

**'Taking the gun out of Irish Politics':
decommissioning terrorist weapons
in Northern Ireland**

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Version 17/11/97

For CDS/Brassey's Yearbook 1998

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In early 1997 the peace process in Northern Ireland was moribund and in danger of total collapse. The IRA's bombing campaign had escalated to the province with the attack on the Army's Thiepval barracks at Lisburn; loyalist terrorists appeared to be on the verge of returning to violence; the summer marching season had created enormous strains and much ill-will between the two communities; neither Sinn Fein nor the Unionists trusted the Major government, which in turn was so beset by internal problems that it lacked the strength and will to push the process forward; negotiations on a political agreement (the so-called 'strands'¹) had stalled, with Sinn Fein barred from entry until the IRA cease-fire was re-established; and fundamental problems remained over the decommissioning² of terrorist weapons. By the end of the year, however, Sinn Fein was sitting at the negotiating table with the largest Unionist party, the IRA ceasefire had been re-established, a British Prime Minister had shaken hands with the President of Sinn Fein (albeit behind closed doors) and a date had been set for a referendum on a political agreement. Of course, such an agreement was still some way off at the end of the year, but the remarkable progress since the election most notably of Tony Blair's Labour government, but also of Bertie Ahern's Fianna Fail government in Dublin, was a cause for great

Some of the arguments used here first appeared, in a more detailed form, in 'The decommissioning of terrorist weapons and the peace process in Northern Ireland', *Contemporary Security Policy* Vol.18 No.3, pp.84-104. I would like to thank the editors, Stuart Croft and Terry Terriff, for permission to reproduce those sections. I would also like to acknowledge the continuing advice and assistance of Michael Cox and Caroline Kennedy-Pipe. In particular their comments on a previous draft have had a major impact on my thinking regarding decommissioning. I would also like to thank those involved in the peace process who were willing to speak to me but who wish to remain anonymous.

¹ The three strands are: internal political structures within Northern Ireland; relations between North and South; and relations between the Republic and the mainland.

² The term 'decommissioning' is used instead of 'disarmament' in the peace process to avoid possible connotations of military surrender; Sinn Fein and the IRA use the term 'demilitarisation' to reflect their view that the security forces should also be involved in the process. Although the weapons are generally referred to as 'illegal' rather than 'terrorist', this is largely for political reasons (though it also makes definitions somewhat easier). In this essay I have generally preferred the term 'terrorist'.

optimism. If the gun is finally to be taken out of Irish politics, however, the question of decommissioning terrorist weapons must be satisfactorily addressed. This essay deals with some of the key issues involved in the decommissioning of terrorist weapons in Northern Ireland. It begins with a discussion of the significance of decommissioning to the peace process. It then assesses the general issues of decommissioning versus demilitarization and when decommissioning should take place, before examining the more technical question of verification and the handing in of weapons. Finally the question of confidence building measures is addressed, both those specifically relating to decommissioning and also those more general to the process as a whole.

The Significance of Decommissioning

Although the peace process is usually traced back to 1990, it was only after the IRA ceasefire of 31 August 1994, followed on 13 October by a similar announcement by the Combined Loyalist Military Command, that the decommissioning of terrorist weapons assumed significance. The Irish government had raised decommissioning with Sinn Fein prior to the IRA ceasefire and the issue had also been discussed in the 'back channel' which existed between the British government and Sinn Fein in the early 1990s. And although decommissioning was not discussed in the 1993 Downing Street Declaration, the Irish foreign minister, Dick Spring, had made it clear in press briefings on the Declaration that a permanent cessation of violence had to involve the giving up of arms. In other words, the issue was present at a relatively early stage in the peace process, *but* the initial priority was to obtain an IRA and loyalist ceasefire. Once the IRA and loyalist terrorists had called a ceasefire, and in particular once the British government had made the 'working assumption' that the

IRA ceasefire was permanent in Spring 1995, decommissioning became a central issue in the peace process.

After the IRA and loyalist ceasefires were called, two sets of talks emerged, one on the strands and the other on decommissioning. From the start the relationship between the two sets of talks was potentially problematic. What, if anything, was the linkage? How should they be sequenced - particularly, should talks on decommissioning precede talks on future political structures? In addition the question of when to start decommissioning weapons was problematic: should it follow a political agreement, or should it precede negotiations as an indication of serious intent and to prevent the threat of a return to violence being used as leverage in talks. The British government attempted to clarify its position on these issues when the Northern Ireland Secretary Sir Patrick Mayhew visited Washington in March 1995. Its position (expressed in what became known as the 'Washington Three') was that for Sinn Fein to join multi-party talks on the strands the IRA had to begin decommissioning *beforehand*, thereby demonstrating its commitment to peaceful means and engaging in confidence building (a position which became known as 'prior decommissioning'). The Washington Three had the effect of turning decommissioning into *the* issue of the peace process. Although the British government's insistence upon prior decommissioning broadly satisfied Unionist concerns, it was unacceptable to the republicans. In particular the idea of the IRA handing over its weapons to British security forces smacked of surrender. The Irish government was also beginning to suspect that the decommissioning issue was being used by London to slow progress down (particularly when coupled to the time it took London to make the 'working assumption' that the IRA ceasefire was

permanent and the apparent reliance of the Major government on Unionist MPs for its Commons majority³). For some in Dublin it appeared that London was intent upon isolating the paramilitaries through the issue of decommissioning -that its demands would be seen by the IRA as, thereby boxing the republicans into a corner where they could be portrayed as the one's slowing down progress. Although the Bruton government remained suspicious over the IRA's motivations, it was convinced that the IRA would not accept prior decommissioning since this would be tantamount to surrender. A way had to be found around the problem if progress was to be made.

To break the growing impasse on the issue of decommissioning, the two governments launched in November 1995 the Twin Track Initiative. The first track involved preparatory multi-party talks to establish a framework for substantive negotiations; the second created an independent commission, chaired by former US Senator George Mitchell, to examine the decommissioning of terrorist arms.⁴ Decommissioning was now centre-stage and the issue of how to sequence decommissioning and all-party negotiations the biggest stumbling block to progress in the peace process as a whole. The Mitchell Commission reported in January

³ In addition the Major government may have been concerned over the loyalty of some of its own backbenchers on Northern Ireland, a loyalty which had already been stretched (and broken) on Europe. The issue of Unionist influence over the Major government should not however be overestimated. Although the support of the unionists was critical in getting the Maastricht bill through the Commons, leading many to suspect a secret deal had been struck between the Unionists and John Major's government. When David Trimble, leader of the largest Unionist party, attempted to buy influence in return for his support over the Scott Report, the Major government refused to play ball. The Unionists voted against the government, but Major survived. By 1996-7 both main Unionist parties felt that successive Conservative government's had betrayed them and there was little confidence in the Major government defending Unionist interests. Finally Major may also have been concerned over the loyalty of some of his more right wing Cabinet colleagues, including the Home Secretary Michael Howard, when it came to Northern Ireland.

⁴ George Mitchell was also President Clinton's chief economic adviser on Ireland. Mitchell's relationship with the Clinton White House was critical in giving him the status and support he required in the Commission's work.

1996 and proposed its own solution to the key problem of when to decommission - that decommissioning should move in parallel with all-party negotiations rather than precede or follow them.⁵ The Mitchell compromise quickly became the policy of both governments, but proved unpopular with the Unionists who maintained their support for prior decommissioning. Nor was it embraced wholeheartedly by the Major government. In particular John Major's decision to call elections to an assembly which would in turn provide the basis for representation at the multi-party talks was not presaged by the Mitchell Report and was seen in Dublin as an attempt by London to downplay the significance of Mitchell.⁶ More importantly the decision to call elections was the last straw for the IRA. From the Provisionals' perspective, the Major government had backtracked on its commitment in the Downing Street Declaration to allow Sinn Fein into negotiations on the sole proviso of an IRA cease-fire. With the cease-fire in place, Major had then insisted on decommissioning before talks; with the Mitchell compromise, Major had now asked for elections. This created deep distrust within the republican community over the British government's real intentions and on 9 February the IRA exploded a bomb in London's Docklands, ending its 18 month ceasefire.

Throughout 1996 and early 1997 decommissioning was somewhat in the background, at least for the two governments whose priority was now on obtaining a

⁵ Report of the International Body on Arms Decommissioning, 22 January 1996, para. 34. Available at: <http://www.nio.gov.uk/mitchrpt.htm>, August 1997. Hereafter referred to as the Mitchell Report.

⁶ Elections to the 110-seat Northern Ireland Forum were held on 30 May 1996. Parties returned to the Forum could then select participants to the multi-party talks on the strands. Sinn Fein were entitled to attend the Forum but could only attend the multi-party talks if an IRA ceasefire was in place and if they signed up to the Mitchell Principles. Unable to attend the multi-party talks because of the IRA's return to violence, they boycotted the Forum. The SDLP initially attended the Forum, but withdrew after the civil disturbances during the marching season in 1996. The Forum is a deliberative body only, ostensibly designed to 'promote dialogue

new IRA ceasefire. In the summer of 1997 however, new governments in London and Dublin provided the necessary impetus to reinvigorate the peace process. On 3 June the multi-party talks which had been suspended for the election campaign recommenced, with the new Northern Ireland Secretary Mo Mowlam focusing on decommissioning as the most important and sensitive issue confronting the talks.⁷ On 25 June the British and Irish governments produced joint proposals on decommissioning (including a set of 'possible conclusions' on methods of decommissioning)⁸, which although criticised by the Unionists nevertheless indicated the two governments' intention to resolve the problem. The two governments were also discussing the establishment of an independent body to oversee decommissioning, as suggested by the Mitchell Report. On 26 August agreement was reached on the establishment of an Independent International Commission on Decommissioning,⁹ with the former Canadian General and member of the Mitchell Commission John de Chastelaine later appointed as its chair.

The most important event of the summer however was the 19 July announcement of a second IRA ceasefire. It is clear that the ceasefire owed much to the change in attitudes of both governments. The new Irish Taoiseach Bertie Ahern was viewed by

and understanding'. With neither of the two main nationalist parties present, its role was clearly limited through 1996 and much of 1997.

⁷ Address by Secretary of State at Resumption of Multi-Party Negotiations, Northern Ireland Information Service, 3 June 1997. This was reiterated in the Joint Statement by the British and Irish Governments 23 July 1997. Available at: <http://www.nio.gov.uk/press/970723d.htm>, August 1997. As Shadow Secretary of State, Mowlam had appeared to indicate that the significance of decommissioning had been overstated.

⁸ Resolving the Address to Decommissioning, Northern Ireland Information Service 25 June 1997. See in particular the annex 'Possible Conclusions to Item 2 (a)-(c) of the Agenda for the Remainder of the Opening Plenary'. See also the 16 July explanatory comments made by Paul Murphy, Minister of State at the Northern Ireland Office. Resolving Decommissioning: Speaking Notes Explaining the Two Governments' Positions, Northern Ireland Information Service, 16 July 1997.

⁹ Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland establishing the Independent International Commission on Decommissioning, Northern Ireland Information Service, 26 August 1997.

republicans as being more committed to the peace process than his predecessor John Bruton had been, while Tony Blair systematically addressed the concerns expressed by Sinn Fein over the peace process. In particular Blair demonstrated a new willingness to look at the critical issues of decommissioning, the conditions under which republican prisoners were held and the timetable for talks (Sinn Fein being concerned that Unionists might be able to stall the process once negotiations were under way unless a clear timetable was in place).¹⁰ Assurances from Washington over Sinn Fein's access to the White House and over their ability to raise funds in the US were also reported to be of significance in the decision to restore the ceasefire.¹¹ With an IRA ceasefire back in place the major stumbling block to Sinn Fein's participation in talks was removed. On 6 August Mo Mowlam met a Sinn Fein delegation at Stormont to discuss a wide range of issues, including decommissioning, but emphasised that the IRA statement on restoring the ceasefire had to 'be reflected in words and deeds so that Sinn Fein could join the Talks process'.¹² Like its predecessor, the new Labour government was unwilling to take the IRA immediately at its word over the ceasefire but rather required a period of time in which to assess the seriousness of its intent. But unlike John Major's government, which took six months before making the 'working assumption' that the IRA ceasefire was genuine, it took Labour six weeks. On 29 August Mo Mowlam announced her decision to allow Sinn Fein entry to the talks based on her assessment that the ceasefire was indeed genuine, and on the sole proviso that Sinn Fein formally sign up to the Mitchell Principles on democracy and non-

¹⁰ See the comments by an IRA spokesman in "'Rise to the challenge" IRA tells parties', *An Phoblacht/Republican News*, 11 September 1997. See also 'How Blair cleared the clouds of mistrust', *Independent*, 19 July 1997.

¹¹ 'Clinton role revealed in IRA ceasefire', *Independent*, 6 August 1997.

violence. This they did on 9 September at a plenary session of the multi-party talks, with the major Unionist parties notable by their absence.¹³ The DUP and UK Unionist Party both boycotted the talks, believing the ceasefire to be a 'sham'. The larger UUP was absent until a meeting of its executive, postponed from 6 September due to the funeral of the Princess of Wales, had decided upon whether or not to attend the talks if Sinn Fein were present. Under enormous pressure, not least from the protestant business community, the UUP eventually decided in late September to sit at the same table as Sinn Fein, opening up the possibility of real progress in the strands.¹⁴

So how significant is decommissioning to the peace process? Although both governments have emphasised the need to decommission terrorist weapons to demonstrate a commitment to peaceful and democratic means of government, it is also clear that without an IRA ceasefire in place the issue tended to be placed on the back burner. The simple explanation for this is that a greater priority was placed on obtaining an IRA ceasefire. It is interesting to note however that a ceasefire has not always been a pre-requisite to discussions on ending internal conflicts – indeed in this respect Northern Ireland appears more the exception than the rule. Nevertheless, it would have been politically impossible for the British government

¹² Mo Mowlam, quoted in Meeting with Sinn Fein 6 August 1997, Northern Ireland Information Service, 6 August 1997.

¹³ The IRA however appeared to distance itself from Sinn Fein's acceptance of the Mitchell Principles. An IRA spokesman in an interview the week Sinn Fein signed up to the Mitchell commented 'Sinn Fein is a political party with a very substantial democratic mandate. What they do is up to them... the IRA would have problems with sections of the Mitchell principles. But then the IRA is not a participant in these talks'. "Rise to the challenge" IRA tells parties', *An Phoblacht/Republican News*, 11 September 1997. Further evidence of IRA concern was revealed by reports in November 1997 that leading members of the organisation had left due to disagreements over the peace process. See David McKittrick, 'IRA hardliners quit: but will it mean violence?', *Independent*, 7 November 1997.

and Unionist parties to sit down with Sinn Fein without an IRA ceasefire in place. Beyond this, the situation becomes more complex. For some parties in the process – most notably the nationalist SDLP and, at times, the Dublin government – decommissioning was seen as little more than a red herring pursued for tactical purposes, its significance blown out of all proportion. For others, especially the Unionists, decommissioning was more than a litmus test of republican good intent, it was a necessity given the nature of Irish republicanism. As Ken Maginnis, the UUP's security spokesman, argued, 'Sinn Fein-IRA are an irredeemable organisation, and nothing will facilitate their disarmament and movement from violence to democratic practice, because they do not want such movements'.¹⁵ From this perspective, it was only by decommissioning their weapons first that Sinn Fein-IRA¹⁶ could credibly become involved in the democratic political process; anything short of this would be used by republican terrorists merely for tactical advantage. But perhaps even more important to Unionists is the principle of consent – that any political agreement must have the consent of the (protestant) majority in Northern Ireland before being implemented. Although Sinn Fein have criticised this as a veto 'dressed up in democratic garb',¹⁷ and there is certain evidence to suggest that the IRA's reservations over Sinn Fein signing up to the Mitchell Principles was motivated more by concern over the principle of consent than decommissioning,¹⁸ consent has consistently featured in Unionist demands and

¹⁴ An alternative reading of the UUP's decision was that 'the IRA has called a tactical ceasefire, so we should engage in tactical talks'. See Deaglan de Breadun, 'Formula allows both sides to claim victory', *Irish Times*, 26 September 1997.

¹⁵ Hansard (Commons) 16 January 1997, col 476. This quotation does much to reveal the depth of distrust felt by the Unionists for Sinn Fein-IRA.

¹⁶ Unionists view Sinn Fein and the IRA as a single organisation, which they refer to as Sinn Fein-IRA. I have used this nomenclature when describing the Unionist position.

¹⁷ Gerry Adams, 'Consent is last refuge – a toll to keep Union', Sinn Fein press release 1 September 1997.

¹⁸ "Rise to the challenge" IRA tells parties', *An Phoblacht/Republican News*, 11 September 1997.

British government policy - from the 1993 Downing Street Declaration to the decision to hold a referendum in May 1998 on a political agreement. Therefore although Unionists have continually stressed the importance of decommissioning, it is not the only (and probably not the most important) principle for them in the peace process.

For Sinn Fein, the decommissioning of illegal weapons is seen as a necessary step in the peace process but one which should be undertaken as part of a broader demilitarisation of the province (which would include the removal of British troops and disarming of the RUC). For both Sinn Fein and the IRA, prior decommissioning would have been tantamount to surrender and was therefore unacceptable. Parallel decommissioning is however acceptable to Sinn Fein since the destruction of arms will be linked to political progress. The IRA however have indicated reservations over parallel decommissioning. Indeed an IRA spokesman commented in the same week that Sinn Fein signed up to the Mitchell Principles that

I don't think anyone has ever realistically expected us to agree to decommissioning this side of a political settlement. There is no historical precedent in Ireland for such a demand. *Those who raised the issue in the first instance and who continue to hype it are interested only in creating an excuse for their own refusal to engage in meaningful negotiations.* (emphasis added)¹⁹

This last sentence reveals a deeply held belief in Sinn Fein and the IRA that decommissioning was emphasised, particularly by the Major government, to delay progress in multi-party talks, and was therefore indicative of the British governments lack of serious intent with regard to the peace process. For republicans, the only

¹⁹ Ibid.

way to fully take the gun out of Irish politics is to address the broader issue of demilitarisation.

The significance of decommissioning for the Major government is extremely difficult to ascertain. Prior to the IRA ceasefire the issue does not appear to have particularly exercised the government. Once the government had made the 'working assumption' that the IRA ceasefire was genuine in Spring 1995, prior decommissioning was consistently emphasised. After the Mitchell Report this was dropped in favour of decommissioning in parallel with talks on the strands. This has led critics of the Major government to argue that it used decommissioning as a tactic to stall progress. This is supported by the 1996 decision to hold elections to a Northern Ireland Forum which would in turn focus the basis for participation in multi-party talks. This move was widely seen by republicans as simply the latest in a series of stumbling blocks to Sinn Fein's participation in the talks. According to this reading of events, the first stumbling block was the requirement for an IRA ceasefire and the second prior decommissioning. With the IRA's August 1994 declaration of a cessation of violence and the Mitchell Report's advocacy of parallel decommissioning, the Major government was forced to call elections to frustrate progress. Raising the issue of decommissioning in 1995 was therefore a tactic of the Major government to prevent Sinn Fein from being admitted to the talks. A separate reading however is more sympathetic to the Major government: that there was little point politically in raising decommissioning prior to an IRA ceasefire; and that once the ceasefire was in place, the government recognised the significance of decommissioning but demonstrated its flexibility by moving from its original position of prior decommissioning to the Mitchell compromise of parallel decommissioning.

According to this reading, the government was committed to decommissioning as an important and integral part of the peace process, but was not willing to place the process at risk with its demands over the timing and means (or 'modalities') decommissioning. Although Labour in opposition pursued a broadly bipartisan line on the peace process, they were critical of the lack of progress and felt that the significance of decommissioning had been overstated. Once elected, both Tony Blair and the new Secretary of State, Mo Mowlam, made reference at an early stage to the importance of decommissioning to the peace process,²⁰ as well as establishing the Independent International Commission to recommend on and oversee the process. But the suspicion still remains that decommissioning is less important for the Blair government than for John Major's, and that it is therefore ready to accept rather less decommissioning prior to a political agreement than its predecessor was.

Decommissioning and Demilitarisation

Since the outbreak of the 'troubles' in 1969 Northern Ireland has become arguably the most militarised area of Western Europe. Not only are the police armed, but the Army is deployed on the streets wearing body armour and bearing weapons, police stations and army outposts are heavily fortified, emergency legislation has been introduced which comes close (and at times has exceeded) traditional western notions of human rights, checkpoints and observation towers have proliferated, especially in the border area where a large number of roads are closed to civilian traffic, while building programmes (including the motorway system around Belfast)

²⁰ Speech by the Prime Minister at the Royal Ulster Agricultural Show, Belfast, May 1997. Available at: <http://www.nio.gov.uk/press/970516.htm>, 14 November 1997

were constructed with more than one eye on their security impact. Yet the question of demilitarisation has not been formally addressed in the peace process. Rather the emphasis is upon the narrower question of decommissioning terrorist weapons under the assumption that, once this happens and a political agreement is in place, demilitarisation will naturally occur. Indeed there is certain evidence to suggest that this might be the case: after the initial IRA ceasefire in August 1994, the Army's presence on the streets was scaled down and the style of patrolling was relaxed. But troop numbers were not dramatically reduced (despite evidence of serious overstretch in the Army as a whole), nor was the military infrastructure in the province affected. If demilitarisation is to occur naturally, then this will perhaps take longer than expected: militarisation has become part of the culture in Northern Ireland, and caution is likely to remain the watchword for the foreseeable future.

The exception to this generally held position that the focus should be on decommissioning is Sinn Fein, which has consistently argued for demilitarisation in the province rather than simply the decommissioning of terrorist weapons. For Sinn Fein the security forces are very much part of the problem in Northern Ireland. The British Army is seen as the army of an occupying power, while an armed police force (especially one dominated by protestants) is not 'normal' but rather contributes to the tensions. Therefore Sinn Fein argue that

disarmament by the IRA is but one strand of demilitarisation..... The British government's willingness to demilitarise must be made clear. Republicans consider British arms in Ireland to be illegal.²¹

²¹ Building a Permanent Peace in Ireland: Sinn Fein's submission to the International Body, 10 January 1996, p.19.

As Sinn Fein made clear to the Mitchell Commission, decommissioning must also involve disarming the RUC and removing the British Army from Northern Ireland.²² The Sinn Fein position is further bolstered by their concerns that a protestant-dominated armed police force might 'leak' weapons to loyalist paramilitaries at some stage in the future, but is at the same time complicated by broader nationalist concerns over the possibility of an armed protestant community without a British Army to protect them. As Caroline Kennedy-Pipe has argued,

crucial to the nationalist community is the number of guns held by the protestant community. There has always been a trade off between whether nationalists dislike the thought of an armed protestant community and no British Army or the opposite.²³

Whether demilitarisation can allay these nationalist fears is uncertain - the risk of the protestant community rearming might begin to loom large in some nationalist minds, undermining Sinn Fein's calls for the British Army's removal. A compromise therefore suggests itself whereby weapons held by the RUC are more tightly limited and the British Army's presence in Northern Ireland is reduced (including its role on the streets, its garrisons and observation posts, and the total number of troops deployed). But whether this would be sufficient for the republicans, for whom the British Army's presence is anathema and 'troops out' has been a central tenet of its faith, is questionable.

The issue of demilitarisation has not therefore been satisfactorily addressed to date in the peace process. For the majority of participants, 'taking the gun out of Irish politics' refers primarily (and, for some, wholly) to terrorist weapons rather than the

²² Ibid. See also Martin McGuinness, 'The substance of the negotiations', Sinn Fein press release 20 August 1997, p.3.

²³ Correspondence with the author, 14 August 1997.

wider question of the militarisation of the province. For Sinn Fein, demilitarisation is not simply a question of returning the province to normality but part of a wider republican agenda to remove British influence from the island. As a result the question of demilitarisation is seen largely in terms of republican demands rather than an attempt to return the province to normality.

Timing

When to decommission has been one of the most controversial issues in the peace process. The Unionist position for most of the peace process has been that decommissioning should precede all-party talks. This is seen both as a signifier of Sinn Fein/IRA's commitment to peace, but also as a means of preventing negotiations from being held hostage to the threat of a return to violence. From an early stage however there was some divergence of opinion within the Unionist camp over how much decommissioning would be necessary before talks could commence, with David Trimble's Ulster Unionist Party holding the more moderate position of requiring merely sufficient decommissioning to indicate serious intent. All of the major Unionist parties initially rejected the Mitchell compromise of decommissioning and talks proceeding in parallel, but under pressure from significant members of the protestant community, the UUP softened its line after the second IRA ceasefire to accept parallel decommissioning.

In contrast Sinn Fein has consistently pointed to the Downing Street Declaration as the basis for its participation in talks - that the sole precondition is that of an IRA ceasefire. For Sinn Fein therefore the Mitchell compromise was an acceptable position, particularly since the precise amount of decommissioning required prior to

a political settlement was not specified. For the IRA however, decommissioning should only occur after a political settlement, otherwise it would be 'tantamount to surrender'.²⁴ The symbolism of such an act in a land seeped in history should not be underestimated. The more moderate nationalist party, the SDLP, has viewed the issue of decommissioning before talks as something of a red herring pursued by those parties unwilling to see progress.²⁵ In particular there was suspicion in the nationalist and republican communities that parties associated with loyalist paramilitaries had been admitted to talks solely on the basis of the loyalist ceasefire, but that the IRA were being asked to decommission their weapons before Sinn Fein could be admitted to the talks. This double standard smacked of a political agenda which was at the very least antipathetic towards republican and nationalist concerns.

Both the Major government and the Labour Party supported the Mitchell compromise that decommissioning should occur in parallel with talks about Northern Ireland's political future, with Sinn Fein's participation being subject to an IRA ceasefire and acceptance of the Mitchell Principles. Although Labour remained critical of certain aspects of the Major government's handling of the process and its apparent unwillingness to make progress, following the Mitchell Report it maintained a broadly bipartisan approach on the issue of when decommissioning should take place. Where Labour have differed from their predecessors however is over the amount of decommissioning they expect prior to a settlement. At the beginning of negotiations in September 1997, the two governments stated that they

²⁴ "'Rise to the challenge" IRA tells parties', An Phoblacht/Republican News, 11 September 1997.

would *like to see* the decommissioning of *some* paramilitary arms during negotiations, as progress is made in the political talks, and believe this could be a major contribution to confidence-building and momentum towards agreement.²⁶(emphasis added)

The implication was clearly that the decommissioning process was not expected to be reaching completion by the time of the referendum in May 1998. Indeed the issue of how much decommissioning should take place during negotiations has traditionally - and deliberately - been kept vague by both governments simply because the issue of when to *start* the process has been so problematic.

There are, however, risks involved in the parallel decommissioning approach. The first is that, without prior decommissioning, the threat of a return to violence might be used to influence political negotiations. The Blair government has attempted to play down this risk, pointing to the fact that all parties will have signed up to the Mitchell Principles which include a commitment to non-violence and that prior decommissioning is 'simply not a political reality'.²⁷ It is parallel decommissioning with the attendant risk of a return to violence, or nothing. As Paul Murphy also noted

The Government, the people of Northern Ireland and all the political parties ... have stood firm against actual terrorism for 30 years now. I find it inconceivable that they would be swayed by the threat of violence if any such threat were to be attempted during these talks²⁸

Nevertheless the spectre of a return to violence re-emerged in late October/November 1997 with reports that leading IRA figures had resigned due to disillusionment with the peace process and that substantial numbers in the IRA

²⁵ See for example the comments of Seamus Mallon reported in Liam o'Coileain 'Decommissioning dominates forum discussion', *An Phoblacht/Republican News*, 22 June 1995.

²⁶ Joint Statement, 15 September 1997. Northern Ireland Information Office, 15 September 1997.

²⁷ Resolving Decommissioning: Speaking Notes, para 4.

²⁸ Statement to Plenary Session of Multi-Party Talks by HMG 21 July 1997, Northern Ireland Information Service, 21 July 1997, para 7.

(including an estimated 30% of 'foot soldiers') believed violence was more likely to realise their aims than political negotiation.²⁹ A second risk is that talks may be deliberately slowed or stalled (implicitly by the Unionists) to enable additional decommissioning to occur before a political settlement is agreed upon. Both governments have insisted however that decommissioning is to be linked to *progress* in the talks, and 'have devised mechanisms to ensure close liaison between the work on the strands and decommissioning'.³⁰ Without a clear agreement on how decommissioning is to be related to progress in the strands, however, and in particular over how many weapons are to be destroyed prior to an agreement, this issue remains problematic.

Finally one element not addressed so far in the discussion of the timing of decommissioning is what might be termed 'phasing'. Given the fact that terrorist arsenals, republican and loyalist, are likely to be of different sizes and consist of different weapons (some more lethal than others, some obsolete, some in poor working order), an agreed mechanism has to be devised which ensures equivalent rates of decommissioning between the various parties. Although the Mitchell Report argued that 'the decommissioning process should be mutual',³¹ it did not address the problem of achieving equal rates of decommissioning between unequal and dissimilar arsenals. Devising a mechanism which ensures equivalency in decommissioning will require considerable work given both the variety of weapons used in Northern Ireland and the different working states of these weapons. This

²⁹ McKittrick, *op. cit.*; Toby Harnden, 'IRA divided over future of ceasefire', *Daily Telegraph* 22 October 1997.

³⁰ The principal mechanisms are outlined in Resolving the Address to Decommissioning, Annex 2, with further details provided in Resolving Decommissioning: Speaking Notes, paras 5-20.

³¹ Mitchell Report, para 50.

might be further complicated if Sinn Féin's demands for a reorganisation of the RUC and redeployment of the British Army as part of any decommissioning (or 'demilitarisation') process are to be met. Devising methodologies for ensuring stability are, of course, familiar aspects of past arms control negotiations, but the nature of terrorist arsenals in Northern Ireland poses new problems in this respect.

Verification

The decommissioning process must clearly be subject to satisfactory verification, as both the Mitchell Commission and the two governments have made clear. Decommissioning will be verified by an independent body (the Independent International Commission on Decommissioning) established and resourced by the two governments, and which will work in consultation with both governments and other parties involved. The Independent Commission will, after consultations, present its proposals for decommissioning to the two governments for their approval and will also report to them on the progress of decommissioning. The Mitchell Report suggested that support from the two governments should include 'independent sources of legal and technical advice and adequate field resources to receive and audit armaments and to observe and verify the decommissioning process' and that it should also 'be able to call upon the resources and the relevant technical expertise of the British and Irish Armies, when it is appropriate.'³² Although intelligence co-operation is not formally mentioned, some liaison is probably to be expected. Weapons may be handed to the Independent Commission directly or through an intermediary; deposited for collection by the Independent Commission; or information may be provided to the Commission concerning the location of

weapons. Illegal weapons do not therefore need to be handed in directly to the security forces. Most controversially however, weapons may be destroyed by those who are in illegal possession of them (i.e. the terrorist organisations themselves) to ensure confidence by those organisations in the process. The destruction of weapons in this manner will, of course, be verified by the Independent Commission. Finally an amnesty of twelve months was proposed in the British white paper on decommissioning within which period illegal arms could be handed in without fear of prosecution (with some provision for flexibility if the need arises).

Verifying that all (or even an agreed percentage) of weapons has been destroyed assumes accurate data on the amount of weapons held prior to decommissioning. The Mitchell Report recommended that the RUC and Garda provide the Independent International Commission with 'the relevant data'. This assumes that the intelligence agencies which generate that data have an accurate picture of illegal stockpiles. Moreover it assumes that if this data is challenged by one or more parties then the intelligence organisations will be able and willing to substantiate their claims. Finally paramilitary organisations might have estimates both of their own stockpiles and those of other organisations. These may or may not be more accurate than those available to the intelligence services (there is a clear problem of inflating opponents stockpiles while deflating one's own, while some paramilitary organisations might not have accurate accounting procedures so that estimates of their own stockpiles might be inaccurate). Whether these estimates should be included and how the Independent International Commission should decide between competing claims has not been addressed.

³² Mitchell Report, para. 42.

In commenting upon the modalities of decommissioning, the former Secretary of State, Sir Patrick Mayhew, referred to these provisions as being designed to 'secure as much of the illegally-held weapons... *as is possible*',³³ implying some doubt as to whether all of the illegal weapons in Northern Ireland can be decommissioned; rather the aim appears to be to destroy as many as possible, accepting that a number will remain but hoping that they will be too few to cause major concern, and that the negotiations on the strands will produce a satisfactory political settlement. Certainly there are a number in the Unionist camp who think it extremely unlikely that all IRA weapons will be decommissioned, but who believe that if a certain tonnage of weapons is destroyed then this will so dent the IRA's arsenal that their military capability will have been reduced to negligible proportions. It is unclear whether Sinn Fein hold similar views over loyalist arsenals.

Finally violence in Northern Ireland has been perpetrated using a wide range of weapons. Some have been commercially produced, including most of the small arms used and explosives such as semtex; others have been largely or wholly home-made, with varying levels of sophistication. It is assumed that decommissioning will focus on commercially produced weapons (specifically firearms, ammunition and explosives) held in stockpiles due to problems in verifying the existence or otherwise of home-made weapons: the latter are not generally stockpiled but are made on an ad hoc basis for a specific mission; the real 'weapon' is the skill and experience of those who made them, not the end-product; some of the more dangerous and sophisticated devices rely on commercially produced

elements which can be addressed in the decommissioning process; and finally the home-made weapons are the result of fear, distrust and/or anger which would hopefully be satisfactorily addressed by the peace process as a whole.

Confidence Building Measures (CBMs)

In addition to verification, the most important CBM associated with decommissioning has been the issue of forensic testing. A key principle established by the Mitchell Report and supported by the two governments is that weapons handed in for destruction should not be used as evidence in court nor be subject to forensic testing. The reasoning behind this is clear: such a guarantee is likely to ensure that more illegally held weapons are handed in than if the threat of forensic testing and possible use as evidence was present.³⁴ Similarly decommissioning legislation forbids the investigation of these weapons for intelligence concerning who made them, who supplied them and where they were stored. This amnesty also of course extends to the possession of weapons in the process of being handed in for decommissioning. It does not, however, include crimes which may have used decommissioned weapons but which can be proven by other means.

Decommissioning is itself a CBM in relation to the peace process as a whole, while a number of other confidence building measures have been suggested which, though not always directly related to the decommissioning of weapons, may perhaps be used to foster trust between the various parties. A Liaison sub-Committee on Confidence Building Measures has therefore been established to facilitate an

³³ Ibid.

exchange of views on CBMs and to advise the Chairs of the strands where appropriate.³⁵ Issues include:

- * **The treatment of prisoners held for terrorist offences.** Dealing with this is seen by republicans as a major test of the British government's good faith. Remission rates for prisoners held on terrorist or related offences remain comparatively poor (though these have increased slightly in the 1990s as a result of the peace process), the 'special category' status of republican prisoners has led to concerns over the manner in which they are treated, while the Conservative government's refusal to allow IRA prisoners held on the mainland back to jails in Northern Ireland was a source of considerable frustration. Although there was an obvious and understandable concern that the early release of prisoners might provide the IRA with a major source of additional and experienced manpower, this would not necessarily be the case with some of the older prisoners, while simply bringing forward the release dates of those prisoners whose sentence was almost over would have done much to build confidence with the republican movement for minimum risk. An even more straightforward CBM would have been to transfer prisoners back to Northern Ireland, while special category status has led to prisoners being treated in ways deemed insulting by republicans.³⁶ The Labour government has stated that it 'is committed to ensuring that prisoners are treated with dignity and respect for their rights and subject to no more security restrictions

³⁴ See for example Secretary of State's press conference, Castle Buildings, 1 October 1996. Available: <http://www.nio.gov.uk/sos110.htm>, July 1997.

³⁵ Resolving the Address to Decommissioning, 25 June 1997, Annex 2(b). The committee will be a sub-committee of the Committee of Plenary (sic), established in parallel to the Independent Commission and consisting of representatives of all participants in the negotiations.

than the risk to public safety requires'.³⁷ There is a feeling that Labour is more sensitive to the issue than the previous government, and it has certainly indicated that, by signing up to the European Convention on Human Rights, it will address some of the concerns over the manner in which prisoners are treated.

- * **The repeal of emergency and anti-terrorist legislation.** Although martial law has never been imposed since the troubles began in 1969, the security forces in Northern Ireland possess a wide range of powers, some of which come close to infringing traditional western notions of human rights. Although some of the more extreme measures such as internment and the broadcasting ban are now well past, the situation there remains far from 'normal'. Progressively repealing such legislation would do much to restore confidence and faith in the rule of law. Again this is something Sinn Fein has repeatedly called for.³⁸
- * **The use of democratic mandates** through elections and referenda. Both governments have committed themselves to the principle of consent as a means of reassuring the protestant majority. Although John Major's call for elections in 1996 was instrumental in the IRA ending its ceasefire, judiciously applied these mechanisms could do much to build Unionist confidence in the peace process.
- * **Reduced surveillance** both by security forces and the paramilitaries. Surveillance is a sign of distrust and, when done by paramilitaries, a source of fear. Although the Army and RUC gain much critical intelligence by

³⁶ A recent cause celebre was when Michael Howard, the last Conservative Home Secretary, required a republican prisoner to be handcuffed whilst giving birth. Massive pressure, not least from the media, led to his decision being reversed.

surveillance, both covert and overt, it also adds to the impression of Northern Ireland as a militarised state. Progressively reducing this would again add to growing confidence in the peace process.

- * **Parades.** For successive years the marching season has threatened the peace process and the issue of parades remains one of the most sensitive and provocative in Northern Ireland. For Unionists, and particularly the Orange Order and Apprentice Boys, the right to march to celebrate their past represents a freedom of expression and is therefore a fundamental right which should be protected in a liberal democracy. The problem is that the historic routes of such marches take them through Catholic areas where they are seen as hugely insensitive to local concerns and highly provocative. To address this problem the government established in 1996 an independent Review Team headed by Dr Peter North of Oxford University. The North Report was published on 30 January 1997, and amongst its recommendations proposed the setting up of a Parades Commission. This would serve primarily to mediate between communities and to determine whether or not marches should proceed. The Labour government has committed itself to introducing legislation implementing the North proposals in the 1997/8 session of Parliament.³⁹

³⁷ Letter from Paul Murphy to Martin McGuinness, 9 July 1997. Northern Ireland Information Office, 17 July 1997.

³⁸ See for example McGuinness, p.3.

³⁹ There is some doubt over how effective a Parades Commission might be. Brian Feeney for example has commented that 'The Parades commission was a Conservative cop-out. Any five guys in a pub could determine which Orange marches shouldn't proceed. Their determination would have as much effect as the commission's. In the end it will be the RUC who will decide. But it should be a political decision which Mayhew and Mowlam, unlike Douglas Hurd, haven't the guts to take.' Brian Feeney 'Viewpoint', *Irish News* 5 November 1997.

Conclusion

Decommissioning is now very much part of the peace process in Northern Ireland - despite republican and nationalist doubts over the motivation behind this. Similarly there is a broad consensus over decommissioning occurring in parallel with progress on the strands (the main exceptions being the more extreme Unionist parties and elements of the IRA). There is also agreement over some of the methods (or 'modalities') of decommissioning, including the establishment of an Independent International Commission to manage the process, the means of handing in weapons and the issue of forensic testing. However problems still remain over the rate of decommissioning, particularly how many weapons should be destroyed prior to the referendum in May 1998; over how to manage the decommissioning of dissimilar arsenals; over the wider issue of demilitarisation; and over various confidence building measures, including the treatment of republican prisoners. But what is most clear is that the future of the peace process is much more dependent now upon what happens in the strands than the progress made in decommissioning. This is not to say that problems in decommissioning might not prove serious; rather it is to say that attention is now focused on the prospects for political agreement, and that it is success here which will determine whether or not the gun is taken out of Irish politics.