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Brexit and the Irish Border

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The seeds of modern Irish nationalism were sown by members of the Anglo-Irish and Scottish-Irish Protestant minority who ran the country in the late 17th century and in the 18th century. What they initially sought was a much greater degree of autonomy from London, more particularly in terms of trade regulations, as William Molyneux's 1698 pamphlet "The Case of Ireland being bound by Acts of Parliament in England, stated" illustrates. To prove that Ireland was a nation in its own right equal to England and Scotland, Irish Protestant intellectuals developed a whole corpus of writings on the glorious Irish past. Their aim was to make the Irish colony the fourth British nation alongside Scotland, Wales and England. Persisting religious discrimination and considerable social inequalities coupled with the influence of the French Revolution led to the emergence of a republican nationalist movement at the end of the 18th century and to the rise of Irish Catholic nationalism in the first part of the 19th century under the influence of Daniel O'Connell. The divide created by the Act of Union and the industrial revolution between a largely agrarian south dominated by Catholics and an industrial north east dominated by Protestants froze the national debate along sectarian lines. Pitt – the British Prime Minister – had hoped that the Act of Union would settle the Irish question through the integration of the colony into a larger multinational State. Direct rule from London on the contrary reinforced the colonial nature of the relationships. Catholic emancipation in 1829 and the Home Rule campaigns in the 19th century frightened the Protestant minority who feared to be overwhelmed by a Catholic majority if autonomy was granted to Ireland. Unionism/Loyalism in Ireland was born in the 19th century, out of conflicting economic interests and a diverging sense of national identity focused on religious denominations.

Present day Northern Ireland is the heritage of those irreconcilable perceptions, which led to violent conflict and to partition of the island between an autonomous and later full-fledge independent state in the South, and a British North with devolved institutions. Yet partition did not solve the national question as the South maintained a territorial claim on the North in its 1937 Constitution, and the Catholic minority in the

North was discriminated against by what Lord Craigavon called 'a Protestant Parliament and a Protestant State' (Bardon 1992 : 539) which contributed to foster a siege mentality inherited from the 17th century. The uncompromising attitudes and the brutality which came as a response to the rise of the Civil Rights movement in the 1960s led to civil unrest and to the emergence of paramilitary groups on both sides, the most important being the Provisional IRA. Violence led to the demise of the Northern Irish devolved institutions and to the restoration of direct rule from London.

As a result Northern Ireland experienced 30 years of conflict which totalled over 3,000 casualties and more than 43,000 wounded and maimed people, out of an overall population of about 1.5 million living on a territory of 9, 300 square miles. The failed tentative to establish a power sharing administration with the Sunningdale Agreement in 1973-1974 and the failed referendum of 1973¹ revealed that no lasting settlement was possible without taking into account all the layers of the conflict. This implied 3 strands: a North-South Irish dimension, a British-Irish dimension, and of course a nationalist-loyalist Northern Irish dimension. This in turn, implied that there should be no exclusion from the negotiation table. This pre-condition was met in the 1990s under the favourable conditions created by the end of the cold war. The end of apartheid in South Africa provided a peaceful example of conflict resolution. Then US commitment, the conversion of the republican movement to representative and parliamentary politics through its party Sinn Fein, the more conciliatory attitudes of the British government, Tony Blair's large parliamentary majority which gave him a free hand, were vital ingredients in the Peace Process. Finally, the influence of European Community and European Union policies in terms of economic integration largely made the border irrelevant. Ireland as a whole, irrespective of the border, was considered as Objective 1 region for European structural funds, and many European initiatives and projects such as the Interreg programme favoured Ireland in order to promote cross-border economic cooperation. Last but not least the help provided by European public funds considerably boosted development and, together with the attractive fiscal policy of the southern state (corporate tax half the French and German levels), contributed to major private investments in the island. Major multinational

¹ The referendum was held in March 1973 to determine whether people in Northern Ireland favoured reunification or the status quo. The so-called 'Border Poll' was boycotted by Nationalists and resulted in an inconclusive victory for remaining in the UK. 98.9 percent voted to remain in the UK but the voter turnout was 58.7 percent.

companies such as Dell, Microsoft, Pfizer, located their European Headquarters as well as a significant part of their production in Ireland, and relied on Irish SME sub-contractors on both sides of the Border, which was no problem thanks to the Single European Act and the Maastricht treaty which created a single market within the borders of what became the European Union in 1992. In short, in economic terms, Ireland became a single unit even though it was still partitioned between two States, .

The Good Friday Agreement was signed in 1998. The agreement opened the way for the creation of consociational power-sharing institutions in the North. The constitution of the Irish Republic was altered in order to drop the territorial claim on the North. In return the British State acknowledged that sovereignty over the North was based on the consent of the Northern Irish population and that if a referendum produced a majority in favour of reunification, the British Parliament would legislate accordingly (provided the Irish State also approved the change...). Intergovernmental conferences were also created to address the British-Irish and Irish-Northern Irish dimensions. The Agreement was approved by referendum on both sides of the border with solid majorities of 94% in the South and 71% in the North.

To make a long story short, compromise was made possible by the favourable conditions of the 1990s, by economic integration, by the acknowledgement of the legitimacy of all identities. The large success in the 1998 referenda is explained not only by the fact that the Irish, North and South, had grown weary of the conflict. It is also explained by major ideological and economic changes. The border issue which had been one of the causes of the civil war in the 1920s and which had remained a key issue in British –Irish and nationalist-loyalist relations, was becoming irrelevant because of the process of European economic integration.

The twenty five years of peace enjoyed by Northern Ireland do not mean that all problems are solved. There have been several crises leading to temporary suspensions of the power-sharing executive, but the most serious of them all is today the Brexit crisis, which has brought back to the fore the border issue. Tensions between nationalists and loyalists led to the suspension of the power-sharing administration and assembly with no prospect of a negotiated settlement in sight, at least before the council elections of May 2023. Northern Ireland gave a 56% turnout in favour of Remain in the Brexit vote. The twenty five years of peace enjoyed by Northern Ireland do not mean that all problems are solved. Several crises led to

temporary suspension of the power-sharing executive, but the most serious of them all is today the Brexit crisis, which has brought back the border issue to the fore. The referendum over membership of the European Union triggered by David Cameron gave a clear majority to the “Leave” side in the UK. This, together with the fall of the Cameron government, led to a series of parliamentary and government crises in Britain, to the end of British membership of the EU in January 2020 and as a consequence to the reestablishment of an international border in Ireland, the Republic being part of the EU. Such a situation was economically harmful to the EU and Britain, and to both sides of the Irish border, as the economic fabrics of North and South had become interwoven and interdependent as a result of years of European integration.² Besides, it was feared that the reintroduction of the North-South border could revive the most sinister memories of the past century and jeopardise the 1998 Good Friday Agreement. The negative effects of Brexit became a serious concern for Brussels, London, Dublin and Belfast who tried to limit them. Yet this has proved to be a most difficult task to achieve, as the contradiction between an economically united Ireland under EU regulations clashed with protests that such a prospect would be Irish reunification in all but name and a breach to the integrity and sovereignty of the UK. To make things even more intricate, Northern Ireland gave a 56% turnout in favour of Remain in the Brexit vote³. This vote contradicts the line of the main loyalist party, the DUP, which campaigned in favour of Brexit. Consequently, loyalists put the pressure on Teresa May who desperately needed their support in Parliament after the disastrous result of her 2017 snap general election. After Boris Johnson secured a large parliamentary majority, compromise was reached and in January 2020 the withdrawal agreement was signed, together with the Northern Ireland/Ireland protocol⁴. According to the EU, the protocol is a tool designed to avoid a “hard” border in Ireland.

[the Protocol]takes into account the unique circumstances on the island of Ireland. It was agreed between the United Kingdom of Great Britain and Northern Ireland (UK) and the European Union (EU) as a stable and lasting solution designed to protect the all-island economy, and the Good Friday

² Yann Bévant, *Ibid.*

³ https://www.bbc.co.uk/news/politics/eu_referendum/results consulted 19 December 2024.

⁴ Which became effective on 1 January 2021, thus opening the way to the EU-UK Trade and Cooperation Agreement, signed on 30 December 2020, applied provisionally as of 1 January 2021 and entered into force on 1 May 2021.

(Belfast) Agreement in all its dimensions, and to safeguard the integrity of the EU single market.⁵

This contradicts the line of the main loyalist party, the DUP, which campaigned in favour of Brexit. The DUP, which was staunchly opposed to the Protocol on Northern Ireland negotiated between the UK and the EU, refused for two years to restore the power-sharing administration. Loyalists rejected the Protocol on Northern Ireland because they consider that its content questions Northern Ireland's membership of the UK, and threatens to destroy the Union. The analysis was shared by conservative hardline British brexiteers who saw it as a breach of sovereignty. Consequently, in the following months the British government headed by Boris Johnson showed a clear will to act unilaterally with little consideration for the international treaty signed with the European Union. The protocol was never fully implemented and was held responsible for supply difficulties in Northern Ireland. The EU launched legal action against the UK, and even US president Biden warned the British that nothing should threaten the arrangements born from the Peace process. The new PM appointed in October 2022, Rishi Sunak, tried to overcome tensions through new negotiations with the EU. This led to a new practical arrangement, the Windsor Framework, reached in February 2023. The Framework significantly reduces customs controls on goods coming from Britain to Northern Ireland. It also creates a "brake" made available to the Northern Ireland Assembly, and inspired by provisions in the Good Friday Agreement: if 30 MPs from different parties object to the implementation of a new European piece of legislation on goods in the Province, they can call a vote to block it. This mechanism, however, is part of the protocol and leaves intact the European Court of Justice's final say on single market rules still in force in Northern Ireland. This point has remained a bone of contention.

⁵ <https://www.consilium.europa.eu/en/policies/eu-relations-with-the-united-kingdom/the-eu-uk-withdrawal-agreement/the-protocol-on-ireland-and-northern-ireland-explained/> Last accessed 25 January 2024

Through the Windsor framework however, the DUP claim they have won a major battle as to their eyes the border is preserved. How can such a situation be handled by republicans, now that they have become the single largest party on both sides of the border ?

Those who renounce violence... are entitled to be full participants in the democratic process. Those who show the courage to break with the past are entitled to their stake in the future (Clinton 1995)⁶

This quote from a speech delivered by Bill Clinton on his State visit in Northern Ireland in 1995 sums up the spirit of the Good Friday Agreement, and it also underlines the central role played by the paramilitaries in the resolution of the conflict, thus putting an end to years of criminalisation of republican activities. Everybody remembers the importance of paramilitary prisoners in the rounds of negotiations that preceded the Agreement, and the fundamental principle in the Agreement was that of inclusion. The only way to build a long lasting peace in the North was to accept the legitimacy of all ideological standpoints and consider all shades of opinion as full and equal participants in the building of a post conflict community, which future would remain open.

Therefore former paramilitaries, historically considered as the main instigators of violence, were given the opportunity through the peace process to achieve a new contribution to society at large, and to their own cause in particular. Brian Gormally's report on the re-integration of ex-prisoners casts a very interesting light on this concept of inclusion, here defined under the notion of conversion :

The concept of "conversion" relates to the transition from a violent conflict to peace and to the consequent change of use of economic and social resources and change of vocation of former combatants. Conversion is a way of minimizing the cost of past conflict and maximizing the benefits of peace. (Gormally 2001:14)

Though the report focused on ex-prisoners, its conclusions obviously apply to all former paramilitaries. In other words, in a context of post civil conflict one of the main challenges was to make sure that former guerrillas would be given a place and status within their community and within society at large that would contribute to

⁶ Bill Clinton, Mackies Metal plant, speech delivered on the factory floor, Belfast, 30 November 1995

secure their farewell to arms. The challenge was all the more crucial that even though the hold of Sinn Fein and of the IRA would remain strong, the existence of splinter groups dedicated to the continuation of the armed struggle could well represent a strong temptation if the Agreement did not deliver its promises.

Reintegration became as a result inseparable from the notion of inclusiveness, irrespective of the ups and downs of political life in post conflict Northern Ireland, yet it must be borne in mind that in the case of the republican movement, Reintegration would not only affect the Six Counties, but Ireland as a whole.

According to Brian Gormally (2001: 14), the first stage of reintegration was political reintegration. As no formal structures of demobilisation programmes had yet been set in the aftermath of the Good Friday Agreement, the transition had to come through political parties representing the aspirations of former guerrillas.

As the political recognition of Sinn Fein as a legitimate representative of nationalist political aspirations was effective, and as Sinn Fein would field candidates in all elections north and south with the possibility of becoming one day the all-Ireland single largest party, the Agreement encouraged conversion from guerilla warfare to political activism. In the case of the republican movement this trend presided over the creation of a widespread community sector in which former paramilitaries and ex-prisoners became key figures in the development of their own communities. This is epitomized by Mickey Culbert, an IRA prisoner for 16 years and a former member of staff of the republican ex-prisoners support network, today head of *Coiste ni nIarchimi* :

Coiste na nIarchimi is an umbrella organisation. It played an important part as an ex-prisoner support network and, by extension, in the conversion and sometimes relocation of former republican paramilitaries. As its Gaelic name suggests (*Coiste* means Committee or network), *Coiste* works on behalf of numerous local groups. It is a kind of mother structure that represents local associations at a higher level, and makes decision as to the policies that pursued by the association. Mickey Culbert explains:

Money comes from Europe and from agencies set up by the British Government in the North and by the southern government in the South.[...]as a matter of fact we are subjected to very rigid audits accounts and procedures quite simply because they don't trust us, there is a lot of suspicion about this. But we have improved over the years to be a very professional, professionally run and professionally worked organisation⁷

What the experience of *Coiste* reveals is manifold.

First, *Coiste* is representative of concepts developed by Lederach, McGinty and Richmond. Damien Okado-Gough argues in a recent article that the local turn in peacebuilding began in the early 1990s with the work of John Paul Lederach, and has been developed further by writers such as MacGinty and Richmond. Lederach argues for conflict transformation whereby local people act as the primary authors of peacebuilding by rebuilding relationships within society through reconciliation. McGinty and Richmond also place emphasis on the local in terms of local agency, context, and dealing with local partners, arguing that locally driven peacebuilding is a form of resistance against dominant (often neo-colonial) discourses and practices of the liberal, top-down peacebuilding model. Northern Ireland was hailed as a successful example of global peacebuilding.

This approach however, remains questionable. The Peace Process and the Good Friday Agreement do not or only partially deliver for Irish republicans what Richmond defines as a central tenet of peacebuilding, that is emancipation, autonomy, and a sense of liberation (2013: 775-6). They have only offered an alternative, peaceful road to the ultimate goal that is reunification, the end of the border and of British presence in the North. This alternative option was all the more acceptable as the border issue was no longer a major bone of contention in the context of European integration as both parts of Ireland were already economically amalgamated.

This brings us to further explore *Coiste's* experience. The republican movement took opportunity of the lack of organisation of both the British and Irish authorities when the decision enshrined in the Good Friday Agreement resulted in the release of no less than 3,000 prisoners from prisons in Northern Ireland and in the rest of Europe in a very short period of time.

⁷ Mickey Culbert, 1 May 2004, interview..

Coiste served the purpose of republican activism as it spread North and South, thereby allowing the republican movement to spread its influence in southern communities. Even though *Coiste* came across difficulties at the beginning of the project, testimonies dating back to the beginning of the 2000s tend to show that the organisation became accepted as a serious and legitimate association well beyond its traditional territory :

The difficulty was the acceptability, people's suspicion.[...] if we go back 5 or 6 years, people's awareness of what republicans were and ex-prisoners were was very limited. [...]Now, we have been accepted, our bona fidae has been accepted, [...]we're totally accepted because we are the person who lives next door. (Culbert 2004) ⁸

This is confirmed by the situation of *Coiste* today, some 25 years after the Good Friday Agreement, as the association is firmly established on an all-Ireland basis even though its headquarters are located in Belfast. Today *Coiste* gathers 12 formal groups based in various parts of the country, and a number of associated informal groups. The network is funded by the European Peace Fund set up to address the legacy of the conflict, and employs 65 full-time workers and numerous volunteers. (*Coiste* Annual Report 2003)⁹

Rosinna Brown, a former republican inmate who set up a centre in the South thus recalls:

We discovered that there was no childcare in the town at all, except for one place which was very expensive.[...]So we did a survey and we discovered that people who were not in the republican community had nothing.[...] So I thought, we will develop a childcare centre, and we are not bringing ex-prisoner children, we want to help the people in the community. [...] we later found that it was called "Long Crèche", however the Protestant minister in the town came up and asked if we could take his child on Mondays [...] and suddenly the people in the town thought "well, if it is good enough for the protestant minister, it is good enough for us". So it really took off.¹⁰

⁸ Mickey Culbert, 1 May 2004, interview. See also *Coiste na nIarchimi* annual Report 2002-2003

⁹ <https://www.annalindhfoundation.org/members/coiste-na-n-iarchimi> last consulted 6 May 2023

¹⁰ Interview with Rosinna Brown, 13 May 2004

The anecdote is one among many that show the place and importance of former IRA members in a context of conflict resolution, but above all, in a context of reconciliation that benefits republican politics in the long run. Former guerrillas and paramilitaries are thus no longer seen as men and women of violence but as social activists dedicated to the well-being of their communities. It should come as no surprise that such a dedication has borne electoral fruits to the republican movement both north and south of the border. The peace process benefitted Sinn Fein to the extent that it has now become the first political party in Ireland in terms of first preference votes, and its focus on social and economic issues mirrors its success at grassroots level. One could even contemplate with irony how the republican movement reversed an old British trend. In the nineteenth century British imperial governments wanted to kill Home Rule with kindness, in the 21st century Sinn Fein's strategy is to achieve reunification and kill British rule in the North with kindness, now that the economic interests of both parts of Ireland are convergent. The trouble is that Brexit has revived old wounds and a border issue that could derail the plan.

How has the republican movement responded so far? Over the last seven years since June 2016 many have voiced their concern that the return of a hard border between the two Irelands may signal the end of the Peace process and the beginning of a new cycle of violence. This scenario has not materialised so far despite serious tensions, and this calls for further investigation, as British politicians –including the DUP- did little over the past four years to bring back some measure of serenity over the matter.

The electoral fortunes and strategies developed by Sinn Fein over the past years were coupled with a change in leadership which gave the party a new look. Young women from a generation who was not involved in the Troubles are now the new faces of Irish republicanism, and their strong commitment to a whole set of social, progressive and feminist policies have reinforced and completed the work of the grassroots in local communities. Furthermore Sinn Fein's participation in the northern institutions have also given the party a large measure of respectability and credibility since the era of the 'chuckle brothers'(Martin McGuinness and Ian Paisley), an executive couple who would have been the most improbable of all but a few years before. It would not be in Sinn Fein's interest today to see the return of violent politics in Ireland at large and in the North in particular, as power seems at hand through

electoral means and Brexit has had a strong impact on northern voters, leading pro-European unionist voters to distance themselves from the DUP as the last elections have shown. [There is another interesting irony as the republican movement was initially as hostile as the DUP to European integration. Its position started to change under the influence of the special programmes for Ireland complementing Objective I funds directing to the island as a whole, and also thanks to cross border and cross community support for those programmes and those of the International Fund for Ireland -largely funded by the EC after 1986-. The irony with the IFI is that it came into being as the financial weapon of the Hillsborough treaty of 1985 signed by Margaret Thatcher and Garret Fitzgerald and dedicated to combat the influence of the republican movement. In other words, economic weapons used against paramilitaries in order to restore peace in the North eventually contributed to the transformation of the republican movement into a pro-European party benefitting from the popularity of Europe in Ireland as a whole.] The pro-European, left wing stance and commitment to peaceful politics largely explain why votes switched from the SDLP to Sinn Fein in the North. Now loyalists parties have not followed the same road, and their support of Brexit has contributed to alienate a number of traditional votes to the benefit of the Alliance in particular. Today loyalist parties – i.e the Ulster Unionist Party, the Democratic Unionist Party and the small Traditional Unionist Voice- no longer enjoy an overall majority in the Northern Irish Assembly, and the fear that they could lose a referendum on reunification is real, even though polls suggest the prospect remains dim¹¹. If violence were to erupt, it would most likely be from desperate loyalists quarters than from the republican movement, and the awareness that such a situation cannot be ruled out also explains why Sinn Fein’s electoral tactics rely more on social and economic issues than on the old national question. Such tactics pay off and contribute to the rise of the party, besides they allow republicans to avoid confrontation on the issue of the border, a matter that would be divisive and could trigger counterproductive reactions.

¹¹ In 2018 a survey carried out by Queen's University Belfast and Ulster University indicated that 62% of Northern Irish respondents supported remaining part of the United Kingdom via devolved government or direct rule

Conclusion

The question of State allegiance remains a major issue connected with a colonial past, with conflicting cultural and linguistic identities and above all with a sense of belonging or not to one or the other nation. In turn, the nation cannot be separated from the territory on which it exercises its jurisdiction, and territorial claims have always been a source of conflict, something not specific to Ireland as we know. The possibility of a referendum on self-determination in a near future is a way of settling the dispute, yet it is an issue as divisive as it used to be in the past and it represents a serious risk of igniting tensions between communities. To nationalists and republicans in particular the referendum would give the people the power to end partition and recover full fledged sovereignty over the national territory. Seen from a loyalist perspective, the referendum initially seen as a means of hammering the last nail in the coffin of nationalist expectations has now become a real threat, hence the fears in loyalist quarters in the aftermath of Brexit and Northern Irish assembly elections in 2016 and 2017.

Besides, in Northern Ireland the issue of the legitimate territory of the nation became less of an issue in the years accompanying the peace process as the border grew invisible until Brexit reopened the case.

Pushing for an early referendum is in the interest of none of the parties, not to mention the British and Irish governments of the day. One can hardly see how the same question could not generate another tight result and end up in crisis with nationalists stuck in case of a no majority rejecting the legitimacy of reunification, or loyalists staging a desperate opt out option in case of a (tight) yes majority, as was the case a century ago.

Brexit and the border issue have made it impossible for Sinn Fein and the DUP to work together for a while, even though other reasons were advocated when the late Martin McGuinness resigned, thus bringing down the executive. The restoration of the devolved institutions did bring back a consociational executive, though viewpoints seem totally irreconcilable. The conflicting relation between Sinn Fein and the DUP

has been underlined by the abortion crisis of February-March 2021, which led the British Secretary of State to bypass the local assembly and government, and again by the DUP's boycott after the last assembly election in 2022 in which Sinn Fein became the first party in Northern Ireland..

Obviously, this is walking on the thin edge, as much rests on the balance of strength that has come out of the last Assembly election in Northern Ireland in 2022. Power sharing has so far survived in the North despite several temporary suspensions of the institutions. The question is whether it would survive the crash test of a referendum on self-determination.

After months of tension, the message conveyed by the political crisis is quite clear. the devolved institutions created by the 1998 agreement are strong enough to weather the conflicts between loyalists and nationalists, but it is becoming a matter of strategy to give time to time before any referendum on self-determination is held, as the fragile constitutional edifice rests chiefly on the promise of this ultimate settlement, and nothing is settled yet in the minds. This explains why republicans act with caution, as they expect time to work for them. There have been fears that Brexit, as it revived the possibility of a hard border between the two parts of Ireland, could lead to the collapse of the whole process that presided over the return of peaceful politics. The diplomacy and political restraint displayed by the republican movement so far expresses its political strength, and a belief that for once the fortunes of British politics may in a not so far future benefit the ultimate goal of a reunited Ireland. Brexit, in short is seen as acting as a catalyst that may speed up the process, and now that the clock is apparently ticking in their favour republicans have no reason to give loyalists an excuse for the return of violent politics.

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