to such bodies.

Editorial Comment: Securing An Accommodation

He said he obtained a copy of the confidential document

Unionists
determined to leave
Adams out in cold

from an anonymous source whom he didn't know but who, he believed, was a UUP politician disenchanted with the stance Mr Trimble was adopting. Mr McCartney said that contrary to what Mr Trimble might argue, new North-South arrangements would "develop a life of their own", leading to a diminution of the Union. If such a deal were done Mr McCartney could envisage a new North-South Council with the same powers as the European Commission, which should be completely unacceptable to unionists.

It emerges from the paper that the Unionists see a North/South Ministerial Council meeting within the framework of a wider East/West structure. It would meet occasionally rather than to a regular timetable. Views differ also as to whether there should be an explicit duty of service on heads of Northern Ireland Departments to take part in the Council. Some believe also that the role and remit of the Council should be for a Northern Ireland institution, once established, to agree.

The Government will today consider the areas in which powers should be devolved to the proposed North/South bodies at a special day-long Cabinet meeting. Sectors involving a natural or physical all-Ireland framework, EU programmes and initiatives, marketing and promotion activities abroad and culture and heritage are among the range of functions at executive level which could be devolved, according to Government sources.

At the harmonising level, aspects of agriculture and fisheries, industrial development, consumer affairs, transport, energy, trade, health, social welfare, education and economic policy are being considered. A wide range of functions will also be proposed for devolution at the consultative level.

However, the largely academic nature of this exercise, at this point, can be gleaned from the many unresolved areas in the synthesis paper.

Listing the "areas of agreement" on the purpose of North/South structures, the paper says there appears to be broad agreement that formal structures can play an important and valuable role in promoting the best interests of the island of Ireland across a wide range of issues. "There appears to be a general recognition that North/South structures would provide an institutional expression of the identity of nationalists in Northern Ireland," it states.

THE IRISH TIMES

ON THE WEB

FRONT IRELAND FINANCE WORLD FEATURES SPORT OPINION LETTERS
IRELAND Monday, March 23, 1998



Senator George Mitchell: author of the document

Wide gap revealed on role of new structures

Gardai link bomb to dissident IRA members

IRA dissidents may have made Dundalk bomb

SF gives dissidents membership ultimatum

Sinn Fein back talks enter crucial phase

UUP would back 'sensible' agreement

Paper sets out areas on joint structures

The following is the full text of the "synthesis paper" on North/ South structures prepared by the independent talks chairmen and circulated to the participants on March 10th, 1998:

Introduction

On 23 February we circulated a paper synthesising the responses of parties to the discussion paper tabled by the British and Irish Governments in London. This paper was discussed at the Strand Two meetings on Tuesday 24 February and Tuesday 3 March.

In accordance with the discussion held just prior to the conclusion of the 3 March meeting, we have now prepared this further paper, which seeks to identify (1) common ground; and (2) the main points which still appear to remain unresolved. This paper is not intended to be exhaustive. Rather it tries to concentrate on what appear to us to be the key matters for debate. Other matters listed in our previous paper will be easier to resolve if agreement is reached on these key matters.

Purpose of North/South Structures

(1) Areas of Agreement: There appears to be broad agreement that formal structures can play an important and valuable role in promoting the best interests of the island of Ireland across a wide range of issues. All parties agree that such structures should facilitate the achievement of demonstrable, practical and specific benefits. There appears to be a general recognition that North/South structures would provide an institutional expression of the



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identity of nationalists in Northern Ireland.

(2) Unresolved Areas: It is clear that for some parties, and for the Irish Government, the establishment of such structures, including a North/South Ministerial Council, is an indispensable part of an overall political settlement. Other parties have expressed concerns about the possible role and functions of North/South structures.

Editorial Comment:
Securing An
Accommodation

Relationship with East/West Institutions

Unionists determined
to leave Adams out in
cold

(1) Unresolved Areas: Some parties, while willing to acknowledge the value of East/West institutions and their place in any overall agreement, take the view that a North/South Ministerial Council must have a clear and distinct institutional identity. Others see it as meeting within the framework of a wider East/West structure.

Legal Basis of North/South Council

(1) Areas of Agreement: There appears to be a general consensus that the Council should be provided for in a new British-Irish Agreement based on the relevant aspects of an overall political agreement.

(2) Unresolved Areas: Some parties believe in addition that detailed provisions to this effect should be included in legislation in the Oireachtas and at Westminster. Others do not share this view.

Membership and Structure

(1) Areas of Agreement: With one exception, there appears to be widespread agreement that the Council might comprise Heads of Department in new Northern Ireland institutions (and possibly also their deputies) and members of the Irish Government. (One party does not agree that the Northern members of a North/ South Council should come from within a new institution in Northern Ireland, favouring instead direct election.)

There is widespread acceptance that while the Council would normally meet in sectoral format to deal with particular functional areas such as agriculture, health, etc, it would also meet in general or plenary format to consider a range of issues of common interest or concern.

(2) Unresolved Areas: Some take the view that meetings should be arranged as business requires while others would

favour a timetable of regular and frequent meetings. Some parties support the idea of occasional meetings at Head of Government/Administration level, although the nature of representation on the Northern side would depend on the outcome of the discussion on the nature and form of a devolved institution in Northern Ireland.

Duty of Service

(1) Areas of Agreement: There appears to be agreement that the role and responsibilities of those exercising executive functions within Northern Ireland institutions would involve participation in a North/South Council.

(2) Unresolved Areas: However, views differ on whether there should be an explicit duty of service on Heads of Northern Ireland Departments to take part in the Council.

Role and Remit of Council

(1) Unresolved Areas: Some parties believe that the responsibilities of the Council, including the matters to be designated as falling within the Council's remit, and its functions in respect of such matters, should be clearly specified in an overall political agreement, in a subsequent British-Irish Agreement, and in legislation at Westminster and in the Oireachtas. Others believe that these issues should be for a Northern Ireland institution, once established, to agree.

Functions of the Council

(1) Areas of Agreement: While parties employ different language, there appears to be general agreement that the Council could:

(a) discuss all matters of mutual interest within the competence of the Oireachtas and new institutions in Northern Ireland;

(b) exchange information and consult on such matters; and

(c) co-operate in various ways.

(2) Unresolved Areas: A number of parties propose that the council would, in addition:

(a) seek to agree common approaches to policy in specified areas; and (b) take decisions in further designated

meaningful areas on integrated action and policy at an all-island and crossborder level, including on arrangements for the implementation of those decisions.

Decision-taking

(1) Areas of Agreement: There is broad agreement that decisions should be taken by consensus, and that every effort should be made within the framework of the Council to secure that consensus.

(2) Unresolved Areas: Some parties believe that there should be provision for the British and Irish Governments together to have a role when agreement cannot be reached. Others expressed opposition to such a provision.

Implementation of Decisions

(1) Areas of Agreement: Although the parties use different language, there appears to be widespread agreement that implementation of some of the Council's decisions would be through existing Departments and public bodies North and South.

(2) Unresolved Areas: Some parties also propose that decisions of the Council in certain other matters would be implemented through agreed implementation bodies operating at an all-island and cross-border level. Others disagree.

Implementation Bodies

(1) Unresolved Areas: Some parties believe that agreement should be reached as part of a political settlement on the establishment of a number of such implementation bodies in meaningful areas and on an all-island basis to operate under the aegis of the North-South Council. They also believe that there should be provisions to this effect in a British-Irish Agreement and in legislation at Westminster and in the Oireachtas. Others believe that any such bodies should be established at a later date, subject to the agreement of the Oireachtas and of Northern Ireland institutions, as and when appears necessary after the Council has commenced its operation.

Accountability

(1) Areas of Agreement: There appears to be broad

agreement that the members of the North/ South Council would be accountable to the Oireachtas and to Northern Ireland institutions, as appropriate.

(2) Unresolved Areas: Some believe that this accountability should take the form of regular scrutiny in the Oireachtas and in Northern Ireland institutions, and assume that members of the Council would only act in accordance with such provisions for co-ordination or collective responsibility as might exist within each administration. Others believe that the decisions of the Council should only be implemented after ratification in a Northern Ireland institution.

Further Development

(1) Areas of Agreement: There appears to be a general recognition that the Council's role could evolve by agreement between the two sides and with the endorsement of the Assembly and the Oireachtas.

(2) Unresolved Areas: Those parties who favour the designation of the remit and functions of the Council and of implementation bodies envisage that these should be capable of change by agreement on the same basis. Others disagree.

Funding

(1) Areas of Agreement: There appears to be broad agreement that funding for the Council and for implementation bodies should be provided directly by the administrations North and South. (It has also been suggested that alternative or supplementary sources of funding should be examined, but no clear view emerged on this suggestion.)

Administrative Support

(1) Unresolved Areas: There appears to be widespread support for the idea that the Council would be supported by a standing secretariat consisting of officials from the Northern Ireland Civil Service and the Irish Civil Service. However, one party has suggested that administrative support should be provided by those with this function in respect of East/West structures.

Joint Parliamentary Body

(1) Areas of Agreement: There appears to be substantial support for a joint body made up of representatives of the Oireachtas and a Northern Ireland institution. (Although some parties believe this is for decision by a Northern Ireland institution once established.)

Role of Civil Society

(1) Unresolved Areas: Some parties strongly support the creation of a consultative forum, but others disagreed.

Fall-back Arrangements

(1) Unresolved Areas: Parties are divided on whether there should be agreement that in the event of the council failing completely it would be for the two Governments to maintain and develop North/South co-operation.

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