

**Testimony
of
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U.S. House of Representatives
Committee on Foreign Affairs
Subcommittee on Europe, Energy, the Environment and Cyber
Wednesday, May 5, 2021

“Reaffirming the Good Friday Agreement”

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify today about the status of the Good Friday Agreement, the current situation in Northern Ireland, and some key issues confronting the people there, the political parties at Stormont and the two governments in London and Dublin.

It is a pleasure to appear again before this Committee. Fifteen years ago, while serving as President George W. Bush’s Special Envoy to the Northern Ireland Peace Process, I testified to the remarkable progress that had been achieved under the Good Friday Agreement, as well as to the not insignificant challenges that lay ahead. As you know, we were able to achieve a breakthrough at the St. Andrews summit in late 2006, which led to the political parties, notably Sinn Fein and the Democratic Unionist Party (DUP), agreeing to restore a Northern Ireland Assembly and to form a Northern Ireland Executive at Stormont House in May 2007. I left the State Department around that time, thinking that “the Troubles” were over and that Northern Ireland could now begin to enjoy a purely peaceful and democratic political future.

Much progress has been made since the Good Friday Agreement. This has been due the efforts of many people, foremost the community leaders from both traditions in Northern Ireland, but also including political leaders there, the NIO, the police and security services, and the government in London. The support of Dublin, Washington, the EU, as well as the generous efforts of Irish-American citizens, NGOs and foundations, have also been instrumental in advancing the transition to a more normal society.

But sadly, Northern Ireland has still not realized the full promise of the Good Friday Agreement.

An upsurge in paramilitary violence a few years ago led the British and Irish governments to form a four-person Independent Reporting Commission (IRC) to help end paramilitarism in Northern Ireland; I was asked to serve as the UK Representative on the Commission. Please note that I am appearing before this Committee today in my personal capacity.

A number of challenges currently confront Northern Ireland. Perhaps the most prominent is the UK's decision to leave the European Union. The terms that London and Brussels negotiated and how those agreements may be interpreted and applied in light of previous agreements, including the Good Friday Agreement, have caused much anxiety over Northern Ireland's constitutional, political and economic future. For many Protestants in the North, they have also raised fundamental questions over their future status and identity. The implications of Brexit continue to reverberate in Northern Ireland, indeed, across the entire island of Ireland.

The Troubles cast a long shadow

Even if, or when, questions over Northern Ireland's status in light of Brexit and the Northern Ireland Protocol are settled, other issues remain that will continue to impact its future.

I want very briefly to highlight three of these challenges.

1. Paramilitarism

Paramilitarism in all its forms continues to be a scourge in the communities where it operates, and a threat to the integrity of the Good Friday Agreement, whether your goal is a united Ireland or the preservation of civil societies North and South with respect for the rule of law.

An estimated 17,000 members belong in some capacity to so-called Loyalist paramilitary organizations alone. To provide some perspective, the equivalent proportionate number in the United States would be almost 3 million paramilitary members.

These numbers do not tell the whole story, as there are different categories of paramilitary membership. These include some who have already decided on a peaceful future but remain in their groups rather than walk away and leave the field to darker forces. Others are involved for what they believe are genuine ideological or political reasons to do with identity or insecurity; many of these members remain available for “duty” or “service” or “support” of various kinds, but, if left to themselves, are not actively involved in ongoing paramilitary activity or criminality. Still others continue to threaten and attack police and prison officers and individuals linked to their own paramilitary groups.

And then there are a much smaller number of paramilitary members who use paramilitarism as a flag of convenience for pure criminality: assaults, extortion, drugs, and other crimes, including threats to political representatives and journalists. The paramilitary label allows them to rationalize or justify their activities in the context of Northern Ireland and its history; it grants them a type of legitimacy that resonates for some in their communities. These paramilitary members are the most likely to be involved in coercive control of communities and in recruiting vulnerable young people into their ranks.

There are also differing attitudes in the communities where the paramilitaries operate. Most community members reject paramilitarism and see its continuation as unacceptable and morally wrong in the context of modern-day Northern Ireland; paramilitarism is seen as purely a matter of criminality to be handled by law enforcement. But for some in these communities, paramilitaries are regarded not as outsiders, but as “part of us, part of who we are.” And in some cases, the paramilitaries are even seen as “go to” people, particularly in terms of dealing with local criminal and anti-social behavior, including drugs.

One approach to addressing this problem is through policing and the criminal justice system. The work of the Paramilitary Crime Task Force, together with the measures being undertaken by the Police Service of Northern Ireland (PSNI) more broadly, and the ongoing work of the UK Security Service and An Garda Síochána, have all helped. Neighborhood policing, with the trust and confidence of the local communities, is also essential.

However, there is more that can and should be done. The wheels of the criminal justice system in Northern Ireland turn exceedingly slowly; often it

appears as if justice delayed is justice denied. Also, there should be a dedicated, stand-alone agency that focuses solely on civil recovery of the proceeds of crime in Northern Ireland, similar to what is in place in other jurisdictions.

Very few people who have examined this issue believe that a purely law-order approach can end paramilitarism; in other words, you cannot simply arrest your way out of this problem. Hand-in-hand with a policing and criminal justice approach is one that also addresses the socio-economic deprivation in many of those communities where paramilitaries operate and exert coercive control. These communities suffer from educational under-attainment, adverse childhood experiences, unemployment, poverty, lack of investment, mental health issues and drugs.

Of course, not all paramilitary activity is rooted in socio-economic deprivation, but data show there is a direct correlation between the two; it serves as a fuel and driver of paramilitarism.

Only a holistic, all-of-government approach that incorporates both a law-and-order strand and a socio-economic strand has a chance of being successful. In practice, the political leaders in Northern Ireland have to “own” this approach, meaning they have to provide the appropriate resources, closely supervise the NIO, PSNI and other elements of the government to ensure implementation, and be accountable for its success.

Whether the goal is a united Ireland or civil societies North and South with respect for the rule of law, paramilitarism in all its forms threatens the integrity of the Good Friday Agreement.

2. Group Transition

An idea that has recently gained some renewed traction to address the paramilitary problem has been to engage with paramilitary groups and help them “transition” to a different, non-violent form. As to the process by which this would be accomplished, The Fresh Start Panel Report on the Disbandment of paramilitary groups in Northern Ireland (June 2016) outlined some sensible steps:

- End recruitment into the group;
- Give up paramilitary structures, weapons, training and activities;

- Cease paramilitary-style attacks and all other forms of violence or threats of violence;
- Cease to exercise coercive control in neighborhoods; and
- Commit to the rule of law, including support for the PSNI.

Each of these issues is complex; they would all need to be defined, debated and discussed at length. To give but one example, there is no common understanding of what “group transition” even means. Similar confusion and misunderstanding surround other terms that are often used in this context: deproscription, disbandment, dismantlement, demobilization, decriminalization and reintegration. As we all know, if you can’t first define the problem, you cannot hope to solve it. And however these terms are defined, there will need to be some credible way to monitor any progress along this journey.

For any of this to happen, there needs to be a formal political process that allows the key stakeholders to have a seat at the table and ensure that their voices are heard. In the past, London has been more focused on other issues, and political and community leaders in Northern Ireland have been reluctant to engage with putative criminals and convicted felons for fear of public criticism and the political risks involved.

I believe that such a process is urgently needed, because first, the paramilitaries will not disappear on their own. They are not capable of “self-transitioning,” even if they have the incentive, as they lack the experience or expertise to do so. Second, time is not on the side of inaction. Without a new initiative, the situation is likely to get worse before it gets better. And third, group transition is closely intertwined with the UK’s efforts to address and resolve a related issue: the legacy cases deriving from the Troubles.

3. Legacy

The Stormont House Agreement (December 2014) committed London, Dublin and the Northern Ireland political parties to deal with the past according to certain principles. The parties agreed to:

- promote reconciliation;
- uphold the rule of law;
- acknowledge and address the suffering of victims and survivors;
- facilitate the pursuit of justice and information recovery;

- be human rights compliant; and
- be balanced, proportionate, transparent, fair and equitable.

The Legacy process itself involves three elements: (i) an Oral History Archive, which serves as a shared repository of experiences and narratives from the Troubles, (ii) an Historical Investigations Unit, which investigates Troubles-related deaths and may refer cases for criminal prosecution, and (iii) the Independent Commission on Information Retrieval (ICIR), which enables victims and survivors to confidentially receive information the ICIR has acquired about the Troubles-related deaths of their relatives. Any information acquired by the ICIR will not be disclosed to law enforcement or intelligence agencies and will be inadmissible in criminal and civil proceedings.

This initiative, while admirable in many ways, contains its own complications. Memories of the past, and especially the violence and ongoing trauma of the Troubles, are ever-present in Northern Ireland. Legacy issues are controversial because there is the sense that whoever owns the past will be able to chart the future. In other words, reconstructing or reinterpreting the past is a way to build a dominant narrative of the Troubles, which may either benefit or disadvantage certain political parties and even marginalize entire sectarian groups. There is no consensus in Northern Ireland among the political parties or the more-than-four-dozen victims groups as to how these Legacy bodies should operate.

Investigating the past through the Legacy structures also places in tension the desire to understand what actually happened in the past with a reluctance by those with such information to come forward for fear it might implicate them and others in criminality. Specifically, it is unclear whether information provided to the Historical Investigations Unit will take precedence over information provided to ICIR with respect to criminal prosecutions. This tension, and the resulting uncertainty, provides a significant disincentive for paramilitary members to come forward and engage not only with any of the Legacy bodies, but also to participate in any group transition process.

Appointing a U.S. Special Envoy

My final comments address the wisdom of having a U.S. Special Envoy to assist the Northern Ireland peace process. For many years after I left this position at the State Department, I did not see the need. I believed the political leadership in Northern Ireland, with support from London, Dublin

and others, could step up to their responsibilities and work together to forge a new future. I was wrong.

I support the idea of a Special Envoy for Northern Ireland, believing that the United States once more can play a crucial role in helping the people of Northern Ireland. The United States brings a long track record of proven success in Northern Ireland, and has the ability to leverage outside resources and provide new ideas to help the parties, and the two governments, with the challenges I've mentioned above.

This recommendation comes with two further suggestions. First, the Biden Administration should consult with London and Dublin to ensure that they would welcome the appointment of a Special Envoy. There is no point in the U.S. intervening if our assistance would not be wanted. For the record, I believe such an appointment would be welcomed.

Second, the person selected should be the *President's* Special Envoy and not the Special Envoy of the Secretary of State. While this may seem like a minor point of protocol, this distinction will highlight the importance President Biden and his administration assign to this effort and help ensure that the Special Envoy will be accorded the appropriate access when meeting with British and Irish officials.

Once again, thank you for inviting me to testify today, and for your time. I would welcome any questions you might have.