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AMERICAN MEDIATION IN ETHNIC CONFLICTS: THE CASE OF NORTHERN IRELAND

Abstract

When out of the blue a dispute about the flying of the Union flag at the end of 2012 prompted what amounted to a fresh crisis in the Northern Ireland peace process, the five parties in Northern Ireland's power-sharing Executive agreed to seek American mediation in the person of Richard Haass, who had held the Northern Ireland brief during George W. Bush's first term. The paper explains the background to this decision and why the American connection has been such an enduring feature of the Northern Ireland peace process under three different American Presidents. It analyses the results of the Haass talks and assesses their contribution to the current political situation in the province. The paper also discusses the implications of the Northern Ireland case for American mediation in other ethnic conflicts.

Key words: ethnic conflicts, Northern Ireland, American mediation, violence, terrorism

INTRODUCTION

The Haass process, or as it was sometimes also called the Haass/O'Sullivan process, took place in Northern Ireland during the last three months of 2013. The talks that Richard Haass and Meghan O'Sullivan chaired and supervised formally involved the five parties represented on the Northern Ireland Executive, the Democratic Unionist Party (DUP), Sinn Féin, the Ulster Unionist Party (UUP), the Social Democratic and Labour Party (SDLP), and the Alliance Party of Northern Ireland, though both Haass and O'Sullivan reached out beyond the political parties to civil society in Northern Ireland in the vain hope of generating ideas that might

form the basis of agreement on the three areas they had been asked to address in their mediation: flags and symbols, parades and dealing with the past. The process culminated in the publication at the end of 2013 of what was optimistically labelled a draft agreement. The five parties were asked to respond to the draft agreement with a clear yes or a no and a plea from Haass that the parties should not seek to cherry-pick from the contents of an agreement that sought to encompass in various ways the positions of all the parties. This outcome was greeted in a variety of ways. They ranged from the contention that the publication of the draft agreement, which was nothing of the kind, simply disguised the failure of the whole process to the assertion that the document provided the only way out of Northern Ireland's political impasse.

To understand why the draft agreement gave rise to such different reactions, explanation of the background to the Haass process is needed. This was the unexpected crisis over the Belfast City Council's decision on 3 December 2012 to limit the flying of the Union flag to designated days. The reason the crisis was so unexpected was that it had seemed that the last major obstacle to the consolidation of the political settlement under the Belfast Agreement of 1998 and the subsequent St Andrews Agreement of 2006 that had paved the way to restoration of devolved government in May 2007 had been removed in February 2010, with the Hillsborough Castle Agreement. It provided the basis for the devolution of justice and policing powers. That these powers should be devolved was part of the St Andrews Agreement. By the winter of 2009/10, the issue was threatening the continuing functioning of the devolved institutions. A further period of direct rule was averted by a deal between the DUP and Sinn Féin, under which the DUP accepted devolution of justice and policing powers under an Alliance minister in return for agreement on new arrangements for the regulating of parades that would replace the Parades Commission. The Hillsborough Castle Agreement was widely hailed as "the last piece in the jigsaw".¹ Even the fact that the Orange Order subsequently vetoed the agreement on parades, with the consequence that the Parades Commission continued to function as the default option, did little to change this verdict, since the implementation of the devolution and justice powers paved the way to the consolidation of the institutions.

That was reflected in a series of developments. In May 2011, fresh Assembly elections were held. They were held on schedule after the first uninterrupted term of devolved government since the Belfast Agreement in 1998. The main parties in the Assembly, the DUP and Sinn Féin, campaigned on the basis of the durability

¹ See, for example, John Murray Brown, "Deal on policing hailed as last piece of jigsaw", *Financial Times*, 6/7 February, 2010.

of the settlement that had been achieved and they were rewarded by the voters, with an increased share of the vote. The results were widely interpreted as a popular endorsement of the settlement thanks to the political stability it had brought about. In the same year, Queen Elizabeth II made a highly successful official visit to the Republic of Ireland. It underscored the important role that the two governments had played in the peace process. Ever since the Anglo-Irish Agreement of November 1985, there had been close co-operation between British and Irish governments over Northern Ireland. Indeed, the role that the two governments had played not merely in bringing about the Belfast Agreement in 1998 but in putting the settlement back on track when it was threatened by arguments over the implementation of its terms justifies a description of that role as one of conflict management. Admittedly, Sinn Féin had failed to read the mood of the Republic's electorate through its opposition to the royal visit as premature. The party sought to recover the ground it had lost over its response to the visit by the carefully choreographed handshake between the Queen and the Sinn Féin Deputy First Minister, Martin McGuinness, when the monarch visited Northern Ireland in June 2012 as part of the celebrations for her diamond jubilee. (That was followed by Martin McGuinness's attendance at the banquet for the state visit of the Irish President to the United Kingdom in April 2014 when he participated in the loyal toast.)

Political accommodation was not confined to the political elite in the two jurisdictions. Polling underscored growing contentment with the political settlement of the previously disaffected Catholic community. This was reflected in the fact that notwithstanding the community's support for political parties that aspired to a united Ireland, decreasing numbers of Catholics expressed support for change to Northern Ireland's constitutional position as part of the United Kingdom.² The change did not go unnoticed. DUP leaders became increasingly interested in the possibility of attracting Catholic votes on the basis of the social conservatism of Catholic voters along with their readiness to accept the proposition that Northern Ireland's future would remain part of the United Kingdom. These themes were addressed in a speech by the First Minister, Peter Robinson, to the DUP conference in November 2012, in which he strikingly declared that "the siege has lifted".³ Given the iconic status of the siege in the forging of Protestant attitudes towards Catholics dating back to the late 17th Century and the original siege of Derry, this implied little short of a revolution in the mindset of Unionism.

² See, for example, the surveys in Paul Nolan, *Northern Ireland Peace Monitoring Report: Number Two* (Belfast: Community Relations Council, 2013), p.172

³ *Belfast Telegraph*, 26 November 2012.

THE FLAGS DISPUTE

Then very abruptly any notion that the consolidation of Northern Ireland's political settlement might be about to usher in a new era of politics that might silence critics who complained that the design of the agreement by forcing power-sharing on the parties entrenched sectarianism was dispelled. Seemingly out of the blue, the province was engulfed in a series of flag protests that stretched the resources of the Police Service of Northern Ireland (PSNI) and were accompanied by disorder that disrupted the life of the province, particularly as a result of the protesters' tactic of blocking arterial routes and the PSNI's unwillingness to confront demonstrators, despite the obvious illegality of these actions. The immediate cause of the flag protests was the decision of the Belfast City Council on 3 December 2012. This changed the policy of the council from one of flying the Union flag outside Belfast City Hall every day of the year to one of flying the flag on designated days. These were royal birthdays and the like and meant that the flag would be flown for a total of 18 days in the year. The vote reflected the changing political composition of the council, which itself reflected demographic change in the city. Belfast was no longer a bastion of Unionism. Alliance now held the balance of power in the council and it was Alliance that proposed the change to flying the flag on designated days. They were supported by the two nationalist parties, though nationalists would have preferred the option of removing the Union flag altogether. As flying the flag on the designated days was already established as the policy at Stormont where the Northern Ireland Assembly sat and was also the policy of the Unionist-dominated Lisburn City Council, the reaction the change provoked, particularly its scale and breadth, was not anticipated even by the parties opposing the decision.

However, it was by no means the case that the reaction to the decision was spontaneous. The ground had been prepared by a leaflet produced jointly by the two main Unionist parties, 40,000 copies of which were distributed in the East Belfast constituency. The leaflet posed the question "A SHARED FUTURE FOR WHO?" and presented two pictures of Belfast City Hall, one with the Union flag flying and the other with a bare flagpole and the caption "BROUGHT TO YOU BY THE ALLIANCE PARTY". The leaflet was printed in the distinctive yellow used by Alliance in its election literature. On the reverse side of the leaflet, recipients were invited to let the party know how they felt about the party's stance on the flying of the flag. To this end, contact details for the Alliance Party were given, including that of Naomi Long's constituency office.⁴

⁴ See <http://allianceparty.org/article/2013/006959/alliance-response-to-unionist-flag-leaflet> (accessed June 2014).

The mention of Naomi Long, who was not a member of Belfast City Council, betrayed the leaflet's political purpose. Long had been elected to the House of Commons as the M.P. for East Belfast in the United Kingdom general election of 2010. In what was the biggest upset in any election in Northern Ireland for many years, Naomi Long defeated the sitting M.P., Peter Robinson, leader of the DUP and the province's First Minister. Accusations of sleaze against Peter Robinson and his wife, Iris Robinson, that had led to their being dubbed the Swish Family Robinson were a factor in the outcome. Once the DUP recovered from the shock of losing what had previously been regarded as a safe seat for the DUP and for Unionism in general, the party made ousting Long at the next Westminster election a priority. The issue of the flying of the flag outside Belfast City Hall appeared to offer the perfect opportunity to undermine support for Long among working class Protestants in East Belfast.

However, the anger that the issue of the flags stirred up among Protestants went much further than the two mainstream Unionist parties expected. The focus on the role of the Alliance Party in the Unionist leaflet and in media coverage of the flags dispute meant that much of this anger was directed against figures in the party and the party's offices and this has continued into 2014, with the petrol-bombing of Long's constituency office in April. But some of the protests were directed at Unionist leaders themselves who were accused of betraying the Protestant community in the course of the peace process, views that boosted Unionists still opposed to the political settlement, most notably in the Traditional Unionist Voice (TUV), the party of the former DUP MEP, Jim Allister. It became evident that Robinson's claim that the pro-Union side had won the argument and that the settlement had secured the position of Northern Ireland as part of the United Kingdom and that the siege was over had very little resonance among the flag protesters. Thus, a wall mural in the Fountain District of Derry-Londonderry proclaimed that "Londonderry West Bank Loyalists [were] still under siege".⁵

In the same week that Belfast City Council voted to change its policy on the flying of the Union flag, the figures for the religious breakdown of population from the 2011 census were published. They showed a marked narrowing of the gap between the two communities, with Protestants and those from a Protestant background calculated to be 48.4 per cent of the population, while Catholics and those from a Catholic background numbered 45.1 per cent of the population.⁶ For the first time

⁵ See, for example, the images on the website: <http://extramuralactivity.com/2013/03/24/under-siege/> (accessed in June 2014).

⁶ See Paul Nolan, *Northern Ireland Peace Monitoring Report: Number Three* (Belfast: Community Relations Council, 2014), p.21

in the province's history, Protestants and those from a Protestant background no longer constituted an absolute majority of the population. Diminishing Catholic support for a united Ireland was sufficiently widely understood that the figures did not prompt speculation that demographic change inevitably entailed that nationalists would prevail in a border poll at some point in the future. Rather, the discourse of the flag protesters was that the British-ness of Northern Ireland itself was being eroded and the change in Belfast's flying of the Union flag was a symptom of this process.⁷

PRELUDE TO HAASS

The protests that started with the vote in the Belfast City Council on 3 December 2012 led to disorder in the streets of Northern Ireland over the next three months in which 146 police officers were injured and 20 million pounds added to the cost of policing in the province. Alarm over the situation grew in both London and Dublin as it became evident that the flags dispute was having a detrimental impact on the peace process and that, in Paul Nolan's words, a "re-sectarianisation of politics"⁸ was taking place as a consequence. There was also concern over the effect on the province's international reputation. There was a particularly awkward moment in February 2013 when it seemed entirely possible that there would be a decision within the European Union (EU) against PEACE IV, that is to say, that the EU would cease to continue the special funding for the peace process that had begun in 1995. At the time, the British government was demanding a cut in the overall budget for the EU and was consequently in a weak position to argue for a continuation of special funding for Northern Ireland. In the end, thanks in part to lobbying by the Irish government, funding for PEACE IV was saved.

In a bid to regain the political initiative from the flag protesters, the First Minister, Peter Robinson, and the Deputy First Minister, Martin McGuinness, published a fresh set of policy objectives for the Northern Ireland Executive in a document entitled "Together: Building a United Community".⁹ The most eye-catching objective in the document was the setting of a target for the removal of "peace walls" by 2023, i.e. in the course of a decade. "Peace walls" referred to security barriers that

⁷ Implications of the flags crisis for interpretations of the sectarian divide in Northern Ireland are discussed in Adrian Guelke, "Northern Ireland's Flags Crisis and the Enduring Legacy of the Settler-Native Divide", *Nationalism and Ethnic Politics*, Vol. 20 No. 1, pp.133-151.

⁸ Nolan (2013), p.7.

⁹ The text is available at <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf> (accessed June 2014).

had been put up at interfaces between Protestant and Catholic neighbourhoods. As they have provided a measure of protection to residents close to such interfaces from attacks across the sectarian divide, they tend to be seen as necessary by those who live in close proximity to them. At the same time, these barriers are a potent symbol of the province's continuing division along sectarian lines. They inevitably cast doubt on how successful the peace process has been in building trust between the communities.

Another commitment in the document attracted far less attention even though it had more immediate salience to the political situation and this was that there would be talks among the representatives of the five parties represented on the Northern Ireland Executive to address issues that were in dispute and a source of political tensions, such as the flying of flags, and that these talks would take place under an independent chair. By this time, in any event, the immediate crisis caused by the flags dispute had abated somewhat, with the decision of the organisers of the protests to cease using the tactic of the blocking of arterial routes. That eased tensions. While flag protests continued, they were no longer a source of major disruption to motorists or to businesses. However, there was little improvement in relations among the political parties. The countdown to local and European elections in 2014 was starting to influence the behaviour of the parties. Most notably, the DUP leader, Peter Robinson, abandoned his support for the building of a Conflict Transformation Centre at the site of the Maze prison, in the face of a campaign that this would turn the Maze into a "terrorist shrine".¹⁰

In July, in the midst of conflict over determinations of the Parades Commission on the routes of Orange Order parades, the Northern Ireland government announced that Richard Haass had been chosen to be the independent chair for talks among the parties and that the talks would start in the autumn. At first sight, Richard Haass was not an obvious choice for the role of the independent chair of talks among the parties in Northern Ireland on contentious domestic political issues. He remains most commonly described as an American diplomat who has written several books on American foreign policy. Prior to his election as president of the Council on Foreign Relations, he had been the Director of Policy Planning in the State Department during George W. Bush's first term as President of the United States. He was regarded then as an International Relations realist who, while affiliated to the Republican Party, was not in sympathy with the dominant, neo-conservative faction within the Bush Administration. As his writings underscored, he was interested in strategic questions such as nuclear proliferation and the use of military

¹⁰ See, for example, the protest described here: <http://www.u.tv/news/Protest-at-Maze-over-terrorist-shrine/b686257a-3af3-4a78-b33a-b4951a44e398> (accessed June 2014).

force. The issues that Northern Ireland was grappling with in 2013 had little to do with the fields that Haass had previous experience of, such as the use of force or relations between states.

Admittedly, Haass did have previous experience of Northern Ireland. One of his roles in the State Department during George W. Bush's first term had been as a special envoy on Northern Ireland. At the time he was appointed to this role, the Provisional Irish Republican Army (IRA) had yet to carry out any decommissioning of its arsenal of weapons. And throughout the period in which he performed this role up to his departure from the Bush Administration in 2003, this issue was the principal source of contention in the peace process. In this context, he had met with leaders of Sinn Féin on the day of the attack on America on 11 September 2001. That gave added force to his message that the Provisional IRA needed to go beyond the confidence-building step that had already been taken with the inspections of a number of its arms dumps and embark on the decommissioning of the weapons. The first act of decommissioning followed in October. The process of decommissioning was ultimately completed in September 2005. By this time, Sinn Féin had become the dominant nationalist party in Northern Ireland. This meant that the Republican movement had a strong incentive to go down this path, as without decommissioning, there was little prospect of the restoration of devolved government after its suspension in 2001 and the outcome of the Assembly elections in 2003. And without the restoration of devolution, the party would not have been able to exercise the power deriving from its position as the leading party of nationalism.

The choice of Haass as the independent chair prompted little controversy in Northern Ireland, despite the fact that Haass possessed no obvious expertise in relation to the issues of flags and symbols, parades, and dealing with the past. More important was that he was an American. In the light of the success of American mediation in the Northern Ireland peace process in the past, this raised hopes that the talks among the parties scheduled for the autumn would yield positive results that would enable the Executive to get back on track after the setback that had been caused to the consolidation of the political settlement by the flags dispute.

A BRIEF HISTORY OF AMERICAN MEDIATION

At this point, a brief account of the role of American mediation in Northern Ireland is necessary to understand the expectations that Haass's appointment gave rise to.¹¹ American efforts at a governmental level to promote a peace process to address Northern Ireland's ethnic conflict date back to the Carter Administration. After lobbying by four senior Irish-American politicians collectively known as the Four Horsemen, President Carter had issued a statement on Northern Ireland. The statement condemned political violence, supported the involvement of the Republic of Ireland in a political settlement, and promised American aid in the event of a settlement. While there was nothing in the statement to offend the British government, which had been consulted on the content, it represented a departure from the stance that previous Administrations had taken, that Northern Ireland was an internal matter for the United Kingdom and outside the remit of the American government. Even more disturbingly for the British government, in 1979 the United States suspended the sale of handguns to the Royal Ulster Constabulary (RUC), as a result of allegations that the police had mistreated suspects during the course of interrogation. When Ronald Reagan became President, the British Prime Minister, Margaret Thatcher, sought a reversal of this decision, but without success. Instead, the Reagan Administration kept up the pressure on the British government to involve the Irish government in the search for a political resolution of the Northern Ireland problem. This bore fruit when the British government entered into the Anglo-Irish Agreement in November 1985. The pressure this placed on the Unionists after their campaign to bring down the Agreement failed led to negotiations among the political parties in Northern Ireland, at least, those not excluded because of links to illegal paramilitary organisations. While these negotiations were unsuccessful, they played a role in creating the conditions for paramilitary ceasefires and a peace process that led to the Belfast Agreement of April 1998, commonly referred to as the Good Friday Agreement.

American involvement reached its zenith during this period. A major role was played in the peace process by George Mitchell. In deference to the British government, he was not officially termed a peace envoy though that was effectively the role he performed. He chaired the International Body that examined the issue of the decommissioning of paramilitary weapons that had proved to be an obstacle to talks including Sinn Féin. He then chaired the multi-party negotiations that culminated in the Belfast Agreement. Finally, he chaired the review in 1999 of the

¹¹ For a fuller account, see Adrian Guelke, "The USA and the Northern Ireland Peace Process", *Ethnopolitics*, Vol. 11, No. 4, 2012, pp.424-438.

implementation of the Agreement when the issue of guns had once again caused stalemate. His efforts led to the creation of a power-sharing government as provided for under the Agreement, though this did not last and it was only in 2007 that devolved government was established on an enduring basis. Mitchell's involvement received strong backing from the American President. In particular, Bill Clinton visited Northern Ireland three times while President.

There was little expectation that Clinton's successors would show much interest in Northern Ireland or that there would be further Presidential visits. In fact, both of Clinton's successors have visited Northern Ireland while President. Admittedly, the political situation in Northern Ireland was not the primary reason for their visits. George W. Bush came to Northern Ireland in April 2003 for a summit with the British Prime Minister, Tony Blair, on the war in Iraq. However, while in Northern Ireland, President Bush did seek to advance the peace process. He did this by calling on civil society in Northern Ireland to support a statement setting out the basis for the restoration of the power-sharing government. It was a somewhat bizarre intervention as the statement that the two governments were on the point of issuing was not published because of a breakdown in their negotiations with Sinn Féin. President Obama visited Northern Ireland in June 2013 to attend the G8 meeting that was being held in the province. In the course of the visit, Obama gave a speech in the Waterfront Hall in Belfast to an audience drawn from schools across Northern Ireland. The main theme of his speech was that for all the progress made, there was still work to be done to sustain a real and lasting peace.¹²

But the involvement of American Presidents in the Northern Ireland problem from Carter onwards and most markedly under President Clinton goes beyond the making of speeches or the issuing of statements. A striking example is the role played by George W. Bush in relation to the devolution of justice and policing powers in 2010. The deal between the DUP and Sinn Féin under the Hillsborough Castle Agreement was opposed by the UUP and the party ultimately voted against the transfer of the powers when the issue was debated in the Northern Ireland Assembly. At the time, there was a short-lived and ill-fated electoral alliance between the UUP and the British Conservative Party, then in opposition. In the event, their pact failed to secure a single Westminster seat. As a result of persuasion by Obama's "peace envoy"¹³ to Northern Ireland, Declan Kelly, George W. Bush phoned the Conservative Party leader, David Cameron, and urged him to use his influence with

12 The text of his speech can be found at <http://www.whitehouse.gov/the-press-office/2013/06/17/remarks-president-obama-and-mrs-obama-town-hall-youth-northern-ireland> (accessed June 2014).

13 As with his predecessors going back to George Mitchell, he was not officially termed a peace envoy, but assigned an economic role.

leaders of the UUP to get them to change their stance. The story was reported in *The Guardian* under the headline: “Bush to Tories: don’t derail Ireland deal” with the sub-heading: “Former President urges Cameron to rein in Unionist partners”.¹⁴ What accounts for the engagement of the American government at the highest level in the question of Northern Ireland? Different factors are commonly identified, including the influence of the Irish-American lobby and the importance of Irish-Americans as a swing constituency in American elections. Also of significance in accounting for the extent of Clinton’s involvement was the end of the Cold War. The importance of the alliance with the United Kingdom during the course of the Cold War was an inhibiting factor on the taking of any action that might upset the British government. Clinton’s readiness to grant a visa to the President of Sinn Féin, Gerry Adams, at the start of 1994 illustrates the point well, since this ran counter to the British government’s wishes but was seen by the Administration as a risk worth taking to advance the peace process. However, it is easy to overstate the extent of disagreement between the United States and the United Kingdom over Northern Ireland. For the most part, American interventions in the peace process coincided with the objectives of both the British and Irish governments. Indeed, in a number of instances, American mediation took place at the specific invitation of the two governments. And both governments valued the influence that American governments were able to bring to bear on Sinn Féin through the Irish-American lobby.

But there is another reason why the American connection has been such an enduring feature of politics in Northern Ireland and that is the attitude of the two communities towards the United States. Despite the political antagonism between Unionists and nationalists in Northern Ireland along sectarian lines, both communities are strongly pro-American in their attitudes. Thus, when Blair hosted a war summit for Bush in 2003, Northern Ireland was the one part of the United Kingdom where such a meeting could be held without a massive security operation to contend with protesters against the war. Both communities take pride in the Ulster or Irish heritage of a number of American Presidents and are inclined to look West rather than East. Both communities are religious and they have more in common in this respect with American society than with secular British society. The pro-American attitudes to be found on both sides of Northern Ireland’s ethnic divide make a sharp contrast with the outlook towards America of the two sides in Iraq’s Sunni-Shia divide.

¹⁴ *The Guardian*, 9 March 2010.

THE HAASS PROCESS

Richard Haass and his vice-chair, Professor Meghan O'Sullivan, held their first set of round-table talks with the parties in Northern Ireland in September 2013. O'Sullivan's previous experience of ethnic conflict had been as an adviser on Iraq and Afghanistan in the Bush Administration. Besides talking to the parties, they also had meetings with a variety of organisations, as well as encouraging submissions by the public. At a press conference after these initial steps, Haass declared that he was optimistic that the talks could succeed. He confirmed that the deadline for the achievement of an agreement among the parties would be 31 December. At the same press conference, O'Sullivan explained that their expectation was that dealing with the past would be "the hardest one for us to get our arms around".¹⁵ In setting a deadline for agreement, Haass was following the approach that George Mitchell had taken in the multi-party talks that led to the Belfast Agreement on Good Friday 1998. At the start of that week, a document was put forward that was dubbed the Mitchell draft that, despite initial hostility from Unionist leaders, became the basis of the agreement that was reached at the end of the week. In a somewhat similar vein, Haass published a draft agreement on 31 December. However, by this point, the lack of consensus among the parties on the issues that Haass had been asked to address was very apparent and there was little expectation of any agreement emerging from the process. It was most evident in the negative response from the parties to a number of ideas, such as the design of a new flag for Northern Ireland, that he had floated during the course of the talks. Haass requested that the parties should give a clear yes or no to the document and that they should not attempt simply to endorse the bits they liked. That was a clue to the nature of Haass's draft, which tried to encompass the wishes of all the parties. In its something for everybody approach and attempt to split the difference between the parties, the document was somewhat reminiscent of the Annan plan for Cyprus, another failed attempt to advance political accommodation in an ethnic conflict. The BBC reporter, Mark Devenport, scored the outcome on his Northern Ireland politics blog as two yeses, one no and two cherry-pickers.¹⁶ The 2 yeses were the nationalist parties, while the cross-community Alliance Party was one of the cherry-pickers, to Haass's disappointment.

In the absence of the parties' approval for his draft, Haass sought to mobilise public support for his proposals. To this end, a two-page summary of the document

¹⁵ See <http://www.bbc.co.uk/news/uk-northern-ireland-24159218> (accessed June 2014).

¹⁶ See <http://www.bbc-now.co.uk/news/uk-northern-ireland-25643314> (accessed June 2014)

was published.¹⁷ While this was a considerable improvement on the long and turgid draft itself, public interest in the proposals remained slight. Haass's remit had been to address the issues of flags and emblems, parades, and dealing with the past. However, of these, flags and emblems stood out as the issue that had prompted the most urgent need for external mediation, since it was the issue that had given rise to extensive disorder across the province over and beyond the problems that parades caused each year at the height of the marching season in July. Yet on this issue, the draft candidly recorded: "We could not reach an accord on initiatives to manage the issue of flags and emblems".¹⁸ In the absence of agreement, the draft proposed the setting up of a commission "to launch and sustain a conversation about the role of identity, culture, and traditions in the life of the citizens of Northern Ireland".¹⁹ In short, the commission was given a wider remit than flags and emblems. It was expected to produce a report for the First Minister and Deputy First Minister within 18 months. This was most unsatisfactory from the perspective of the Alliance Party since it offered no solution to the flags dispute, which was still a source of threats and attacks on its offices and representatives.

The draft put forward proposals for the replacement of the Parades Commission by two bodies, the Office for Parades, Select Commemorations, and Related Protests and the Authority for Public Events Adjudication. The second body would deal with the small number of contentious parades that were a source of disorder at the height of the marching season. The draft also put forward principles for a new code of conduct. It was on this issue that there remained disagreements among the parties. Ironically in the light of Haass and O'Sullivan's expectations at the outset of the talks, the area in which most progress appeared to have been made was that of dealing with the past. Gerry Moriarty succinctly summarised this aspect of the draft as follows:

There was more meat on the bone when it came to the past. It was proposed to create a single historical investigations unit to inquire into all past killings. An independent commission for information retrieval also would be established where perpetrators who gave information about killings would have limited immunity. It was also proposed to institute an implementation and reconciliation group and a conflict archive.²⁰

¹⁷ The text of "Factsheet on the Draft Agreement of 31 December 2013" is available at: http://cain.ulst.ac.uk/events/peace/haass-talks/haass_2014-01-06_factsheet.pdf (accessed June 2014).

¹⁸ "Proposed Agreement 31 December 2013", p.2.

¹⁹ *Ibid.*, p.17.

²⁰ Gerry Moriarty, "Robinson's timidity at heart of Haass deal failure", *The Irish Times*, 4 February 2014.

The draft acknowledged that implementation of its proposals might “require additional support from the UK government, the European Union, the government of Ireland, and others”.²¹ Even though the question of who would pay for the array of institutions that Haass had proposed was hypothetical in the absence of the agreement of the parties, the British government took pains to disabuse the parties and public in Northern Ireland of the notion that Northern Ireland would not have to find much of the money itself out of the province’s existing block grant. As it became increasingly unlikely that the proposals in the draft would be implemented, the government’s concern for the draft’s implications for the public finances was at best redundant. In the weeks that followed the publication of Haass’s draft, the conclusion of most of the political commentary in Northern Ireland was that the talks had ended in failure. And while there have been – and are – attempts to restart talks on the agenda that Haass and O’Sullivan had addressed, a revival of the Haass process itself has been ruled out. It is therefore possible to pose the question of why the Haass process failed, particularly as its failure stands in marked contrast to the previous record of success of American mediation during the peace process. An obvious difference between the Haass talks and previous sets of negotiations on Northern Ireland’s future was the absence of the British and Irish governments. Their detachment was underlined by the British government’s belated concern at how much the proposals for dealing with the past might cost. What made the lack of input by the two governments the more extraordinary was that the issue of dealing with the past encompassed actions and omissions of the British army and the Irish police during the Troubles about which there has been a great deal of contention in recent years. Part of the explanation may simply be that the governments in both London and Dublin are relatively new and lack appreciation of the role that conflict management by London and Dublin has played in advancing the peace process in the past.

Without input from the two governments or from Washington, it was not surprising that Haass and O’Sullivan should have produced a draft that sought as best they could to satisfy the different priorities of the five parties, while also reflecting the lobbying they were subjected to by victims groups. The outcome was a long document designed to have something for everybody, but which was difficult to summarise and failed to embody a clear set of principles that might have generated a measure of support. Along with lack of engagement by the two governments, the unwillingness of the parties in Northern Ireland to compromise was commonly given as a reason for the failure of the talks. Their intransigence was explained in terms of their fear of being outflanked in the upcoming local and European elec-

21 “Proposed Agreement 31 December 2013”, p.39.

tions in 2014. At the same time, little of the criticism of the parties focused on the content of Haass's draft itself. The lack of agreement was deplored not in terms of any missed opportunity to deal with the issues that had given rise to the talks, but mainly because of the reputational damage to Northern Ireland of the failure, particularly in the United States.

But a case can also be made that the particular problems Northern Ireland was facing in 2013 were not best addressed through an externally-chaired talks process among the five parties in the first place. Thus, on the issue of flags and emblems, it might be argued that no better solution was available than the status quo of allowing local councils to determine their own policy on what, if any, flags to fly on public buildings and when to do so. If uniformity of policy across local councils was considered necessary to affirm the unity of the province, then the option enjoying the highest level of support in both communities was that of flying the Union flag on designated days.²² Yet this was the very policy that had been adopted by Belfast City Council in 2012 and which had prompted widespread protest and disorder.

Difficulties arose when the council changed its policy to one that was more in line with public opinion because of the failure of the police to meet the challenge of dealing with the illegal actions of the protesters. Admittedly, the involvement in the protests of the Loyalist paramilitary organisation, the Ulster Volunteer Force, compounded the challenge the police faced. While the policy of local councils was only one aspect of the issue of flags and emblems, with unwanted and unofficial flying of flags on lampposts, including paramilitary flags, being another, focus on the policies of local councils was justified insofar as it had been the issue that had set back the progress of the peace process at the end of 2012. The issue of parades had been the subject of an agreement between the DUP and Sinn Féin in 2010 in the course of the Hillsborough Castle negotiations. The deal, which would have led to the replacement of the Parades Commission, had unravelled because of the opposition of the Orange Order. In the light of this history, it was far from clear what negotiations among the parties on this issue at this juncture could possibly achieve. As in the case of parades, there had been attempts prior to the Haass talks to tackle the issue of dealing with the past. For example, some money had already been put into the investigations on behalf of bereaved families into Troubles-related killings. It took the form of the Historical Enquiries Team (HET), which was established in 2005. Its remit was to review the evidence from cases from the Troubles in which

²² See ARK, *Research Update*, No. 93, June 2014. The 2013 NILT Survey found that 48 per cent of Protestants and 59 per cent of Catholics supported the option of flying the Union flag on public buildings on designated days only.

deaths had occurred. It was to start with the oldest cases and then move systematically through the killings in chronological order. The HET has run into criticism over its failure to adopt as rigorous procedures for investigating killings by the security forces as it employed for other killings and this has slowed the progress of its investigations. In one high-profile case, a review by the HET led to the prosecution of a perpetrator who had previously escaped justice on the basis of forensic evidence in the form of a cigarette butt. But the most striking result of HET investigations in general has been the uncovering of the extent of security force collusion in killings carried out by Loyalist paramilitaries.²³

The setting up of the HET was not the only initiative taken by the British government to tackle the issue of the legacy of the Troubles. In 2007 the Secretary of State for Northern Ireland, Peter Hain, appointed the Consultative Group on the Past to make recommendations on dealing with the past. It produced a comprehensive report in 2009. However, its launch was engulfed in protests that reflected the capacity of proposals on this issue to generate controversy and recriminations. The particular aspect of the Eames/Bradley report that provoked protest was the proposal for the grant of a modest sum of money to bereaved families. What the proposal foundered over was the question of who did or did not constitute an innocent victim of violence, with outrage being created by the implication that all victims could be treated as on a par in this context.

One reason that the issue of dealing with the past has caused such difficulty is that two very different, as well as conflicting, approaches have been encompassed by the concept. One is that a line needs to be drawn under the past so as to prevent recriminations about atrocities that had occurred in the course of the Troubles from poisoning relations among the parties and preventing reconciliation. The other is that resources needed to be made available for digging into the past in pursuit of truth and justice for the victims of political violence during the Troubles. Exemplifying the first approach was a proposal put forward by the Attorney-General of Northern Ireland, John Larkin, in November 2013. In a blunt intervention, he proposed an end to Troubles-related prosecutions, inquests and inquiries. His proposals were greeted with outrage by victims groups and were rejected by the parties involved in Haass talks. Only tiny NI21 endorsed his initiative.²⁴ The Haass draft owed more to the second approach and reflected the influence that victims groups had on the talks, as well as the determination of the five parties in the Executive engaged in the talks to present themselves as champions of the cause of victims, despite the large differences in their attitudes towards who constituted victims of

²³ Anne Cadwallader, *Lethal Allies: British Collusion in Ireland*, (Cork: Mercier Press, 2013).

²⁴ John McCallister, "Larkin's proposals correct", *Belfast Telegraph*, 3 December 2013.

the Troubles. There was a small concession in the Haass draft to the viewpoint that truth was more likely to be forthcoming if it did not increase the likelihood of prosecution, in the form of limited immunity for testimony provided to the Independent Commission for Information Retrieval.

At the time the Haass talks were taking place, the issue of dealing with the past did not present an immediate threat to the political process. Flags and parades were more potent threats as having recently been a source of disorder on the streets, with the prospect that they would both be a continuing problem in 2014. And of the two, parades seemed to present the larger problem, with the establishment of a permanent Loyalist camp at Twaddell Avenue in North Belfast to protest against a determination of the Parades Commission. In May 2014, the Northern Ireland Minister of Justice, David Ford, told the Assembly that the cost of policing the camp over the ten months it had been in existence had topped nine million pounds.²⁵ However, in the first half of 2014, the threat to the province's political stability posed by the violence of the past suddenly loomed much larger than either flags or parades.

On 25 February 2014, a judge at the High Court in London threw out a case against a well-known Donegal Republican, John Downey, who had been charged with the murder in 1982 of four members of the Household Cavalry in London. At his trial Downey had produced a letter he had been sent by the Northern Ireland Office that he was not currently wanted in connection with any offence. On this basis, he had felt able to travel freely to the United Kingdom after having previously been on the run. It transpired at the trial that the letter had been sent to him in error and, further, that the mistake made by the PSNI, had not been corrected after the error was recognised. The judge ruled that the prosecution of Downey in these circumstances represented an abuse of process. The impression created by the media coverage of the Downey case was that members of the Provisional IRA had been able to escape justice because of a secret deal done under the last British government. In fact, the scheme put into effect by the government fell very far short of an amnesty for the on-the-runs. References in the press to the letters as "get out of jail free cards" noisily implied that this was exactly what it amounted to. The outcome of the Downey case and the revelation that similar letters had been sent to dozens of others who had been on the run produced a political firestorm in Northern Ireland. Peter Robinson threatened to resign as First Minister and was only dissuaded from doing so by the British Prime Minister's appointment of a judge-led inquiry into the issue. On 30 April 2014, Gerry Adams was arrested in connection with the abduction and murder in 1972 of Jean McConville, who had been wrongly identified by the Pro-

²⁵ *Belfast Telegraph*, 19 May 2014.

visional IRA as an informer. The evidence against Adams arose out of an archive of the Troubles that had been established by Boston College. The idea behind the archive was to collect testimony from members of both Republican and Loyalist paramilitaries about their role in the Troubles for the benefit of future historians. However, once it became known to the PSNI through participants in the project that the archive contained information on the McConville case, the police sought and obtained access to this material. Adams was released without charge after four days of questioning. A factor that contributed to Sinn Féin's fury over the arrest was the role that Republicans opposed to the peace process had played in the affair. But the party's anger was also directed at the police and by putting in doubt Sinn Féin's support for the PSNI momentarily threatened the political settlement itself. Neither Adams's arrest nor the issue of the on-the-runs appears to have had much impact on the level of support for Sinn Féin in local and European elections in May in Northern Ireland and the Republic of Ireland. However, while the immediate crisis has passed, the possibility remains that either of these cases or some fresh issue arising out of the violence of the Troubles may destabilise the political settlement and with it the peace process. The danger has been compounded by the reluctance of the current British government to take the initiative on the issue of dealing with the past. Its calculation seems to be that the political settlement is sufficiently robust to survive any shocks that may arise in this area. At the same time, Cameron has defended the actions of his predecessors and has not sought to reverse the steps they took in support of the peace process that represented a departure from normal legal procedures. These include the Sentences Act that provides that members of paramilitary organisations who committed a Troubles-related offence face a maximum of two years in jail; 1997 legislation on decommissioning that rules out the testing of decommissioned weapons for evidential purposes; and legislation on the disappeared that limits the circumstances in which any evidence collected as a result of the discovery of remains can be used in court. The proposal in the Haass draft on the retrieval of information builds on this approach by providing limited immunity in such cases.

CONCLUSION

A number of factors has facilitated American mediation in the Northern Ireland peace process, of which the Haass process is the latest example. Of the world's ethnic conflicts, the case of Northern Ireland is unusual in involving two communities that are pro-American in their basic political sympathies. The importance of the Irish-American community as both a potential influence on the situation in

Northern Ireland and a significant constituency in American politics has also encouraged American involvement. Further, American mediation has generally been welcomed in London and Dublin. Indeed, at times, the two governments have positively sought it. Occasional tensions between London and Washington have been the exception rather than the rule and have concerned purely tactical questions rather than more fundamental points such as the appropriate form of government for a deeply divided society. On the shape of the political settlement, the three governments have been in accord. What is more, Northern Ireland has been one subject on which Democrats and Republicans in the United States with any interest in the issue have not been at odds.

The Obama Administration supported Haass's efforts and has continued to press the parties in Northern Ireland to accept his proposals. Why, then, did Haass fail? The simplest explanation is that there was too little pressure on the parties in Northern Ireland to compromise their positions so as to reach agreement. The flags protests were continuing but were no longer disrupting the everyday life of the province as they had done in the first months of the dispute. In any event, it was uncertain that agreement among the parties would have been capable of stopping the protests. The same was true of parades and the protest camp at Twaddell Avenue. At the same time, public interest in the details of the Haass process was slight and understanding of how the process might advance the peace process was limited. Little seemed to be at stake in the outcome and that was reinforced by Haass's own description of his draft as "a contribution to addressing these difficult issues, not a solution".²⁶ Lack of engagement by London and Dublin was also widely seen as having weakened Haass's leverage during the talks. Writing after Adams's arrest and release, the Irish negotiator during much of the peace process, Martin Mansergh asserted bluntly: "For US mediation to be fruitful, the British and Irish governments must engage and recognize the dangers".²⁷ This expresses clearly what did not happen during the Haass talks. During his visits to Northern Ireland, President Clinton typically stressed two themes in his speeches. One was opposition to political violence. The second was that if the Protestants and Catholics of Northern Ireland could overcome their differences and reach a settlement, then similar negotiated outcomes could be achieved in other ethnic conflicts around the world. There was the additional implication that Northern Ireland might be seen as a model as to what could be done in other deeply divided societies, with American assistance. This optimistic vision has suffered a further, minor setback with the seeming failure of the Haass process, though admittedly not one that has attracted much attention.

26 "Proposed Agreement 31 December 2013", p.2.

27 *The Irish Times*, 8 May 2014.

Though Haass and O’Sullivan did not act as official representatives of the American government, members of the Obama Administration lobbied in support of the Haass draft and made clear their displeasure at its rejection.

It would be wrong to extrapolate from this case that American mediation in ethnic conflicts is doomed to failure, any more than the previous success of American mediation in Northern Ireland can be seen as a model that might readily be applied to other cases. There were special reasons for the success of American mediation in the past in Northern Ireland that exist in few other places in the world. At the same time, the interpretation of American mediation in Northern Ireland during key moments in the peace process has tended to overstate the American role. Visibility has been mistaken for influence. In particular, the close support of the British and Irish governments for George Mitchell’s mediation was an underestimated element in his success. Among other consequences, it led to unrealistic expectations of what Mitchell might be able to achieve in the very different context of the Israeli-Palestinian conflict. What the Haass process has exposed is what happens when the same level of support from the two governments that was available to Mitchell ahead of the Belfast Agreement is absent.

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AMERIČKA MEDIJACIJA U ETNIČKIM KONFLIKTIMA: SLUČAJ SEVERNE IRSKE

Apstrakt

Kada je odjednom rasprava o isticanju unionističke zastave krajem 2012. započela ono što je postalo nova kriza u mirovnom procesu u Severnoj irskoj, pet partija koje su učestvovala u izvršnoj vlasti Severne Irske tražilo je medijaciju Ričarda Haasa, koji je bio zadužen za Severnu Irsku tokom prvog mandata Džordža Buša. Ovaj rad objašnjava pozadinu takve odluke, i zašto je američka veza tako trajna karakteristika mirovnog procesa u Severnoj Irskoj tokom mandata trojice američkih predsednika. Analiziraju se rezultati Haasovih pregovora i procenjuje njihovu doprinos trenutnoj političkoj situaciji u ovoj oblasti. Takođe se razmatraju posledice slučaja Severne Irske po američku medijaciju u drugim etničkim konfliktima.

Ključne reči: etnički konflikt, Severna Irska, američka medijacija, nasilje, terorizam