

Reconstituting Politics

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dialogue

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Preface


This is the third report from Democratic Dialogue, the Belfast-based think tank.

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DD aims to publish six reports per year. Readers may wish to return the enclosed subscription slip, to avail of reduced-rate payment for all reports, free copies of DD's newsletter and notification of all DD events.

Our next report will explore another critical theme, closely linked to the concerns in this report—Women in Public Life. 

Introduction

Robin Wilson

Politics is about two things. It is about delivering *outcomes* which people perceive as making a tangible difference to their lives, and it is about ensuring that political *processes* are experienced by people as in some sense democratically owned by them.

For politics to ‘work’, and to be seen to work, it must succeed in both these aspects—needless to say, it is currently widely seen as failing to do either. And there must be a constitutional framework, widely perceived as legitimate yet subject to evolution in response to social and cultural change, within which these processes can take place and those outcomes be delivered.

Yet in Northern Ireland, politics follows a vicious circle. There is no agreed framework, so debate rarely turns to substantive issues. There is not even agreement on the principles that might

underlie such a framework, so the process of politics is reduced to adversarial repetition of familiar positions, rather than rational argument and pursuit of consensus.

Large swathes of the population were always alienated from the state, and as politics delivers no outcomes, as nothing really happens (though there are lots and lots of meetings), more and more citizens become alienated from the process itself. That, in turn, fails to renourish political dialogue with new voices and themes. So the persistent constitutional fault lines rigidify. And so on.

The challenge is to break this vicious circle. It is to find ways to ensure that something does happen—that things manifestly *change* as a result of politics taking place. And it is to create opportunities for those who have hitherto despaired of politics in Northern Ireland to feel it can be a vehicle for such change. In tandem, these demands, if they can

be met, can set in train a virtuous circle of political renewal.

The challenge is a massive one. It is far more profound than getting parties around a table or establishing dates for talks. All three contributors inside, while their approaches differ, are sceptical that, in and of themselves, renewed inter-party talks will turn the trick.

John Morison suggests one problem—the debilitating legacy of tired British constitutional thinking, which he calls ‘Westminsterism’, as applied to Northern Ireland. While real political power has been leaching out to quangos and agencies, and to the European Union, conservative constitutionalism thinks only of ‘parliamentary sovereignty’.

In Northern Ireland, this means sponsoring a ‘mini-Westminster’, albeit with power-sharing and an ‘Irish dimension’ bolted on, where the region’s politicians can become sovereign. Rather than pursuing a ‘big political fix’, Morison argues, far better incrementally to develop the ‘new constitutionalism’ that has emerged in Northern Ireland, *in the absence* of a Stormont parliament, towards equality and parity of esteem between the ‘two communities’.

Elizabeth Meehan poses a different set of problems. Her worry is that the reservoir of ideas expressed within organisations of civil society in

Northern Ireland—women’s organisations, for instance—is dammed up by a barrier allowing only the much narrower stream of thinking amongst the conventional politicians to find an outlet.

Meehan explores various mechanisms through which ‘ordinary’ citizens can articulate a voice as to what judgments they would come to were they in positions of power. These include citizens’ juries, consensus conferences and deliberative polls, or perhaps even a grand convention for Northern Ireland, analogous to that organised by Charter ‘88 in Manchester some years ago. Any or all would complement—not contradict—more formal, party-political dialogue.

My own contribution—and a practical set of conclusions arising from it which are appended—starts from a different focus again. It suggests that the political culture of Northern Ireland is far too insular, and its political class far too insulated, for its politicians to be able to strike an agreement matching the profundity of the challenge they face.

As a result, the focus should not lie primarily with inter-party talks, but elsewhere. There must be *external* renewal, informed by the broader challenges of global politics in the 90s and led by the two governments and the institutions of the European Union. And there needs to be *internal* renewal, an enrichment of the

political class in Northern Ireland by new social forces and an associated process of political realignment.

All three contributions agree on this—the need for radical rethinking of how politics in Northern Ireland is done and what it is about. They are, in other words, all about the reconstitution of politics.

While this report has only three authors, it has benefited from the input of many hands. DD is grateful to all those who took part in a seminar on the theme of the report in Derry, especially Marie Smyth and Peter McKenzie, and to those who attended a round-table in Belfast at which some of the ideas were tossed around. Adrian Guelke and Richard Jay added helpful criticisms but the final version, of course, is the responsibility of the authors alone.

The report itself is meant to encourage debate: this theme is one to which DD will return. We would be more than keen to hear from anyone who would like to encourage a group- or area-based discussion of the issues it raises, or who would like to run with any of the particular ideas Meehan suggests.

Before the breakdown of the IRA cease fire, Marie O'Halloran interviewed students at Hazelwood integrated college in Belfast. This is what she reported:

None of them will vote when they get the franchise because they think the politicians are useless and the political choice is either nationalist or unionist. Apathy in ones so young? “No,” says Oisín. “People are moving away from the old political traditions. They don’t want to have just those two choices. That’s progress.”¹ DD

Footnotes

¹ ‘Nothing much is changed, students say, and a chance has been wasted’, *Irish Times*, February 17th 1996

Waiting for the big fix

John Morison

No one now seems to doubt the difficulty of resolving the complex problems of Northern Ireland. After 25 years of 'troubles' and 17 months of ceasefires have come and gone, many even believe that a 'solution' as such is impossible. The bleak, 'no-hope analysis' which

the political scientist John Whyte identified as the most extreme of ten approaches to the problem¹ is increasingly replacing the optimism the ceasefires engendered. Even among those who reject the view that, as Richard Rose puts it, "the problem is that there is no solution"² there is a new uncertainty.

Two things do remain constant among the optimists, however. The first is that any lasting solution must be a *political* solution. A political deal must be struck which can square the circle of regional political enmities, accommodate minority aspirations, assuage majority anxieties and provide the political ground rules for governing a contested and conflict-ridden society.

The second certainty is that such a political solution will be extremely difficult to find. The irreconcilability of the opposing positions means that as the impetus provided by the ceasefires dies away the enormity of the task again appears. The aim of providing a 'solution'

LESLEY DOYLE

Dr Paisley resists all blandishments to deal

is reduced to one of arranging round-table talks.

It is time to question the received wisdom about the need for and value of a macro-political settlement, and to explore whether there are alternative ways forward to awaiting some illusory political ‘big fix’.³

The thinking behind the search for political agreement is that an historic moment of consensus could form the basis for a set of structures and institutions to provide for the government of Northern Ireland, and thus for the ‘solution’ of the problem. These institutions would, so it is thought, reflect the complexity of the political deal, which in turn would mirror the opposing positions of the main protagonists. It is obviously a tall order to produce such a deal, and then render it into lasting institutional form, but this has been the aim of all the political initiatives in the recent past. Indeed, the attempt to translate any fleeting moment of political consensus into constitutional structures has remained the chief aim and medium-to-long-term strategy of the British government.

At various times this search has been neglected, as the political and security situation has seemed to require. It has never disappeared, however, and the need for political agreement remains a

touchstone, too, for all constitutional and would-be constitutional parties in Northern Ireland. To breathe life into the search for consensus, and to bring in and retain the various political factions, considerable ingenuity and some flexibility have been expended.

From the government side, a wide range of considerations have been factored in. The ‘totality of relations’ are to be considered. A range of persuaders from beyond the confines of Britain and Ireland have been recruited. Minority rights and power-sharing have been flagged. Constitutional guarantees have been restated and ‘triple-lock’ mechanisms installed. A whole range of acts, treaties and declarations have accompanied these initiatives.

Politics at regional level has been more reactive than positive, but here too (contrary to the stereotype) there has been some movement. Ideas of consent and ‘parity of esteem’ have been accepted. Long-term objectives have been recognised as such and, most importantly, if regrettably perhaps only temporarily, violence was removed from the political struggle.

But government—usually in London but often, too, in Dublin (and sometimes in Washington)—is regarded as the main force offering threats and inducements to bring in and retain the parties in talks

where they will decide on the structures of government. This is a difficult trick to pull off: a concession made to one faction is usually viewed as being at the expense of another. The British government's role is akin to that of a starter at a race meeting—coaxing, cajoling and pushing the runners into some semblance of order, before choosing the optimum moment to set them off.

Of course the whole race, certainly from the British government point of view, is to be run on familiar ground. It has been, and continues to be, very much a 'Westminster-style' solution that is sought. Any political deal is intended to produce institutions, an overarching framework for government. Although many of the parties involved may hope for something else, from the perspective of the British authorities these institutions will probably be some form of devolved government. They will, however, contain some anti-majoritarian features and maybe even a bill of rights. It is accepted that there will need to be some sort of all-Ireland dimension and this will be given expression, again, through institutions.

All the features of the Westminster style of constitutionalism are thus present: there is the focus on structures of government at the expense of wider values *in* government. Of course, some

aspects of classical Westminsterism, notably a two-party system, are not present, and this produces mutations of the standard position, such as guarantees of rights and 'power-sharing' structures. Such modifications can, however, be presented as evidence of the pragmatism held to be such a feature of the Westminster approach.

Notwithstanding the regional embellishments, the essential thrust is that of a Westminster system, such as Britain has sought to bequeath to a range of its former colonies worldwide. It is this that has provided the central direction of medium- and long-term policy. Within the traditional British approach, Westminsterism is the answer: the problem is the Irish.

So why is Westminsterism not working in Northern Ireland? Three answers suggest themselves. The first is the intractability argument—that Northern Ireland is too difficult. The second is that although it may be very difficult we are simply not trying hard enough.

Yet the items on the agenda of Westminsterism have been worked and reworked. Every partner for talks towards establishing regional structures is tried. When the politicians in the north fail to agree, or even talk to one another, the emphasis is put on an east-west axis, with co-operation between London and

Dublin. Talks and preliminary talks, at different levels and in various strands, are tried. Blandishments are offered—an election to the unionists, increased Dublin involvement to the nationalists—in exchange for continued co-operation. The moment of agreement seems close but then recedes and never arrives. The structures that have been tried⁴ have not withstood the storms of a strongly polarised political climate, in which almost every detail of social life becomes connected with wider constitutional or tribal loyalties.

Against this background, it seems uncharitable to claim there has been a lack of endeavour. Indeed, when the search for constitutional activity is extended beyond the remit of official government action, it can be seen that there has been as much effort—and probably more ink⁵—expended on this conflict as on any other. There have been a whole range of fora, commissions, reports and inquiries, with semi-official and unofficial status. Different methods of achieving the desired historic settlement—ranging from violence, argument, referenda and preferenda to initiatives by the British, Irish and US governments, or the United Nations—have all been urged.

The problem with all this undeniable effort is that it has been directed almost exclusively at the big fix—the idea that

a grand-scale political settlement can be reached and that the resulting constitutional architecture will engineer out all the problems of Northern Ireland. Which brings us to the third possible explanation as to why Westminsterism is not working in Northern Ireland.

The remaining explanation is an obvious one, even if unpalatable to some: Northern Ireland is not like Great Britain and so is not amenable to a Westminster-style solution. Maybe Northern Ireland does not have the relatively homogeneous population and respect for time-honoured institutions that are supposed to mark political life in Britain. Perhaps the political traditions in Britain which gave birth to the Mother of Parliaments are absent in Ireland.

Although in many ways Northern Ireland does resemble Britain, perhaps the differences equally easily observed are more significant. Northern Ireland may be fundamentally different from the rest of the UK, and so the idea of giving the old Westminster machine one more tweak to get it to work in the region may be untenable. No matter how much energy is expended by constitutionalists—casting about for ever more elaborate, baroque structures to accommodate the irreconcilable—a Westminster solution of an agreed, large-scale, institutional mechanism for government may well be

unattainable.

This judgment is perhaps a depressing one. It seems to return us to the ‘no-hope’ analysis or the ‘too difficult’ scenario. This might seem to suit the spirit of the times, with the ‘peace process’ faltering and the prospect of even getting to the negotiating table, let alone working out a framework for government, still distant.

But to join such thinking would be to overestimate what is lost by the failure of Westminsterism to work in this context. And it would be to underestimate the extent to which the simple fact of having to get the business of government done in Northern Ireland over the last 20-odd years, without any Westminsterist solution, has thrown up alternative structures which in many ways hold the key to moving Northern Ireland on—and suggest directions in which British constitutional thinking could move beyond the moribund parameters of Westminsterism.

As the nature of public power is changing, the notion that all exercises of power can and should be constrained within domestic institutions is becoming increasingly untenable. Instead of decrying the fact that Northern Ireland is not Great Britain, and so is not amenable to the Westminster solution, we should notice that more and more Great Britain is

not Great Britain—at least in the sense required by the Westminster model. There has been a movement in the locus of power upwards to Europe and beyond and downwards to a newly constituted and vital civil society. Government of course still exists but, increasingly, it is government at a distance, operating by and through the market via a range of quangos and regulatory bodies.

Moreover, developments in the practice of government in Northern Ireland prefigure in important ways directions in Britain. The external dimension to the constitution, whereby a range of governments and agencies from outside the UK have a role, is developed in Northern Ireland to a greater extent. In the absence of any permanent political machine to carry out the business of government, the role of quangos and of the voluntary sector is more developed too. At the same time there are indications of some embryo attempts by government to steer the delivery of such government services—trying to use values, rather than simply the structures characteristic of the old Westminster approach.

There are many problems with orthodox British constitutionalism—as is perhaps indicated by the number and range of auditors, chartists and reformers providing an increasingly shrill

chorus for constitutional reform. The target of most of the reformers' zeal is the institutions of government. These include not only 'the living dead of the constitution'—Parliament (in particular the Lords) and the monarchy—but also those governing principles, such as ministerial responsibility and civil service independence, which were the subject of the Scott inquiry into the arms-for-Iraq affair.

There is certainly much that is at fault in the day-to-day operation of Westminster and Whitehall. A constitution which is (nominally at least) oriented around the idea of Parliament providing a focus for accountable government, and sustained by ideas of historical continuity and the flexibility of the unwritten constitution, certainly leaves much scope for reform.

Indeed, the strongest case for reform of the British constitution generally lies in the present acceptance that what happens in Parliament and in Whitehall *is* the constitution. In the absence of rules about what ought to happen, the conduct and practice of the rulers have almost become the constitution itself. The reformers' best case is that constitutionalism ought to be about controlling power, not simply celebrating it, and that the constitution ought to be more than what some people say it is.

Yet changes to the formal constitution

of Parliament and the other domestic institutions of government may not be enough. It is important to constrain the historical prerogatives of the crown, used by government with few formal checks. The mechanisms of accountability and representation in Parliament do need to be restructured and it would be helpful if all of this could be written down in one document, perhaps with a bill of rights. But such changes would simply reform the British constitution to a level other states generally achieved some time ago. At best, a 17th-century constitution would be updated to the 19th century. Changes in the scope, nature and site of public power have rendered inadequate a project of shoring up institutional controls on big government and reviving the role of Parliament.

While government certainly has not shrunk in the last few decades, its role has radically changed in scope and range. The state now appears as too small for some of the important issues of environment, defence, world trade and so on, and at the same time too big to accommodate identities that are defined not by geographical boundaries but along political, ethnic and sexual lines.

In the context of globalisation, on matters of economy and currency national governments now exert little independent control. Even on issues

relating to security policy, social policy and justice, the state finds itself caught up in international and supranational webs of interconnectedness. There is a whole alphabet of world and European organisations which claim to limit and influence the capacity of government.⁶

No one, except perhaps a Bosnian warlord (and then only temporarily), can act independently of the links which constrain the capacity of governments to act in any way other than in relation to powerful economic, defence and trade blocs. Even law-making, a defining element of a nation-state, is increasingly subject to a range of international and supranational bodies making law directly, claiming jurisdiction to resolve disputes or simply establishing standards for national law to reach.

This official, government-sanctioned network is accompanied by a parallel private, non-governmental set-up. The technological and communications revolution has facilitated transnational business groupings and corporations, often at least as significant as national governments.

At the same time there are new forms of civil society. The 'little platoons' described by Edmund Burke as so essential to democracy have regrouped into intermediate associations, social networks and social, political and economic

groupings. As the political parties have declined in support, the third sector just below government has grown—the 'thousand points of light' as President Bush termed it. These bodies compete with the state not only as providers but also in offering a rival focus to traditional politics and its institutions.

Some of these are global, rather than national. There has been an enormous growth of pressure groups and non-governmental organisations pursuing their own agenda—be it the environment, or ethnic politics or whatever—on an international scale. Some of this new civil society is very local and specific, but it too eschews the traditional politics of government and seeks to make an impact on a single issue or range of issues.

At the same time as many intermediate groups are offering an alternative focus to national government, so government is distancing itself from many of its traditional roles. The privatisation of utilities and services has ushered in the regulatory state where government, rather than providing services itself, merely seeks to organise some aspects of provision while leaving delivery to quangos or charities in the third sector. Even in those areas where government retains responsibility, the civil service is reorganising itself into units that are managerially and constitutionally

distant from ministers. There is a movement in government generally away from doing the work directly to merely organising how it is done—steering rather than rowing.

What is the impact in Northern Ireland of these new forms of government, below the ‘nation-state’? How can these globalising trends affect Northern Ireland? Has the argument become merely a version of the well-known idea that ‘we are all Europeans now, and so what is there to fight about anyway?’

The answer lies in exploring how politics, and more particularly government, has developed in the last 25 years or so. Northern Ireland may not be a political entity universally recognised for its sophistication. But while much of the story of government in the last two or three decades has been of failure to secure the political ground rules to allow the exercise of power, there are signs of something more than simple crisis management.

Indeed the very failure of the large-scale constitutional settlement has provided an impetus to ensure that mechanisms are developed to get the business of government done. As the requirement for direct rule continued, and became increasingly less easy to describe as ‘temporary’, a more sophisticated way of

ensuring its legitimacy developed.

In part because of the continuing failure of the Westminsterist approach to secure the political deal necessary to usher in regional political arrangements for government, outside influences have become increasingly important and, in some circles at least, increasingly welcome. Formally denied in the context of a Westminster-style constitution with its emphasis on the domestic parliament, in Northern Ireland these external influences—so important in reality to government in Britain and everywhere else—are more apparent and developed.

At times, the lack of progress along the agenda of Westminsterism has encouraged a politics involving approaches to other authorities and other governments. The European Union and the United States have both had a role. Sometimes this has been directly related to the conflict—as when, for example, the European Parliament adopted the Haagerup report on Northern Ireland or when the US president has been lobbied by British and Irish politicians to underwrite a political initiative. Alternatively, the link to the conflict may be more indirect—for example, European Parliament elections are used in Northern Ireland to re-run domestic constitutional debates, while the MacBride Principles have been promoted in the US to try to influence

sectarian work practices.

Above all, the contested nature of the polity itself in Northern Ireland has meant that the government of the republic has long had what, even its most hostile opponents must concede, is an interest. The nature of this interest, and the role that it might imply, have varied over time. Under the Anglo-Irish Agreement, this role was formalised and since then official machinery and more informal links have reinforced a bilateral approach to many issues.

The UN has also been lobbied by domestic non-governmental organisations, in the hope this might offer a more effective way of influencing government policy than is available within the domestic structure. And in the absence of a bill of rights and a constitutional court in the UK, the European Convention on Human Rights and the court at Strasbourg have provided another alternative forum to the British courts for disputes about the limits of British authority in policing the emergency.

Some of the influence from external sources is not linked to the conflict. The EU has become a well-recognised source of funding for Northern Ireland's developed voluntary sector. The US, particularly via the International Fund for Ireland and more recently moneys tied to the 'peace process', is also a source of

assistance.

This willingness to use to use external authorities as the object of lobbying, the source of funding and as an authority capable of making judgment—as well as regarding other governments and organisations as more or less partners in any long-term solution—is antithetical to the Westminster approach. It is striking that in Northern Ireland sovereignty is attenuated and shared in many ways that are thought to be impossible within the mainstream of Westminsterism but are more suited to new conjunctions of power.

At the same time as there has been a (sometimes highly qualified) willingness to look to structures beyond the confines of the immediate nation-state, so too has there been a flexibility about how government has been carried out. This has taken place against the context of a supposedly temporary system of direct rule and, although the most notable feature of this mechanism has been its undemocratic nature, there are signs of a nascent 'new constitutionalism'.

An 'audit' of democracy in Northern Ireland, which involved examining the mechanisms of direct rule against a set of criteria (essentially stressing ideas of popular control and political equality), found much that was wrong with direct rule.⁷ Legislation is made by order-

in-council, without the parliamentary debate that normally attends law-making, and the executive function is discharged by Westminster ministers, aided by the civil service and a plethora of quangos. The phrases ‘consular rule’, ‘helicopter rule’, and government by ‘experts’ and by the ‘great and good’ describe some of the obvious problems with such a system.

Yet direct rule was not found to be simply a ‘black hole of democracy’. Indeed, in the effort to get the business of government done, some ingenuity has emerged. There have been various stages, and the process has been haphazard rather than planned, but some central themes do emerge.

In particular, there is the idea of depoliticising government. This has been pursued by removing issues that might have a political or constitutional character from the hands of regionally-based political processes. Of course, in Northern Ireland there are many issues—ranging from education and housing through to industrial investment and beyond—which can be interpreted as having political or constitutional significance. The result is that quangos have been given a whole range of jobs which elsewhere would be carried out through the political process.

Quangos are beyond the limits of

constitutional control and so such a move may appear at first sight unequivocally undemocratic. But then the ‘constitutional control’ of the increasingly moribund Westminster system is not itself entirely satisfactory. Furthermore, the removal of such functions from the political process, and the placing of individuals by government in positions of importance in such a way as to reflect the political and religious composition of society, does at least provide access to power to many who would be (and have been) disempowered under more ‘democratic’ methods.

It is unfortunate (but of course a separate issue) that many of those placed on

quangos have not used whatever power they may have and have failed to open up the operation of their quango to public scrutiny. But the quango remains a *potentially* more democratic mechanism than a straightforward election in an unevenly divided and polarised society.

The objective of getting the business of government done has also led to an important role for the voluntary sector in Northern Ireland. From the government point of view, there are efficiency advantages and gains in legitimacy in empowering and funding community groups to perform functions which elsewhere would be carried out by central government or via the political process. Again, this use of the voluntary sector gives access to a range of people who might well be under-represented in traditional bodies. It also introduces the idea of a creative engagement between voluntary organisations and government who, while funding the work, require their continuing co-operation.

In Northern Ireland, as elsewhere in the UK, government has also relinquished some of its role to the private and semi-private sector. Privatisation, compulsory competitive tendering and opting out are running behind developments in Britain but in other areas—for example, the delivery of personal social services through trusts—practice in Northern Ireland is

in advance. This idea of government by contract, where the input of the formal institutions of government is restricted to setting standards and monitoring performance, again has obvious shortcomings in relation to the formal channels of accountability. But it also has advantages: ideas of equality or of there being ‘two traditions’ can provide strong normative guidance that would not be so easily factored in to a Westminster-style political structure.

These signs of a nascent ‘new constitutionalism’ in Northern Ireland mark an alternative way of thinking about government. Instead of focusing on big political solutions and institutions, and hoping that these will sort out all the political and constitutional conflicts in a highly-charged society, there is the idea that the real business of government is continuing.

The operation of public power in Northern Ireland, as elsewhere (and indeed even more than elsewhere), has moved to new sites and new levels. It seems unlikely it can ever be restored to a devolved branch of UK government or any other big domestic institutional structure. Perhaps this suggests that the struggle for political power and the search for constitutional settlement ought to move also to where the main

issues will increasingly be found. Constitutionalism in future will be less about political deals leading to overarching structures of government, more about setting the ground rules and standards for the operation of power.

The influence of the ‘external constitution’, the downsizing of government and its replacement by quangos, the voluntary sector and other mechanisms has already provoked an early version of this changed paradigm. Yet expediency and the search for legitimacy have been more influential to date than any desire to democratise government or introduce normative standards.

The ‘two traditions’ ideology, which has been used as an organising principle, along with ideas of formal equality as contained in the fair employment and sex discrimination legislation, does however suggest some attention has been given to setting ground rules and standards. Further, the Targeting Social Need initiative and the Policy Appraisal and Fair Treatment guidelines suggest the possibility of introducing quite sophisticated normative elements into the detailed operation of government—as it is now taking place and will continue to take place well away from any institution that a political big fix might throw up.

If the operation of public power has

moved on from anything that can be captured and returned to an assembly or parliament, it cannot be denied that there is still a role for constitutional talks and indeed the whole panoply of talks-about-talks. A big solution is still necessary, but not as important as many people believe.

The real work is to think about the *values* that should inform the practice of government as it is now going on and is likely to continue—come what may in the wider ‘peace process’. After all, in contrast to the process towards a macro-constitutional settlement, we are not waiting for some moment when it will all start to happen: power is already being exercised in all the ways outlined. The processes discussed here are happening and will continue to happen, whether we control them or not.

Any discussion of the values that should inform government at this constitutional, yet sub-institutional, level might well include those that would appear on any roster of democratic values:

- equality,
- participation,
- accountability,
- transparency and
- subsidiarity.

Efficiency and value for money might also be appropriate inclusions.

This is not the place to develop fully

how law can become the master tool of institutional imagination in a democratic society. But a few examples can be given of some of the forms this legal technology might take.

There is little point in simply bemoaning the existence of *quangos*, and the cronyism that surrounds their appointments, hoping that the functions they discharge can be returned to regional politics. This is unlikely to happen and would not in any event provide anything approaching a total solution. What is required, as in many other places, is a new series of rights, duties and criteria.

First, there is the possibility of introducing transparency rights—opening up the appointments process, the budgets and operation of *quangos*. Requirements for public meetings or public access can be imposed. Secondly, representativeness criteria, ensuring a true balance of interests across society (rather than a simplistic ‘two traditions’ balance), can be introduced. This would not be a substitute for elections but would ensure that a range of voices are heard.

Thirdly, *quangos*, especially regulators who are generally given very wide discretion, can be subjected to a formal procedure, detailing membership criteria and budget, reporting and accounting procedures. Furthermore, they can be made subject to ‘sunset laws’, whereby

they are given certain tasks and must wind themselves up within a given period or satisfy fixed criteria for their continuation. Fourthly, *quangos* can be charged with clearly defined and agreed public duties to provide services, rather than vague discretions, and these should give rise to enforceable rights. Consultation requirements and minimum conditions of consensus can be imposed.

Government by contract is increasingly popular. Although not ideal for all relationships (contracts tend to flatten out decision-making), public service contracts are likely to remain a central part of government. Indeed, in many ways the project of government in future can be thought of as one of ‘governance’, whereby the elected authority increasingly has only a regulatory role over a huge number of rolling contracts. Again, there will be no return of direct responsibility to local authorities. That being so, it is important that contracts are regulated and controlled to the satisfaction of those they are intended to serve.

The terms of the contract must be closely scrutinised: this is not a wholly technical matter but one of considerable democratic significance. Contract law itself offers only a very limited range of remedies and these need to be augmented. Performance indicators, setting standards that consumers want

(including perhaps those who can not actually pay), must be drawn up and monitoring machinery put in place. Licensing systems with appropriate and agreed criteria can be instituted.

There is scope for a large number of *new rights* to empower citizens and, more likely, intermediate or third-sector bodies to assert the interests of consumers and citizens and monitor those who spend public money. Many of these will be positive rights—transparency rights, immunity rights and market rights, which carry with them the possibility of courts granting complex, structural injunctions fundamentally to destabilise and reorder large organisations. Such mechanisms are required to break open concentrations of power. (As John Locke observed in the 17th century, “Liberty is power cut into pieces.”) Other rights will be more negative, such as veto and consultation rights which require minimum conditions of consensus.

Consent and consensus are important and should be taken seriously. A whole range of mechanisms—such as citizens’ juries, preferenda, consensus conferences and surveys—can be deployed to ascertain consensus and mandate public authorities.⁸ Watchdog and whistle-blowing rights are also valuable in ensuring such mandates are carried out. All of these new rights will exist alongside formal


laws ensuring equal treatment. Courts will need to be given new jurisdictions to enforce these new rights, with procedures for judicial review simplified and made at least as accessible and cheap as the small claims court.

What is required is a communicative constitution of values—a dynamic relationship between government in all its forms and those who are governed. The concepts of ‘dialogic democracy’ and empowerment of the dynamic civil society in Northern Ireland were central to the discussions out of which this chapter arose. What is required is a legal technology to help people to fight back against the flow of power from the top down and from the relatively uncontrolled market. We need serious restraints on government as it now operates through quangos and contracts and by funding, licensing and empowering other bodies and groups to discharge its functions.

These new forms of government are operating at all levels, from the international to the local, and in the public and private spheres as well as in the market. Parliaments and assemblies have only a very limited role to play in capturing and controlling such operations of power. The restraining mechanisms need to operate at the sites where power is exercised.

There is a need for a series of rights to empower people to hold government, in all its diverse forms, to the values that we want it to follow as it directs and determines our lives.

Paradoxically, for a political situation that is characterised by conflict and by state repression, there is some evidence that such technology exists in nascent form. The task is now to take possession of this embryonic legal technology and shape it to deliver a mechanism that can provide the detailed government that we want.

Big constitutional solutions can wait. 

Footnotes

¹ John Whyte, *Interpreting Northern Ireland*, Clarendon, Oxford, 1991, pp 209-243

² Richard Rose, *Northern Ireland: A Time of Choice*, Macmillan, London, 1976, p139

³ Some of the arguments here are developed in more detail in John Morison and Stephen Livingstone, *Reshaping Public Power: Northern Ireland and the British Constitutional Crisis*, Sweet and Maxwell, London, 1995.

⁴ In particular, the assembly created under the Northern Ireland Act 1973 and its revival in the 'rolling devolution' scheme under the Northern Ireland Act 1982.

⁵In 1983 Bill Rolston et al suggested in their *Social Science Bibliography of Northern Ireland 1945-83*, Queen's University, Belfast, that there were some 5,000 publications about the Northern Ireland situation. By 1990, Whyte estimated that the total had reached 7,000 directly related publications; see Whyte, op cit. Growth has

certainly not slowed since.

⁶ For example, with regard to external relations and security policy there are the UN, NATO, NACC, PFP, OSCE (CSCE) and even an embryonic European army, Eurocorps. The economy is overseen by the ERM, IMF, G7, GATT, etc.

⁷ Morison and Livingstone, *An Audit of Democracy in Northern Ireland*, Fortnight Educational Trust, Belfast, 1995

⁸ See Elizabeth Meehan's contribution to this volume.

Democracy unbound

Elizabeth Meehan¹

In March 1995, Fortnight Educational Trust held a workshop on problems in Northern Ireland of accountability in government through non-departmental bodies. There were two remarkable things about the day.

One was that, in the wake of the ceasefires, people of divergent views about the constitutional status of Northern Ireland did enter into discussion with one another (albeit subject to a certain amount of cosmetic arranging) about an issue which is of concern in any democratic constitution, whatever its 'national' complexion. The second was a dawning sense—if diffident, because of the vulnerability of what was then the new situation—of the opportunities that seemed to present themselves to create institutions that would do the job their creators wanted done. A comparison was made with the United States in the 18th

century, when the peoples of America (hardly then 'Americans' in a singular sense) entered into debate about and finally agreed upon the constitution they wanted.

In many ways, even with the ending of the IRA ceasefire—whether there could be a restoration was unclear at the time of writing—thinking of Northern Ireland in this context could not be more appropriate. The peoples of Northern Ireland do not enjoy quite the same *tabula rasa* as did their American cousins (probably real, ancestral cousins). But there is one factor common to these past and potential experiments in institution-building. This is a backdrop of interest, then and now, in forms of democracy that are not predominantly about formal rules and procedures but which stress dialogue and deliberation.

There are two related, but distinct, aspects to thinking about a new Northern Ireland. First, there is the question of

how best to discover what kinds of institutions can be accepted or welcomed *ab initio*—the constitution of institutions through which policies will subsequently evolve. Secondly, there is the question of how, once agreed and in the context of ‘normal’ politics, new institutions should operate so as to bring about policies and provide services that adequately reflect the needs and aspirations of all citizens.

We have become accustomed—even in places outside Northern Ireland where people do not speak of ‘democratic deficits’—to thinking of democracy in ways which almost stand its ideal meaning on its head.² Far from being inspired as the classical Greek and 18th-century democrats were—by the idea of popular self-government—revisionist theorists of democracy in the mid-20th century recommended minimising mass influence on the body politic.

To them, as in the case of earlier thinkers who wanted democracy but only for property owners, ‘ordinary people’ would be too preoccupied with the day-to-day scramble for personal survival to be able to exercise the disinterested rationality necessary for public life. Thus, their role should be restricted to the periodic electing of competing teams of people experienced in political arts. In between elections, according to such theories, it

was best that ordinary people remained passive, being administered but not contributing to administration.

The protection of the interests of ordinary people, as well as everyone else, was thought to lie in the application of simple precepts and criteria—for example, government through the will of the majority and universal justice through equal treatment. If the will of the majority led to government but not necessarily to justice that embodied equal treatment, modern theorists advocated ‘consociational democracy’. This is a theory of democracy which acknowledges that some societies are divided, usually on the basis of religious, national or ethnic differences, and that—in contrast to the assumption of universal similarity behind the idea of equal treatment—there are inequalities between the segments. Neither of these approaches stands the tests of time or of ability to inspire.

As Richard Jay has argued,³ the idea of consociational democracy has become somewhat discredited by its association with corporate management and because its success depends on deference and collective discipline within the social segments. On the other hand, it is no longer possible to revert to seeing majority rule as a means of securing justice. It was never enough on its own for classical

democratic theory of the modern age, which always made majority rule conditional upon the protection of minority rights. Moreover, as many have pointed out, there is increasing cynicism—beyond the shores of Northern Ireland, too—towards parties, party systems and policy processes which treat citizens as passive,⁴ all of which are associated with the coming to pre-eminence of simple majoritarianism.

The conditionality of majority rule upon the protection of minorities has been overlooked in dominant understandings of democracy in Northern Ireland. Elsewhere, simplistic majoritarianism is under attack for its adverse effects—closing discussion and being susceptible to the suppression of legitimate minority viewpoints.⁵ Though supporters of unconditional majoritarianism have assumed that the interests of minorities in situations of majority rule were protected by the rule of law, many other people do not share this confidence.

The best known rule-of-law precept, equal treatment, is increasingly regarded as an inadequate method of ensuring outcomes that are just. This critique has emerged most strongly from feminists⁶ and analysts of race relations, who point out that the principle rests on a misapprehension about equality among individuals.

Though the claim of universal equality is revolutionary in import, it is a mistake to divorce the abstract equality of people from their real situations. Individuals are rarely in similar material situations to one another. Thus men and women or black and white people are unlikely to enjoy equal outcomes by being treated in the same way as one another. As Phillips suggests, though it is liberating to say that differences between people should not count in determining who may participate in politics, this is not the same as saying that all differences can be discounted altogether.

The various criticisms of revisionist democratic theory and thoughtless reliance on ill-considered principles have led to alternative ways of thinking about how best to arrange political participation and to bring about policy outcomes that are seen as just. Likewise, worries, based on experience, about the marginalisation of most citizens from public policy-making and implementation have led to the idea that it is sensible as well as just to foster participation. As Wainwright argues, bringing people in who have direct knowledge of a problem can help to avoid mistaken solutions.⁷ It is more likely that people will accept institutions and policies if they have had a hand in the making of them

or feel that solutions have been devised reasonably and fairly.

Though new ways of thinking emanate from a variety of preoccupations, they have a common focus: decisions which are just or practicable are not necessarily those that have been arrived at through applying the rules of majoritarianism or equal treatment. Instead, provided that arrangements allow the voices of minorities or the marginalised to be heard with equal clarity, the best outcomes will be those which reflect what has come, through discussion, to seem reasonable to all concerned.

It should be stressed here, however, that modern participatory democrats—unlike the Greeks and Rousseau—do not expect that all people will want to spend most of their time discussing things. Indeed, compulsory participation—and active citizenship in the sense of snooping on neighbours—would be as inimical to freedom as was the deliberate exclusion of certain categories of people from participation. But it is clear that a good many people are willing to do more than vote or deliberately abstain. Stewart, Kendall and Coote find evidence for this in people's willingness to respond to surveys of public opinion and to be members of studio audiences or panels used for research purposes.

Their observation was confirmed by

the findings and experience of researchers into the question of Women and Citizenship in Northern Ireland.⁸ This work reinforced other findings about women's great energies in civil-society organisations. The research methods—developing the questions and testing and disseminating the findings, with the help of women themselves, in discussion groups and workshops—were a resounding corroboration of the idea that taking part in focus groups for research purposes breeds a hunger for more knowledge and opportunities.

Though there has been a great deal of interest recently in deliberative and participatory approaches to politics and social choice, the basic ideas are not new—and comparing Northern Ireland with 18th-century America is not far-fetched. In his account of the intellectual influences on American constitution-makers, Samuel Beer⁹ places considerable significance upon the 17th-century English poet and thinker John Milton. In particular, Beer draws attention to Milton's theory of 'government by discussion': "Free thought and free debate ... will for individual members of society heighten their grasp of truth and also bring them into agreement upon it."¹⁰

Another likely influence on 18th-century Americans, according to Beer, was the Scottish Enlightenment thinker

David Hume, who is also drawn upon by the modern feminist Selma Sevenhuijsen.¹¹

Sevenhuijsen proposes that his theory of moral reasoning can be used by feminists and fellow citizens in devising an appropriate mix of policies which takes into account sex differences as well as similarities between men and women. Thus, whereas the quote from Milton suggests that discussion can be used to reach consensus on what is the common interest ('a single truth'), Sevenhuijsen's use of Hume indicates that it can also be used to find agreement on how to accommodate different interests in a consensual manner.

Modern versions of 'government by discussion' can be found in the ideas of Anthony Giddens on 'dialogic democracy',¹² David Miller on 'deliberative democracy'¹³ and Iain McLean on democracy and information technology.¹⁴ Miller, McLean and Demos draw on techniques and technological developments unavailable in the days of Milton and Hume. But they, and Giddens, are motivated by similar concerns: to regenerate the abstract value of participation as a democratic norm, to make participation worthwhile in practice, to overcome weaknesses in 'winner takes all' systems of making social choices, and to avoid negative spirals in which disagreement leads to

destructive conflict.

If these ambitions are to be equally effective for people not among the *élites* of revisionist theories of democracy, it is necessary also to think about the nature of the political system within which dialogue takes place and forms of debate that encourage fruitful outcomes. Again, there is new thinking taking place of relevance to Northern Ireland, in which we have the opportunity to design the institutions and practices that we need.

The new democratic theory, which stresses the importance of freedom to enter into debate, proposes more than the classical liberal ambition to remove patent and tangible barriers to universal free speech. In common with Americans of the 1960s who tried to ensure that civil rights were more than symbolic,¹⁵ and with recent influential feminist political theory in Britain, radical democrats argue that the political authority cannot be a neutral arbiter in the arena of public discourse.¹⁶

American civil-rights advocates used to point out that laws purporting to confer equality could not effectively do so where there were imbalances of power and access to information. If, for example, black, female cotton workers in the south were to be able actually to enjoy their formal rights, officials in the Department of Labour or the Equal

Employment Opportunities Commission needed to take special steps to inform them of the law and the possibility of appealing to it—to overcome the much greater countervailing power and influence of the large or multi-national corporations which employed them.

Writing more recently about liberal-democratic politics and women, Anne Phillips similarly points to the onus on those in power to ensure that women's voices, hitherto marginalised, can be properly heard in the public arena. Modern radical democrats say the same for society in general—and a little more.

Chantal Mouffe, for example, argues that the political authority must define the public space so as to allow a genuine pluralism; at the same time, however, the way in which the public space and agenda are defined must always be open to challenge by citizens. In arguing for deliberative or dialogic democracy, Miller and Giddens echo the older views of David Hume on the need for small assemblies of 100 people by arguing that arrangements to bring about real participation can and ought to be made at all levels of decision-making, from small localities to the apex of parliament and government.

Upshots may not always be comfortable for those in power or in favour of conventional approaches to things. For the conditions set out in this diverse

literature about democracy can be summarised thus:

- participation by those who want to participate—not necessarily everyone—is essential to the fullest expression of democracy;
- participation means not only voting but freedom to enter into debate about what arrangements would be best for all concerned;
- if people are included in debates whose voices have not been heard before, and if debate is conducted rationally and fairly, the outcome will embody outlooks that may differ from what has previously been taken as reasonable, sensible or just; but
- an outcome that is different from what might have been predicted on the basis of assumptions about equal treatment or majority vote is, nevertheless, just—if it has been arrived at by people themselves, acting in a fair and reasonable way.

Participatory and deliberative democracy depend not only on putting into place, at various levels, institutional arrangements which allow decisions to be reached but also on commitment to new forms of debate. For example, speaking at the Reconstituting Politics seminar which launched Democratic Dialogue in Derry, Marie Smyth drew attention to the damage done to political processes by decades of adversarial conventions

(something people also say about the UK as a whole). She pointed out that how power is conceived in adversarial systems means people who want change think change must mean they, old 'bottom dogs', become new 'top dogs'—and those who do not want change think so too and, conversely, fear it.

Thus, it has not been possible to use the language of generosity, compassion and trust. Moreover, compromise is a word that is taken to denote weakness instead of strength. In contrast, in Smyth's view, it is both realistic and fruitful to think that giving ground can also be a means of taking power. For example, power-sharing is not a concession which necessarily reduces the power of the 'top dog': in a situation where the 'top dog' has no policy-making power, 'top dogs' would gain as well as 'bottom dogs', because accepting power-sharing would bring about an institution that would give both some real power.

Smyth's ideas are echoed in Christine Bell's reflections on forms of negotiation. At a conference organised by Belfast Trades Council, she described how such adversarial politics lends itself to 'positional bargaining', as in the barter between buyer and seller in a market. In such a situation, both sides are afraid to volunteer the first concession, each may take up a harder position than that for

which they are prepared to settle and the whole thing is a zero-sum game.

Bell argues instead that we need to define problems in ways in which there can be 'win-win' outcomes. Smyth's way of defining power-sharing would be an example; Bell's own illustration is that of human rights, where the existence of international norms can help people to see themselves as contributing to something universally important, rather than being overwhelmed by suspicions that campaigns for rights are partisan ploys.

There is some corroboration for her identification of human rights as a promising area for new forms of negotiation in Peter Emerson's report¹⁷ of the dynamics amongst groups which led up to the experiment he conducted in preferential voting. In his day-long seminar, organised by Fortnight Educational Trust, a bill of rights was the issue about which it was easiest to develop an agreed form of words upon which to vote.

New fora and forms of negotiation—in moderately severe conflicts and in conflicts of core values—have been used elsewhere. The practical possibilities are summarised by J D Stewart.¹⁸ He deals with innovations which build on communities and councils and ways of improving participation in institutions that already exist. The

innovations described by Stewart which seem best suited to a situation such as ours, where we want to take part in designing new institutions from scratch—institutions through which we can have fair participation in the future in developing substantive policies—are citizens’ juries and consensus conferences. Others of his proposals—deliberative opinion polls, study groups, citizens’ panels, advisory, focus and community planning groups, open council meetings, co-options to councils from voluntary bodies and so on—seem more suited to attempts to guarantee democratic practice once new institutions are agreed.¹⁹

Paraphrasing Stewart, a citizens’ jury can be described as a group of citizens meeting to explore an issue, taking their job seriously, assimilating evidence and discussing it before coming to their decision.²⁰ According to one of their creators, citizens’ juries can be about a wide range of topics, because their fundamental aim is to tackle the question ‘how should we live together?’²¹

Perhaps of special interest in Northern Ireland, the citizens’ jury method was used recently in Spain in the wake of a violent reaction—bringing deaths and injuries—by the separatist movement ETA to proposals by the public works department of the City of Maltazaga in the Basque region for the routing of a major

trans-European highway. ETA had claimed that only it could speak for the people of the region. The city put this to the test in ‘planning cells’ of ordinary citizens and has since been reviewing the findings. More finished examples can be found in the US, on the federal budget and on health, welfare and social issues, and in Germany, on architectural and environmental matters.

In most cases, juries of 12-25 members sit for about a week, hearing evidence and drawing conclusions. Jurors may be selected at random from the electoral register or by representative sample. They may be selected by independent specialist centres, jurors may ask to consult additional or alternative witnesses and written evidence is provided. There may be multiple juries, as in the Basque region, where wide coverage is needed—which, in Germany, raises the average cost from about £13,000 for local inquiries to over £100,000 for national projects.

In Germany, local authorities or other levels of government undertake to take account of juries’ views. In the US, juries are not a direct part of the decision-making process but do attract media attention and, therefore, contribute indirectly to decision-making. Stewart reports that the jury process “generates a deep commitment amongst the jurors” and that jurors “have shown great

competence in grasping the issues”.

The final reports of juries need not be unanimous. Where there are divergent opinions, in whole or in part, these have to be set out with reasons for each. If juries in Northern Ireland were to come up with a mixture of agreements and divergences, that at least could help set priorities for talks—which changes could be brought about now, and which would need to be shelved.

In this sense, juries would have comparable results to Emerson’s voting experiment. In his conference on preferential voting systems, part of the day was spent on negotiating the topics that would appear on a ballot slip, as well as designing wordings most likely to command electoral support. The jury process, at least those that have been tried, would be comparable to a longer and deeper version of the first part of Emerson’s experiment and less about finding precise words for a ballot slip. However, the ballot part of his scheme could be considered as another possible answer to the questions identified by Stewart, Kendall and Coote about how jurors might arrive at the conclusions or recommendations of their final reports.

Unlike juries, where differences of opinion may be expected and which have to be explained, consensus

conferences, as their name suggests, aim for agreement on a set of recommendations. A definition of a consensus conference has been provided by John Durant of the British Science Museum, in his introduction to the final report of such a conference held in the UK. It is:

a forum in which a group of lay people put questions about a scientific or technological subject of controversial political and social interest to experts, listen to the experts’ answers, then reach a consensus about this subject and finally report their findings at a press conference.²²

Durant played a leading part in adapting Danish experience to the UK. The National Consensus Conference on Plant Technology, held in November 1994, was funded by the Agricultural and Food Research Council (now the Biotechnology and Biological Research Council) and organised by the Science Museum. Its subject was the ‘socially sensitive’ topic of the ‘genetic engineering’ of plants (limited in the first instance to plants because of the breadth of the topic, which also covers animals and humans).

Durant explains the success, over eight years, of this Danish way of encouraging the habits of active citizenship and improving the quality of public debate and decision-making—on childlessness, identity cards, food irradiation, transgenic animals and animal

biotechnology (such conferences in Denmark have cost £35-50,000). The Danish model was used in the Netherlands before being applied in the UK.

Following Danish practice, the Science Museum appointed a steering committee to oversee the conference. A call for volunteers to join the panel was made in advertisements in 11 regional newspapers and on BBC and independent radio stations. More than 350 people applied and the final 16, including an A-level student from Antrim, were chosen using the same socio-demographic criteria used in sampling. The conference was preceded by two briefing weekends, to identify areas for study, key questions to be put and the witnesses who would address them. The questions were used as organising principles of the main conference and the final report, written by the panel themselves.

Durant reports:

Faced with a massive amount of information and only a comparatively short time in which to digest it, the lay panel has produced an exceptionally measured and balanced report ... [L]ay panel recommendations deserve consideration by scientists, industrialists, retailers, policymakers, special interest groups and others with a direct or indirect involvement in plant biotechnology. Of course, the ultimate responsibility for determining

public policy cannot be delegated to a consensus conference lay panel; but such a panel is broadly free from the multiple sectional interests that are at work within the field of plant biotechnology, and for this reason alone its informed judgments deserve to be taken seriously—particularly by those who claim to speak about this subject ‘in the public interest’.²³

It may be argued that scientific matters, which form the bulk of consensus conference experiments so far, are not comparable with the problem that needs to be solved in Northern Ireland. And this unsuitability may be thought to be reinforced by Durant’s reference to freedom from sectional interests. But the Danes have used this approach on an essentially political issue—the electronic identity card—and something like a consensus conference has been used by disparate groups who want to reform the UK constitution to grant a measure of autonomy to Scotland (see below).

To argue that the scientific emphasis of most consensus conferences rules them out as a model for Northern Ireland would be to belittle the passionate views ‘social engineering’ excites. And to take the view that such an experiment would be invalidated by not being ‘free from sectional interests’ might underestimate desire among people in Northern Ireland to find a way round their sectarian

equivalent. Moreover, even if a consensus conference in Northern Ireland were composed of participants initially predisposed to sectarianism, if such a body could produce at least some agreed recommendations they would carry all the more force.

Citizens' juries and consensus conferences are likely to be used in research funded by the Economic and Social Research Council into how UK central government works. Something like them — though spread over years rather than weeks or weekends — can be seen in how the Constitutional Convention has come to agree upon its proposals for a devolved Scottish parliament.

The convention arose out of the new Claim of Right, declared in 1988²⁴, and the Campaign for a Scottish Parliament. It was boycotted by the Scottish National party, which is in favour of full independence, and by the Conservative party, which wants no significant change at all. But all other parties, including Labour, which has pledged to introduce the convention's recommendations if and when returned to power, participated. So, too, did church organisations, associations of councillors, trade unions and other bodies — meaning, it is claimed, that about 80 per cent of Scottish society was represented in its deliberations about the accommodation of diverse interests.

Though those on the extremes absented themselves from discussions about the future of Scotland, this does not mean that there were no strongly held differences to resolve before the convention published its fully agreed, final recommendations on St Andrew's Day, November 30th, 1995. Women's groups found it necessary to declare a Women's Claim of Right so as to ensure that the convention would devise a non-sexist parliament. And, of course, the disputed question of the appropriate electoral system had to be resolved.

Deliberative opinion polls are designed not to find out what citizens think, given the little that they know now, but, as Fishkin puts it, what the public would think if they had better opportunities to think about the questions at issue.²⁵ As such, they, as well as juries, have some resemblance to the experiment which took place at Emerson's conference. Though, like citizens' juries, deliberative polls are intended to help citizens to be better informed about policy, and policy-makers better informed of citizens' views (in this case, hundreds), unlike juries the engagement with the issue at hand is more fleeting. Fishkin piloted a British deliberative poll on law and order through Channel 4 and the *Independent*. And similar ideas for

‘preferenda’²⁶ in Northern Ireland are being developed by Fred Boal, Tom Hadden and Colin Irwin.

Given that consultation is comparatively fleeting in deliberative polls, the profundity of the problem of institution-building in Northern Ireland may initially require a more deeply qualitative approach. Deliberative polls and preferenda could come into play after agreed institutions had been set up, to canvass opinion on the substantive policy responsibilities that would be devolved to a Northern Ireland assembly. A similar judgment may be made about some of the other innovations discussed by Stewart.

He discusses many other methods of improving democracy, some of which may be particularly relevant to Northern Ireland—such as the relationships between the voluntary and community sectors and the administration and political parties, and how these components can effectively interact in the hoped-for ‘normal’ politics. There is some ambivalence about the current networks and, hence, the proper relationships amongst these actors in a new policy-making system.

As Jay points out,²⁷ the absence of ‘normal’ politics has meant strategic policy questions are often discussed in what may appear a complex, back-room web of relationships between the voluntary sector and executive bodies. In

one sense, the direct relationships between groups in civil society and departments or quangos mean Northern Ireland is a better example than Britain of participatory democracy—as is suggested by John Morison’s contribution to this volume. But questions are asked about the representativeness of voluntary groups and there is some disquiet that lines of accountability seem obscure or absent.

Accountability and influence are supposed, in theory, to be realised through elected politicians. Political parties in Northern Ireland, however, are sometimes despised and eschewed by individuals in community groups, perceived as taking no interest in the politics of everyday life. In any event, constitutional arrangements leave parties with few responsibilities and little power to deal with ‘normal’ policies, and so little option but to be preoccupied with the conflict over the constitutional status of Northern Ireland.

Evidence submitted to a recent review²⁸ indicates a strong feeling among some members of political parties that, in a new Northern Ireland, the voluntary sector will have to give up its policy roles—an unattractive future for groups which have provided opportunities for popular participation and have so much experience of day-to-day policy negotiation. It would not be easy for them

to accept an insensitive resumption of the mantles of legitimacy and exclusive access to government, by bodies thought to have abdicated every-day policy responsibilities until now. But it need not be like this.

The recommendations of the review echo what Stewart tells us of experience elsewhere. He indicates that parties and community groups can accommodate each other to their mutual benefit, and that of citizens in general, retaining the good things about non-partisan participation and allowing party channels of accountability to spread further into society. Study circles on public issues, for example—arising from trade unions, churches, youth groups, chambers of commerce, community centres—have been established in Sweden, the US and Bristol in England. Other possibilities are standing citizens' panels, which might be consulted regularly by public authorities or, as in Bradford over health and social services, be specially constituted for consultation.

Stewart also draws attention to neighbourhood committees in Bradford, Tower Hamlets and Somerset and community groups in Middlesbrough, comprising elected residents and representatives of voluntary groups, which have the right to be consulted. There are also focus groups, as in Hammersmith and Fulham,

on social services; advisory fora, as in Hampshire, on waste management; and, elsewhere in England, panels which bridge gaps between government and the elderly or young people. Such sub-municipal councils or advisory committees have been accepted in most continental European cities since the 50s.²⁹ Given the special role of the voluntary sector in Northern Ireland, the idea of 'associative democracy'³⁰—in this case, voluntary self-governing bodies acting as partnerships between the recipients and providers of services—deserves closer attention.

Drawing these threads together suggests a two-pronged conclusion for action in Northern Ireland, and two problems.

To summarise: the normative claims of participatory democracy demand that a broad swathe of people be involved in devising new institutions that will be part of any settlement. Nor may enforced passivity be the source of comfortable stability élites think—at best it may result in poorly designed policies and, at worst, it may only enhance alienation and so volatility.

The more participatory approach has the pragmatic benefit that people will accept and work with institutions if the making of them has been seen to be fair.

Experience shows a willingness among significant numbers of citizens to be involved, and a desire to have some real influence; it also offers practicable ways of achieving this. Such considerations are applicable in Northern Ireland, to both the creation of new institutions and subsequent policy-making within their framework.

The basis for the normative claims and pragmatic benefits of participation is also evident in Northern Ireland. In the research into Women and Citizenship, women said they saw themselves as having to 'mend a lot of pots' because of societal and systemic failures. But they

want to be free to use their energies to design the pots in the first place, they think that the pots would be a better shape if they did so and they would like practical opportunities—like those Stewart identifies—to enable them to do so.

The findings fit in with Jay's point about the strengths and hopes of the voluntary sector.³¹ They also fit in with the experiences of successful pluralist, public fora which have generated concrete outcomes and of which more could have been made by policy-makers—for example, a 1993 conference on 'Power-Sharing and the Administration of Power' in Dungannon,³² Emerson's voting experiment or, more currently, public hearings on minority rights in Derry.³³

It is also plain that people do not want to be alienated from the search for a political settlement. Perhaps surprisingly, given the cynicism with which politicians are generally regarded, President Clinton was able, as no one else seemed to be during the period of the ceasefires, to release feelings amongst people that the peace belonged to them and was not merely a game for poker-faced political *élites*. New political deadlocks and the ceasefire breakdown were, as we now know, to dissipate that sense of exhilaration.

Perhaps anticipating the danger of

LESLEY DOYLE

Now, if they were in power ...

further stalling in ‘high politics’, the incoming chair of the Confederation of British Industry in Northern Ireland opened the new year by saying with some urgency that business had to make its voice heard in the search for an agreement; the *Irish News* backed the call editorially while stressing that other social groups had contributions to make.³⁴ A new framework must not only secure agreement for the moment but also stand the post-settlement test of enabling parties and groups to work effectively with the grain in subsequent, every-day policy-making—or be able to cope reasonably with proposals for change as and when reform seems necessary.

These needs and aspirations, and practical experiences, suggest two sets of short-term actions to help engender institutions and practices, right for now yet stable and adaptable enough for longer-term policy-making. The first set of actions is similar to the component parts of the Scottish Convention—that is, a series of citizens’ juries and/or consensus conferences based on either locality or social roles. These should comprise interested individuals and representatives of voluntary and community groups, political parties and movements. Their agenda would be set by themselves but might include new institutions, new methods of negotiation and post-settlement practice

for policy formulation, implementation and evaluation.

Smyth’s experience of research and of bringing people together suggests that, if these issues seem too much or too threatening to confront together or head-on, a start could be made by beginning with a part of the bigger issues—a part with direct meaning to those involved.

There are many possible openings which, when delved into, bring people face-to-face with the wider political questions—for example, identifying issues to do with living in border or interface areas; the role of policies aimed at eliminating discrimination and establishing ‘fair participation’ in socio-economic life; how to acknowledge the rights of people who identify themselves on the basis of, say, gender, sexuality or non-Northern Irish cultural origins where these identities are stifled by differentiations based on Catholic-nationalist or Protestant-unionist; and so on.

There is already a reasonable body of written guidance that could be used by such juries or fora, some of it cited in this chapter. What they would need in the way of substantive evidence would vary, depending on their interests. What they would have in common is the idea that whatever they agreed upon would have to be open to discussion by a wider group. That is, all these small juries or

conferences could culminate in a Northern Ireland-wide, popular Constitutional Convention.

Such a meeting in respect of the UK as a whole was sponsored in 1991 by Charter 88, which, if people wanted, could be invited to assist in the calling of a special convention for Northern Ireland to consider the best arrangements and powers for a devolved assembly, its role in north-south-east-west relationships and the general question of the protection of rights. Held in Manchester, the Charter 88 convention was an exciting experience. It combined the serious study of the work of its subscribing signatories and sympathisers—for example, the Scottish Convention, human rights activists from Northern Ireland, trade unionists, women's groups, regional groups and so on—with an atmosphere of celebration which had the sense of the whole city, including the splendidly Gothic city hall, being taken over for a party of current friends and people rediscovering friends from the past.


Another analogy might be the non-governmental organisation (NGO) fora which preceded and coincided with the United Nations conferences on women in Copenhagen, Nairobi and Beijing—gatherings which, like the Manchester convention, combined challenging work in grappling with profound differences

with the celebration of opportunities for change and the making of friendships. The UN conferences had a further, important feature: they were designed to ensure that official delegations felt it incumbent to pay attention to NGO delegations from their own countries and NGO representatives had observer status at the official conferences—interactive opportunities which NGOs used as fully as possible to have their voices heard.

There are two main practical problems in such suggestions. The first is money and the second timing. As indicated earlier, citizens' juries and consensus conferences are not cheap; a Northern Ireland-wide convention on the scale of and in the mood of the Manchester one would be expensive—let alone one like the UN conferences. And the question of timing is crucial. These things must begin while the situation is still fluid enough to be able to be influenced and take place over a period which does not miss the boat.

It has been suggested to Democratic Dialogue that it is time for a 'second Opsahl' and it may be that the kinds of proposals indicated above could be thought of as exactly that—especially if they paralleled official talks and if the 'grand' convention were so magnificent that official delegations were forced to acknowledge that it was in their

interests to pay some attention to it.

If such proposals, or something like them, were to find favour among readers, Democratic Dialogue could perhaps act a 'lead' organisation in application for funds. If so, this would be an important way we could live up to our name. 

Footnotes

¹ The author appreciates the comments on her preliminary manuscript made by Richard Jay and the participants at a seminar organised by Democratic Dialogue.

² Carole Pateman, *Participation and Democratic Theory*, Cambridge University Press, 1974

³ Richard Jay, 'Democratic dilemmas', in Democratic Dialogue report 2, *Social Exclusion, Social Inclusion*, p69

⁴ A Heath and R Topf, 'Political Culture', in R Jowell, S Witherspoon and L Brook eds, *British Social Attitudes: The 1987 Report*, Gower, Aldershot, 1988

⁵ Chantal Mouffe, 'Democratic Citizenship and the Political Community', in Mouffe ed, *Dimensions of Radical Democracy: Pluralism, Citizenship, Community*, Verso, London, 1992

⁶ Anne Phillips, 'Must Feminists Give Up on Liberal Democracy?', in David Held ed, *Prospects for Democracy: North, South, East, West*, Polity, Cambridge, 1993

⁷ quoted in KD Stewart, E Kendall and A Coote, *Citizens' Juries*, Institute for Public Policy Research, London, 1994, pp 3-4

⁸ *Women and Citizenship: Power, Participation and Choice*, written by a research team accommodated by the Women's Resource and Development Agency, Equal Opportunities Commission, Belfast, 1995

⁹ Samuel Beer, *To Make a Nation: The Rediscovery*

of American Federalism, Harvard University Press, Cambridge, Mass, 1993

¹⁰ *ibid*, p75

¹¹ Selma Sevenhuijsen, 'Justice, moral reasoning and the politics of child custody', in Meehan and Sevenhuijsen eds, *Equality Politics and Gender*, Sage, London, 1991

¹² See his contribution to DD report 1, *New Thinking for New Times*, pp 8-23.

¹³ David Miller, 'Deliberative Democracy and Social Choice', in Held ed, *op cit*, pp 74-92

¹⁴ Ian McLean, *Democracy and New Technology*, Polity, Cambridge, 1989; see also *Demos Quarterly*, no 3, 1994, on 'tele-democracy'.

¹⁵ A Blumrosen, 'Towards effective administration of new regulatory statutes', *Administrative Law Review*, parts I and II, winter and spring 1977

¹⁶ Mouffe, *op cit*

¹⁷ Peter Emerson ed, *Where Lies the Compromise? An Experiment in Decision-Making*, conference report, Fortnight Educational Trust, 1995

¹⁸ J D Stewart, *Innovation in Democratic Practice*, Institute of Local Government Studies, Birmingham, 1995; see also Stewart, Kendall and Coote, *op cit*.

¹⁹ See also P Beresford and S Croft, *Citizen Involvement: A Practical Guide for Change*, Macmillan, Basingstoke, 1993, on citizen involvement in the delivery of 'quality' services.

²⁰ Questions, and various answers, about how to secure legitimacy and representativeness in the establishment, agenda-setting, methods of investigation and final decision-making of citizens' juries are addressed in Stewart, Kendall and Coote, *op cit*.

²¹ Crosby, quoted in *ibid*

²² British Science Museum, *UK National Consensus Conference on Plant Biotechnology (November 1994): Final Report*, British Science Museum and Biotechnology and Biological Sciences Research Council, London and Swindon, 1994-95

²³ *ibid*

²⁴ Campaign for a Scottish Assembly (later, Parliament), *A Claim of Right for Scotland*, Edinburgh, 1988

²⁵ quoted in Stewart, *op cit*

²⁶ Preferenda are more sophisticated than referenda in that they offer more than two options for voters to rank one-two-three-..., rather than a binary, yes-no choice.

²⁷ Jay, *op cit*

²⁸ Community Technical Aid/Community Participation Working Group, *Developing Community Participation in Greater Belfast: Summary and Recommendations*, Belfast, 1995 (the submissions about some party attitudes referred to in this text are available in the full report; only the summary and recommendations were available at the time of writing)

²⁹ Stewart, *op cit*

³⁰ See DD report 2, *Social Exclusion, Social Inclusion*, pp 75-78, 91-92.

³¹ Jay, *op cit*

³² *Power-sharing and the Administration of Power*, Conference Report, Green party, Belfast, 1993

³³ as reported by Marie Smyth to a DD seminar in January 1996

³⁴ *Irish News*, January 3rd 1996

Asking the right question

Robin Wilson

Across Europe and north America, there is widespread disillusionment with both the way politics is conventionally practised and its failure to deliver results. As strongly expressed in Italy, perhaps, as anywhere, there is a widespread popular perception that politics has become the province of a remote political class—the *partitocrazia*, as the Italians call it—which, at best, has failed to deliver on its egregious promises and, at worst, is downright venal.

This revulsion against incumbent *élites* has variously taken the form of electoral volatility (the Canadian wipe-out of the Conservatives), the rise of racist and xenophobic politicians (Jorg Haider in Austria), sudden popular explosions (the protests against Maastricht-driven welfare reform in France) and a wave of corruption investigations (going as high as the six-times Italian prime minister,

Giulio Andreotti).

Yet if politics is not the prerogative of political parties—a glib remark would be to say it is much too important for that—parties nevertheless play a crucial role, even in an ‘antipolitical age’.¹ This is so because of a paradox of recent times: while there is unparalleled disillusionment with the working of liberal democracy, its hegemony as a political system is more secure than ever.² The process of democratic representation, and so the role of parties in organising that process, thus remains critical.

This context is important to rehearse, because it reminds us that if there were a political settlement between Irish nationalism and Ulster unionism in Northern Ireland tomorrow, it would not usher in a new utopia. On the contrary, all the problems of global political (post-)modernity would come rushing in. Indeed, they would be likely quickly to

overwhelm politicians ill-prepared for governance by the atrophying effect of nearly a quarter century of direct rule from Westminster.

Yet no such eventuality appears any way imminent. In February, a leading Fianna Fáil politician said a Northern Ireland settlement could take 30 years—and nobody demurred. That was before the Canary Wharf bomb in London which ended the IRA ceasefire. Following a collective popular outpouring for peace across Ireland, the British-Irish summit later that month restored political momentum and a sense of direction, signalling a new round of inter-party talks—this time including paramilitary repre-

sentatives—for June 10th. But, as so often, the hopes raised by pragmatic inter-governmental co-operation dissipated amidst a welter of partisan ideological reaction in the region itself.

The initial IRA response was that the ‘armed struggle’ continued, thus ruling out Sinn Féin access to talks for as long as this post-post-ceasefire situation obtained, while the main unionist parties refused even to attend preparatory talks at Stormont on March 4th. No agreement was reached in these not-quite-proximity procedural discussions, on electoral processes and the format for negotiations—an ill omen for *substantive*, ‘all-party’ talks.

Tom Hadden and Kevin Boyle are arguably the two most valued long-standing commentators on Northern Ireland. After the IRA ceasefire ended, they wrote that what mattered was not whether Gerry Adams knew or did not: “The underlying reason for the breakdown was that all the parties to the peace process have been working to entirely different agendas and strategies.”

Moreover, there is a disturbing sense of *déjà vu* about the whole enterprise of elections with or without talks, talks with or without elections. As Hadden and Boyle again argue, “The only surprising thing about these proposals is the touching faith that either immediate all-party

LESLEY DOYLE

As one door closes, another one slams in your face

talks or an electoral process will lead to agreement. In fact all the evidence points in the other direction.”³

Northern Ireland is thus clearly more politically intractable than the ever-merely-critical Italy. There, governments (of a sort) are formed—interestingly, increasingly of a ‘technical’ character. In Northern Ireland, however, the parties remain poles apart on what the constitutional framework for government should be—never mind how the latter should be composed.

The heretical question finally must be asked: does the *partitocrazia* in Northern Ireland—including its recent entrants—contain the critical mass of moral commitment and intellectual capacity to achieve a settlement? Or is it time to face the need for a radical renewal—a reconstitution of politics?

Amidst political immobilism at home, much has been made in recent years of the transformations in South Africa and the middle east as pointers to agreement on Northern Ireland. Yet this has become a clichéd comparison.

In the middle east, what was agreed was in fact that agreement was impossible: Arab and Jew could only co-exist on the basis of each having their ‘own’, separate, state. While at one level the middle east peace process has been thrown into

crisis by the intense suicide bombings by Hamas, at another this has only served to accelerate and reinforce this dynamic of separation—now to be materialised in an \$80 million barrier between Israel and the west bank.⁴

In South Africa, by contrast, the unsustainability of undemocratic white minority rule in the long run dictated that agreement *had* to be found, and that it had to be on the basis of power-sharing with the black majority. The international community, eventually, would tolerate nothing less.

Thus, whether through *realpolitik* or universally accepted standards of democratic life, unavoidable settlements, clearly signposted by circumstance, were dictated in both cases. They were spurred on, moreover, by uncontrollable violence and protest way beyond the so-called ‘acceptable level’ of Northern Ireland. Yet no such imperatives apply to the latter.

Centrally, both the middle eastern and South African peace processes were about a transfer of power. Yet in Northern Ireland *nobody* holds power—that is precisely why its political culture is marked by such infantilism and irresponsibility. The argument here is rather over what the very *unit* of politics—within which power would be exercised—should be.

Contrast South Africa, where only the extreme white right (supporters of a so-

called *Volkstaat*, or ‘people’s state’ for Afrikaners) and the black right (the Inkatha Freedom party, which seeks autonomy for Kwazulu Natal) rejected power-sharing in favour of redrawing the political map. Similarly, in the middle east, only the Israeli far right (who want to see the state extended to its biblical boundaries) and Palestinian ‘rejectionists’ (principally the fundamentalist Hamas and Islamic Jihad) would not accept the ‘two-state solution’.

So why does this flawed comparison subsist? Sadly, it is merely the flip side of Northern Ireland’s traditional political introversion to engage in a magpie-like sweep of global politics, seeking partisan support for pre-existing internal positions. In neither case is there the real learning curve that alone might enrich and enliven Northern Ireland’s attenuated political culture.

There is another, rather seamy, factor too. There is something ‘heroic’ about the South African and Palestinian conflicts: it associates provincial Northern Ireland politicians with real statesmen and Nobel prize winners, like Nelson Mandela. Who wants, by contrast, to be compared with the Bosnian Serb leader, Radovan Karadjic, or the Croatian leader, Franjo Tudjman? And who wants to admit that the last quarter century in Northern Ireland has been a brutal

nationalist⁵ conflict with no victors—only victims—like so many that have exploded in central and eastern Europe since 1989?

Who, indeed. Yet in emphasising the middle east/South Africa analogy, many commentators have failed to see the global wood for the trees. A broader, less selective, appropriation of current international political trends should encourage altogether more sobering conclusions.

Anthony Smith has pointed out that ‘globalisation’ is only one side of the contemporary international picture:

The other is represented by the rise and proliferation of all kinds of social movement and identity protest, from feminism to the ecology movement, from the civil rights movement to religious revivals. In particular, we are witnessing a rebirth of ethnic nationalism, of religious fundamentalisms and of group antagonisms which were thought to have been long buried. Ethnic protests for autonomy and secession, wars of national irredentism and explosive racial conflicts over labour markets and social facilities have proliferated in every continent. In the era of globalisation and transcendence, we find ourselves caught in a maelstrom of conflicts over political identities and ethnic fragmentation.⁶

By *ethnie*, Smith means a group with a collective name, a common myth of descent, a shared history, a distinctive

shared culture, association with a specific territory and a sense of solidarity.⁷

It should be apparent that, despite the pretensions of unionists and nationalists within Northern Ireland that they respectively form a component of an undifferentiated British or Irish ‘nation’, they each conform much more accurately to Smith’s ethnic definition. And what Northern Ireland needs is a fuller and much more grounded engagement with the challenges such conflicts, everywhere and increasingly, throw up.

That is what this, and the next, chapter seek to achieve. They are not meant to be a showy Cook’s Tour of international politics. The aim, rather, is to recognise, perhaps with some humility, that we have not been very good at resolving our own problems and we must learn what we can—however unpalatable, sometimes—from wherever we can.

Nowhere, perhaps, are the lessons more unpalatable than from the former Yugoslavia, though it is also worth a closer look at the (again, highly unattractive) stand-off in the Azerbaijan/Armenia region of the former USSR. For, taken with Northern Ireland, these comprise three zones of ethno-nationalist conflict, all of them on Europe’s edge, in all of which political violence has recently but uncertainly abated, and in each of

which religion is a key factor.

Crucially, they have still one thing more in common, and it is this that defines their intractability. While their populations are too intermingled for the *realpolitik* of total separation, no single international norm dictates what form a settlement should take. Hence the difficulty, most distressingly in ex-Yugoslavia, that the international community has found in sponsoring a solution.

In fact, these three regions are sites of a contradiction between *two* baseline principles of 20th-century international law. On the one hand is the principle of non-violability of borders, which is an essential guarantee against aggression. On the other is that of self-determination of peoples, an essential guarantee against oppression.

These principles are *both* enshrined in authoritative United Nations documents, in particular the 1970 Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, which superseded the 1960 Declaration on the Granting of Independence to Colonial Peoples and Countries.⁸ During post-war decolonisation, supervised by the UN, the acceptance by the anti-colonial forces of boundaries often created by the colonists meant that the two

principles mostly worked in tandem.

But the proliferation of ethno-nationalist conflicts in more recent years, particularly since the demise of cold-war bipolarity, has left the international community rudderless. The difficulty is that these conflicts are often characterised precisely by demands to *change* the boundaries of states, to conform more accurately to what is held to be the right of self-determination of a minority corralled within them. The principles of non-violability of borders and of self-determination thus become counterposed.⁹

One nationalist side—Ulster unionists, the Bosnian Muslim leadership, the Azeris—lines up behind the maintenance of borders. The other side—Irish nationalists, the Bosnian Croatian and Serb leaders, Armenians in Nagorno-Karabakh—lines up behind self-determination for ‘its’ people. Both are, and neither is, ‘right’.

It is in that context that has emerged—and a very few changes of words (eg ‘Serb nationalism’ to ‘Ulster unionism’ or ‘Irish nationalism’, ‘Yugoslav’ to ‘Northern Ireland’) could translate this quotation without loss of meaning closer to home—

the atavism which would come to characterise the mentality of Serb nationalism, and, later, of the Yugoslav conflict itself: the deliberate evocation of atrocities that

had long passed from living memory; a consciously-fostered paranoia fed at least as much by rumour and myth as by historical reality; the use of the past as a weapon of conflict, and, later, of war; and, above all ... the sublimation of individual identity to that of the collective ...¹⁰

There are three features of such societies which provide conceptual barriers to resolution of their associated conflicts. First, there is an attenuated concept of democracy. It is widely perceived as being about ‘majority rule’, the argument centring on *which* majority—‘the people’ or ‘the greater number’ in which political unit, that is—can legitimately exercise that right.

Yet if liberal democracy is about anything, it is not the principle of the absolute sovereignty of the largest party or social group; rather, it is the principle of *popular* sovereignty, exercised by free and equal citizens.¹¹ Only this second conception, and only if allied to ‘dialogic democracy’ (see below), can bring political settlements in situations like Northern Ireland. Zero-sum, majoritarian thinking can not.¹²

Secondly, there is a refusal, on the part of ‘official’ and ‘unofficial’ authorities, political and paramilitary forces, to accept the universality and inalienability of human rights. Yet again, in the absence of a common commitment to a

human rights culture, dialogue involving diverse groups becomes a political Tower of Babel.

Thirdly, and linked to these two failings, a concept of civil society, separate from the formal political sphere and state and sub-state military forces, is weak or lacking. Yet if every issue—economic, social, educational or whatever—has the potential to become politicised, in this hypertrophy of politics and the state, permanent conflict is, again, inevitable.

All these trends underlie a politics characterised by ideology and adversarialism, repetitive and conservative, and deeply unattractive to those emergent, more dynamic, social actors who might represent the internal force for renewal.

Reconstituting politics in Northern Ireland is not a matter of finding a new answer—there’s been enough time for that. It has to be about finding a new question.

The old question is simple: how much Northern Ireland should there be? Paradoxically, both Irish nationalists and Ulster unionists tend to give the same answer: *less*. The fundamental Ulster unionist demand is that Northern Ireland be treated as an integral part of—indistinguishable and thus non-detachable from—the rest of the United Kingdom.

And the fundamental Irish nationalist position is to deny the UK connection and propose steps—enhancing Dublin involvement—which advance what the republic’s constitution calls ‘the reintegration of the national territory’.

It’s the same in Bosnia-Herzegovina. The Bosnian Serb leadership wants less B-H, through aligning its Republika Srpska more closely with Serbia proper. The Bosnian Croat leaders also want less B-H, through more closely confederating the theoretically joint Muslim-Croat federation with Croatia. What remains of the Bosnian government has sought to maintain the state intact.

The US-brokered Dayton accord,¹³ while nominally upholding the integrity of B-H, in practice carves it up according to the lines established by ‘ethnic cleansing’. It is therefore likely that B-H will increasingly become a legal fiction, with partition the reality, and there is no guarantee that serious conflict will not at some point resume.¹⁴

Indeed, a top-secret intelligence report for the White House on B-H warns that the protagonists “share a deep mutual mistrust and will continue to seek to achieve their fundamental goals, rather than accommodation, even as the Dayton agreement proceeds. They will see compromise as a zero-sum game and attempt to divide and manipulate the

international community in the way the accords are implemented.¹⁵ Hmm.

Already, many in B-H are voting with their feet:

The worst predictions about the Dayton peace settlement for Bosnia are coming true. Dayton was supposed to bring Serbs, Croats and Muslims back together in peaceful, tolerant co-existence, but what we are seeing is the remorseless physical separation of nationalities into isolated, mutually hostile communities. Dayton was supposed to restitch the multi-cultural fabric of a society torn apart by three and a half years of war. Instead, a seemingly inexorable process is unfolding in which Serbs are relocating themselves in exclusively Serb parts of Bosnia, Muslims in exclusively Muslim parts and Croats in exclusively Croat parts.¹⁶

As in B-H, so in Northern Ireland. Continuing struggles for *less* Northern Ireland will only achieve greater division *within* it, laying the ground for future conflicts. Segregation in the region is already frightening enough.¹⁷

It is for these reasons that asking the old question—how can we have less Northern Ireland?—can not lead to a workable answer. And it is for this reason that politics in Northern Ireland resembles a disengaged flywheel—plenty of motion but no outcome. Hence the high level of political alienation¹⁸ and the

associated ‘hollowing out’ of Northern Ireland’s political culture.

If we cannot have less Northern Ireland, then the new question can only be: what *kind* of Northern Ireland will we have? And here the alternative vision for B-H, tragically betrayed by the international community, offers a new answer.

During the war, the Muslim-led government, as well as the usually-ignored liberal and pluralist Serbs and Croats, stood by the principle of a multi-ethnic, multi-cultural, multi-religious B-H, epitomised by the traditions of its residentially mixed capital, Sarajevo. There is even a political shorthand for this—in Tuzla they call it the ‘multi-multi solution’.

In situations like ex-Yugoslavia or Northern Ireland, the multi-ethnic, multi-cultural approach represents, *by definition*, the only middle way between the colliding principles of self-determination and non-violability of borders. It does not require that the conditions in which existing units came into being be endorsed—there was much to be said for the efforts of many in Ireland, particularly within the labour movement, to avoid partition becoming a reality in 1920-22.¹⁹ But it does require a recognition that the only alternative to ‘ethnic cleansing’ and new and more entrenched partitions is to render existing units,

unless and until changed by consent, jointly owned by all their constituencies—and so, in a sense, owned by none. Simply put, it means living “distinctively, but together and in mutual tolerance”.²⁰

For Northern Ireland, as Asbjorn Eide explains, this means:

The legitimate competing approaches to nationhood must not preclude the development of a civic society in Northern Ireland, in which each community can participate on an egalitarian basis ... It is assumed that any measures leading to further physical separation within Northern Ireland based on communal identity should be avoided. The experience in other parts of the world, including Bosnia, to divide [sic] land by ethnic or religious identity, is so frightening that it should be avoided at all costs.²¹

But can it be? Yes: a multi-ethnic, multi-cultural B-H *could* have been sustained by a combination of those forces within civil society who supported it²² and the international community.

A territorial carve-up between the nationalist forces in ex-Yugoslavia was first suggested in the Vance-Owen plan of 1993. At the time, the professor of international law at Sarajevo University, Zoran Pajic, co-authored a critique which proposed alternative “concrete steps”. Amongst these was “nurturing moderate forces, including recognition of the many

opposition figures and non-governmental peace, human rights and other professional organisations that have refused to become ethnic protagonists”.²³

And what of Northern Ireland? The top civilian official with the UN Protection Force in ex-Yugoslavia, Cedric Thornberry, returned to his native Belfast for a visit in October 1994. Asked the lessons he drew from his UN experiences, he said: “I think that the lessons are extremely clear—effective human rights and politics of consensus, isolating extremists on both sides. That’s the way it is being done in a lot of different places that are trying to build nations.” And, significantly, he added: “It is time for another generation to take over in this country.”²⁴

It has become fashionable to decry the efforts of ‘moderates’ in Northern Ireland, in favour of a focus on the nationalist (including unionist) ‘extremes’. In doing so, the nearest the region has ever come to a settlement, the power-sharing experiment of 1974, has had to be airbrushed from history.

Yet it was external factors—such as Edward Heath’s precipitate calling of the February Westminster election and the *Boland* case in the republic—rather than internal contradictions which rendered the power-sharing executive vulnerable

to the loyalist putsch-cum-strike. And republican violence neither prevented its formation nor brought it down (the rationale for the post-1992 ‘peace process’ was, let us recall, that talks could only succeed in a peaceful climate). Notably, the Social Democratic and Labour party saw its main interlocutor then as the Ulster Unionists, rather than Sinn Féin, and the UUP leadership (if not all the party) recognised it had principally to deal with the SDLP, not the Democratic Unionists. These two mainstream parties plus Alliance provided a ‘sufficient consensus’ for success.

Just after the IRA ceasefire, one very senior architect of the ‘peace process’ in Dublin confidently asserted that while others had sought to build the ‘pink’ strand in Northern Ireland, he had gone for the ‘orange’ and ‘green’. Within a year, the same official was despairing that a settlement would ever be reached.

The confusion has arisen because ‘moderate’ has more than one meaning: it connotes not only accommodating but also cautious, just as ‘extreme’ can mean both fundamentalist and radical. Yet, it is at least arguable that it has been the protagonists in the Northern Ireland conflict, both political and paramilitary, who have pursued a cautious conservatism, rather than leave the comfort zone of the tribe, while it has been the pluralists who

have been prepared to take the risks political cross-dressing entails.

Within days of the IRA ceasefire, Adrian Guelke put to a prestigious conference of politicians and officials, from London, Dublin and Belfast, an obvious point that those who *have* emphasised the Northern Ireland/South Africa/middle east comparison have studiously avoided. It was that while the relationships between the mainstream political forces, the African National Congress and the National party, the Israeli government and the Palestine Liberation Organisation, had been crucial to establishing accords in the latter two instances, “Northern Ireland still lacks a centre to provide the foundation of a political settlement”. Indeed, once we replace the loaded term ‘moderate’ by ‘political centre’, it becomes clear that without such a focus compromise is, *again by definition*, impossible.

Prof Guelke pointed out that the alternative futures, post-ceasefire, were not just a settlement or renewed violence. Pointing to the two decades of “bloodless conflict” of Cyprus, he offered the other scenario of “polarisation of the society without a return to organised violence but politically divided into hostile blocs”.²⁵ It was—until February 9th 1996 at least—a prescient warning.

Yet Northern Ireland, as well as the

rest of the world, has moved on dramatically from 1974. The power-sharing experiment, while centrist on the nationalist-unionist axis, was conservative on a left-right axis: in line with ‘consociational’ thinking of the time, the theory was that getting the *élites* of the ‘two communities’ together was both a necessary and a sufficient condition of a settlement. It presupposed a pillarised society, in which citizens ‘knew their place’ and which would remain set in aspic along its sectarian lines. As van Schendelen remarks, “Consociational democracy remains *elitist* democracy.”²⁶

Such arrangements have looked less tenable in recent years. Consociationalism broke down in the Netherlands—the focus of its principal theorist, Arend Lijphart—in the late 60s. The collapse of power-sharing in Lebanon in the 70s reveals how changing demography and the emergence of social forces which do not respect the dominance of the existing *élites* can fracture inflexible arrangements.²⁷ In Belgium, while consociationalism is still technically in place, divisions between Flemings and Walloons have steadily widened.²⁸ Switzerland remains a durable instance, but then none of its language-based groups feels a strong allegiance to an external state or contests the legitimacy of boundaries.²⁹

Would the power-sharing executive in Northern Ireland, had the loyalist strike been nipped in the bud, have survived to today? It is a moot point. And the chances of recreating it are increasingly slim.

For the particular political culture of Northern Ireland, as it has evolved under direct rule, is increasingly inimical to *élite* agreement. All bar one member of that *élite*, Gerry Adams, is a current MP, and a recent study of Northern Ireland’s Westminster representatives pointed out:

Northern Ireland’s politicians, regardless of party, can support any cause their constituents demand. They are not forced to consider options, make hard decisions, or weigh financial implications; all of that is largely done for them by ministries and ‘quangos’ whose budgets dwarf those of local councils. Direct rule has created a system where elected officials promote grievances, be they of local constituents, or those of the unionist and nationalist communities. Politicians are not expected to resolve these problems through accommodation and/or resource reallocation; rather the assumption is that a solution will be imposed by a local authority, the Northern Ireland Office, Parliament, or perhaps an Anglo-Irish agreement. Thus, a major difference separating NI MPs [from their British counterparts] is their lack of practical political experience in making decisions and achieving consensus,

something that does not auger particularly well if they are asked to negotiate a common future for Northern Ireland.³⁰

Hence what might be called the ‘responsibility gap’ in Northern Ireland. Perhaps the most acute frustration with the performance of the *partitocrazia* is felt by those who do have to take touch decisions in the quango and agentised order of the ‘new constitutionalism’—against those who do not.

Yet, once the consociational approach is foregone, the blockage presented by the impossibility of *élite* agreement is removed too. And the ‘multi-multi’ perspective points to alternative ways forward.

As Bhikhu Parekh characterises it,

Multi-cultural, multi-religious and multi-ethnic societies need to develop new models of political universalism that both respect deep differences and ensure equal citizenship. If they were to embrace an abstract and culturally insensitive universalism, they would provoke violence and secession. But if they surrendered to particularities in the name of celebrating differences or out of a naïve belief in moral relativism, they would sacrifice social cohesion, common citizenship and a shared way of life, and risk disintegration. Each plural state has to strike a suitable balance in the light of its history, traditions

and social composition. ... The balance between the two is not easy to work out and sustain.³¹

More simply, a slogan can be borrowed from the Council of Europe’s youth campaign against racism and xenophobia. It is: ‘All Different, All Equal’.

For Northern Ireland, while building on the ‘new constitutionalism’ introduced in recent years, the ‘multi-multi solution’ provides a cogent philosophy for what have essentially been discrete, *ad hoc* developments. It sets out a clear vision of an outcome—a clear answer to the question as to what *kind* of Northern Ireland is sought.

Currently such a statement is officially taboo, for fear it would highlight the conflicting party positions on the old question, how to get less Northern Ireland—a lack of definition which itself makes getting the parties to agree even more difficult. The ‘multi-multi’ approach, by contrast, is about engendering—not endlessly and futilely debating—a constitutional framework protective and supportive of the combination of pluralism and equality it embodies.

In one, unedifying, sense, Northern Ireland has one massive advantage over ex-Yugoslavia in the credibility of the multi-ethnic, multi-cultural solution. No consolation this to the victims of its conflict but, *relatively* speaking, the scale of

human depredation involved has been small, when set against a war which in the space of a few short years has seen such huge carnage and innumerable atrocities. On top of the unnumbered (indeed many unknown) graves, ‘ethnic cleansing’ is estimated to have left four and a half million displaced persons and refugees.³²

Indeed, there is considerable evidence of strong latent support within civil society in Northern Ireland for this option, were the choice to be presented. While the poor contact between the churches³³ shows they are part of the problem as well as part of the solution, they have broadly sustained a rhetoric of peace and reconciliation over the period of the ‘troubles’, whose fundamentally pan-Christian ethos has suffused the many unsung heroes of the conflict who have laboured away tirelessly in peace and reconciliation groups on the ground.

Within the community sector, women’s groups have often led the way in cross-community initiatives: it was Women Together, of course, who captured the moment after the ending of the IRA ceasefire to call the big peace demonstrations. The trade unions have also played an important role, including in the major peace rallies they organised in November 1993.

More broadly, the Northern Ireland

Social Attitudes surveys offer some encouragement to those favouring the multi-ethnic, multi-cultural approach. There is considerable popular support for more integration in housing, at work and in school,³⁴ as well as for community relations and fair employment initiatives.³⁵

Thus, the two governments can enjoy considerable legitimacy in developing and codifying this strategy, under the banner of the ‘multi-multi’ solution—without awaiting inter-party agreement.

This perspective also offers the only way in which we can, if we so wish, get *more* Northern Ireland.

It is now widely recognised that the conflicting struggles to get less Northern

Ireland have left us with a yawning ‘democratic deficit’. Yet the persistent association of democracy with majoritarianism has blocked all efforts to assuage that deficit—caught between the devil of unionist attempts to restore majority rule (however qualified or dressed up) and the deep blue sea of nationalist resistance to the ‘unionist veto’.

The beauty of the multi-ethnic, multi-cultural approach is that it recognises as a foundational principle that democracy can only function in such fractured societies (and which society isn’t, these days?) if it is based on a rich pluralism and the pragmatic pursuit of consensus between different political subjects.

In this context, Anthony Giddens’ concept of ‘dialogic democracy’, of whose relevance to Northern Ireland he is in no doubt, is highly germane.³⁶ Giddens counterposes dialogic democracy to ‘fundamentalism’, by which he means not only the defence of tradition but the defence of tradition *in a traditional way*.

Arguments for less Northern Ireland have generally been of a fundamentalist character, as evidenced by their taken-for-grantedness and the paucity of their converts. The desirability of a United Ireland or a United Kingdom has essentially been assumed as inherent for the audience, defined in basically sectarian terms, to which it has been addressed.

Dialogic democracy, by contrast, may well involve exchange of traditional—as well as modern, or post-modern—views. But, crucially, it places upon the exponent of any political view the onus not merely to rehearse it, but to explicate it to a sceptical public and persuade others of a contrary predisposition. It is thus essential to any multi-ethnic, multi-cultural politics and to any attempt to stem political alienation. It is about horizontal relationships between citizens, not just a top-down address by politicians to their subjects.

In 1970, shortly before what passed for democracy was abolished in Northern Ireland, regional assemblies and governments were established afresh in Italy. Twenty-five years on, the results of this democratic experiment are instructive. For, despite the paralysis of national government, and though there have been abysmal failures in the backward south of the peninsula, there have also been impressive successes in the go-ahead north. If Northern Ireland could follow the way of Emilia-Romagna, its troubles would be over.

Analysis of this Italian experience by Robert Putnam has shown that the basic difference is not the greater prosperity of the north (rather that is an *effect*), or the form of the institutions (constant across Italy) but the *culture* of the north.

A key distinction is the prevalence of vertical social relationships between political patrons and their client supporters in southern Italy, encouraging dependency and fatalism, as against the vibrant network of horizontal associations in the north, promoting a ‘civic community’ there. And he concludes: “The effectiveness of regional government is closely tied to the degree to which authority and social interchange in the life of the region is organised horizontally or hierarchically. Equality is an essential feature of the civic community.”

Intriguingly, Putnam discovered the following as well: “Political leaders in civic regions are also readier to compromise than their counterparts in less civic regions ... Civic regions are characterised, not by an absence of partisanship, but by an openness of partisanship.”³⁷ It is not hard to recognise the effects of a vertical social rift, and associated clientelism and political polarisation, in consolidating mistrust and inequality in Northern Ireland.

Culture? Is this what politics is ‘really’ about? Actually, yes. As a recent *Demos Quarterly* argues, in a survey of government in an age doubtful of its potential, “despite fashionable warnings that governments’ powers are in irretrievable decline, they can achieve much—but usually only where they are

able to influence the cultures of their employees, their beneficiaries and their citizens ... Recent reformers concentrated on governing by numbers. The challenge today is to learn to govern by cultures.”³⁸

In Northern Ireland, it has been precisely in this domain—the value-based focus of the ‘new constitutionalism’ which John Morison describes in his chapter—that government has made the most tangible progress, against a barren broader backdrop, in recent years.

But the multi-ethnic, multi-cultural approach also has the advantage that it is ultimately people-, rather than government-, centred. It is about the multiple allegiances and identities citizens choose to adopt, combine or change, rather than the singular options states, or even parties, seek to impose upon them. It rejects ‘the sublimation of individual identity to that of the collective’.

Ironically, getting more Northern Ireland is linked, rather than antithetical, to getting more *all*-Ireland. Here, interestingly, John Bradley’s impressive survey of the ‘island economy’ for the Forum for Peace and Reconciliation warns that, like the southern Italian regions, Northern Ireland “risks becoming trapped in a *Mezzogiorno*-like problem of permanent dependency”.³⁹ He stresses the common economic weaknesses of the

two parts of the island: serious long-term unemployment, demographic trends at variance with those elsewhere in the European Union, poor competitiveness of indigenous industry, over-dependence on multinationals, extreme vulnerability to external influences and public financial imbalances. And he offers an alternative vision:

Recent trends in international specialisation and the phenomenal success of other high-growth regions hold out great potential for the economies of the island of Ireland. Prominent among such regions are Emilia-Romagna in Italy, Baden-Württemberg in Germany, Jutland in Denmark, Silicon Valley and Route 128 in the US, and the M4 corridor in the UK. However, successful emulation by Ireland of such rapid growth is likely to need appropriate supporting domestic policies and a resolution of North-South issues.⁴⁰

The logic of Bradley's position, originally—and his thesis is convincingly argued on the basis of modern economic theory as well as concrete historical trends north and south—is that more all-Ireland actually implies *more* Northern Ireland, not less. Thus a key part of his argument is that the policy autonomy of the north needs to be maximised if north-south harmonisation, or even co-ordination, are to be pursued. 'Separate

development' of north and south he sees as no longer a credible stance.

On the wider European canvass, membership of the EU since 1973 has revolutionised the intellectual context of north-south relationships. For sovereignty, like democracy, need not now simply be a zero-sum game in which somebody wins and somebody loses. Thus, for instance, European integration has worked so favourably for the republic because it has allowed it to exercise *greater* sovereignty than when under the shadow of the UK. European regions, particularly the German *Länder*, have also *accrued* sovereignty through the relationships they have developed with the EU. It thus becomes possible for Northern Ireland to exercise more autonomous power—representing itself directly, or in tandem with the republic, to the institutions of the EU, according to its choice, rather than it always being assumed that it is represented by the UK.⁴¹

At the time of Sunningdale, one SDLP figure unfortunately described the proposed Council of Ireland as “the vehicle which will trundle us into an Irish republic”.⁴² Yet today the scenario opens up, in a way that was hardly conceivable in 1973, that, instead of an either/or choice, Northern Ireland could *both* remain linked to Britain *and* become equally linked to the republic—options which in

the *Guardian/Irish Times* poll in February together commanded the support of nearly 80 per cent of respondents in Northern Ireland.⁴³

It is thus that north-south economic and social integration—which, as Bradley points out, of course can not imply *disintegration* of the much greater east-west economic links involving either part of the island—has commanded such pragmatic support in recent years amongst employers, trade unionists and the voluntary sector across Ireland. Something along these lines is already being talked about at senior levels of the Northern Ireland civil service using, by analogy, the Euro-shorthand of ‘variable geometry’.

The broad perspective outlined in this chapter bypasses the intractable questions about Northern Ireland and seeks to open up more fruitful avenues to explore.

The next chapter suggests what concrete steps to follow. ■

Footnotes

¹ Geoff Mulgan, *Politics in an Antipolitical Age*, Polity, Cambridge, 1994

² Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy*, Princeton University Press, 1993, p3

³ Tom Hadden and Kevin Boyle, ‘Talks, votes or bombs?’, *Fortnight* 348, March 1996

⁴ David Horowitz, ‘Peres drops his vision of open borders after blast’, *Irish Times*, March 4th 1996

⁵ Throughout, I use the term nationalist in the generic sense it carries in the literature—thus it includes unionism and there is no implication that unionism has had any less responsibility (indeed, it has arguably had rather more) for the conflict of nationality in Ireland from the 1880s onwards. Nor does this imply any downplaying of the (largely negative) role of the British state. However, I do believe this more generic perspective encourages a little less hubris and a little more self-criticism.

⁶ A D Smith, *Nations and Nationalism in a Global Era*, Polity, Cambridge, 1995, p2

⁷ Smith, *The Ethnic Origins of Nationalism*, Basil Blackwell, Oxford, 1986, pp 22-31

⁸ The key clauses of the former are reproduced in Adrian Guelke, *Northern Ireland: The International Perspective*, Gill and Macmillan, Dublin, 1988, p6.

⁹ I first heard this point made, unsurprisingly, by a Slovenian lawyer working with the United Nations, at a conference in Strasbourg in 1994 on the limits of self-determination. It has now become commonplace internationally—see, for example, Laura Silber and Allan Little, *The Death of Yugoslavia*, Penguin/BBC, London, 1995, p161. Yet, to my knowledge, the only reference to date in an Irish context to this dilemma was in the report for the Forum for Peace and Reconciliation by the Norwegian human rights lawyer Asbjorn Eide, *A Review and Analysis of Constructive Approaches to Group Accommodation and Minority Protection in Divided or Multicultural Societies* (second draft), Dublin, September 1995.

¹⁰ Silber and Little, op cit, p98

¹¹ ‘Democratic Politics Today’, in Chantal Mouffe ed, *Dimensions of Radical Democracy: Pluralism, Citizenship, Community*, Verso, London, 1992

¹² This is why the repeated formulation, from

the Sunningdale agreement of 1973 through to the Framework Document of 1995—allowing of majority agreement on the island to unity, but only if a majority in the north consents—has not ended the conflict. It merely stands the two competing claims, self-determination versus non-violability, side by side, leaving each minority (depending on the context) insecure.

¹³ Ironically, the accord was the premise for the suggested ‘proximity talks’ on Northern Ireland. The very idea, however, only makes sense between people who have no intention, not only of not talking together but of not living together—thus the participants at Dayton were confined to the governments of B-H, Serbia and Croatia, excluding the Bosnian Serb and Croat leaders.

¹⁴ This is also a continuing fear in Nagorno-Karabakh, despite the ceasefire there in May 1994, because of the absence of political agreement—as a seminar in Slovenia in December 1995, drawing together NGO representatives from ex-Yugoslavia, Northern Ireland and the Transcaucasus, was told by the co-ordinator of a citizens’ group in Nagorno-Karabakh. (The group is called Initiative 1992!)

¹⁵ ‘US “spies” dash Bosnian hopes’, *Guardian*, February 1st 1996

¹⁶ Tony Barber, ‘Flight spells doom for the west’s noble ideals’, *Independent*, February 24th 1996. See also ‘Carving smoothly’, *Economist*, March 2nd.

¹⁷ Paul Doherty and Michael Poole, *Ethnic Residential Segregation in Belfast*, 1995, and *Ethnic Residential Segregation in Northern Ireland*, forthcoming, both Centre for the Study of Conflict, University of Ulster, Coleraine

¹⁸ Much testimony to the Opsahl Commission was to this effect. See Andy Pollak ed, *A Citizens’ Inquiry: The Opsahl Report on Northern Ireland*, Lilliput, Dublin, 1993, p12.

¹⁹ See the excellent surveys of the labour movement’s efforts to come to terms with division in Ireland from the 1880s to the 1920s in Henry

Patterson, *Class Conflict and Sectarianism*, Blackstaff, Belfast, 1980, and Austen Morgan, *Labour and Partition: The Belfast Working Class 1905-23*, Pluto, London, 1991; on the later, mid-century, period, see Terry Cradden, *Trade Unionism, Socialism and Partition*, December Publications, Belfast, 1993.

²⁰ Silber and Little, op cit, p323

²¹ Eide, op cit, pp 5-6

²² Think, for example, of the newspaper *Oslobodenje*, produced under incredible conditions in Sarajevo; see Mark Thompson, *Forging War: The Media in Serbia, Croatia and Bosnia-Herzegovina*, Article 19, London, 1994, pp 243-247.

²³ ‘Geneva’s piece of nonsense’, *Guardian*, April 25th 1993

²⁴ “‘Link peace with human rights’ call’, *Irish News*, October 31st 1994

²⁵ ‘Improving the political process: peace by analogy’, in British-Irish Association, *Extracts from the Conference Held at Queen’s College, Oxford, 9-11 September 1994*, available from the BIA, 38 Ebury St, London

²⁶ M P C M van Schendelen, ‘The views of Arend Lijphart and collected criticisms’, in van Schendelen ed, *Consociationalism, Pillarization and Conflict Management in the Low Countries*, Uitgeverij Boom, Amsterdam 1984

²⁷ On the last point, see Fred Halliday, *Islam and the Myth of Confrontation: Religion and Politics in the Middle East*, I B Tauris, London, 1996, pp 17-18.

²⁸ ‘Belgium’s melting fudge’, *Economist*, March 16th 1996

²⁹ and it has been hard to take the idea of Switzerland’s political export potential seriously ever since Harry Lime’s excoriating comment in *The Third Man* that all it had contributed to centuries of civilisation was the cuckoo-clock.

³⁰ William A Hazelton, ‘A breed apart?: Northern Ireland’s MPs at Westminster’, *Journal of Legislative Studies*, vol 1, no 4, winter 1995

³¹ Bhikhu Parekh, introduction to a special issue of *New Community*, vol 21, no 2, April 1995, pp 149-50

³² *Le Monde*, August 26th 1995

³³ D Morrow, D Birrell, J Greer and T O'Keeffe, *The Churches and Inter-Community Relationships*, Centre for the Study of Conflict, Coleraine, 1991

³⁴ A M Gallagher and S Dunn, 'Community Relations in Northern Ireland: attitudes to contact and integration', in Peter Stringer and Gillian Robinson eds, *Social Attitudes in Northern Ireland: 1990-1991 Edition*, Blackstaff, Belfast, 1991, pp 7-22

³⁵ A M Gallagher, 'Community Relations', in Stringer and Robinson eds, *Social Attitudes in Northern Ireland: The Third Report 1992-1993*, Blackstaff, 1993, pp 33-48

³⁶ DD report 1, *New Thinking for New Times*, pp 8-23

³⁷ Putnam, op cit, p105

³⁸ 'Missionary Government', *Demos Quarterly* issue 7, 1995, p1

³⁹ John Bradley, *An Island Economy: Exploring Long-term Economic and Social Consequences of Peace and Reconciliation in the Island of Ireland*, Economic and Social Research Institute, Dublin, October 1995, p42

⁴⁰ *ibid*, p84

⁴¹ The former taoiseach Garret FitzGerald has become a forceful advocate of this view.

⁴² cited in Maurice Hayes, *Minority Verdict: Experiences of a Catholic Public Servant*, Blackstaff, Belfast, 1995, p167

⁴³ *Irish Times*, February 28th 1996—only 12 per cent of Northern Ireland respondents preferred a united Ireland

Ten steps to reconstituting politics

Robin Wilson

1. *The two governments move together without party blocking vetoes.*

There are three key obstacles, potential or real, to a settlement in Northern Ireland. It could be that the two governments are driven by old British-Irish animosities with their associated mindsets. It could be that the segregated population of Northern Ireland, polarised further by a quarter century of violence, simply will not wear the necessary compromise. Or it could be that the Northern Ireland political class has become so sclerotic and entrenched that it can not bring itself to make a deal.

As for the first, it is true there have been periods of megaphone diplomacy. But, in contrast to the tarnished record of inter-party talks, and despite the purposively conflictual rhetoric of the Northern Ireland parties on the British-

Irish relationship, in the long view the period of the ‘troubles’ has seen an accelerated convergence between the two governments. Look at the sequence of agreements: 1973, 1985, 1993, 1995.

As to the third factor, however, the record is equally, and oppositely, instructive. After the 1973 talks success, it is a persistent record of failure: 1975-6, 1980, 1982-6 (unionists only), 1988 (nationalists only), 1991, 1992. This is powerful evidence of the ossification of the Northern Ireland *partitocrazia*—manifested also in the political longevity of most of its principals.

As to the second consideration, popular attitudes, it is widely recognised that opinion polls in Northern Ireland show more support for ‘progressive’ politics—endorsing power-sharing, a bill of rights, parity of esteem, etc—than is evident from election outcomes.¹ This is usually deemed to indicate that opinion poll responses are ‘unreal’, compared to the

‘real’ choices made at the ballot box. Yet the popular revulsion against the behaviour of some of the politicians at, or not at, Stormont on March 4th was palpable enough.²

Tom Hadden and Kevin Boyle rightly conclude: “The more positive lessons of the past 25 years in Ireland have been not that all-party talks or elections produce agreement but that resolute and determined action by the two governments can make progress. ... The idea that either the active co-operation of all parties—from Sinn Féin and the IRA to the Democratic Unionists—or the complete cessation of violence is essential to the pursuit of this strategy should not be readily accepted.”³

In this regard, for all that the ‘peace process’ was often advocated as a critique of the ‘talks process’, in reality the innovation was much less substantial than claimed. Each was marked by a defeatism about political polarisation and a deference towards powerful political and paramilitary organisations. Far from building a ‘political centre’, they entrenched sectarian politics formidably. And neither did anything to redress the unhealthy unbalance where everything is hyper-politicised and nothing is determined within the sphere of civil society.

2. Turn to civil society for a dynamic for change.

Clearly, such an intergovernmental strategy must maximise the degree of popular legitimacy it carries. Otherwise there is the danger, as occurred with the Anglo-Irish Agreement, of oppositional politicians being able to position themselves ‘out there with the people’ against (benign) governmental intentions. But this does require ideological work on their part: politicians’ claims merely to act as passive recipients of the wishes of their electors can be taken with a pinch of salt.

Crises of political representation, on the other hand, do genuinely take place. Czechoslovakia divided in 1992 through the mutual repulsion of its principal parties and in particular their leaders, Vaclav Klaus and Vladimir Meciar—despite opinion surveys indicating that sustaining the federation was more popular with both Czechs and Slovaks. As Karen Henderson puts it, in a resonant phrase, “The Czech and Slovak political *élites* appeared, in fact, to be both more ideological and less tolerant than their electorates.”⁴

What was remarkable about the massive peace demonstrations across Ireland on February 25th was three things. First was the extraordinary absence of northern politicians: while the taoiseach addressed one of the rallies in the

republic and the tánaiste joined a march in Tralee, the *Irish News* could only find one Northern Ireland MP who had bothered to attend his local rally. Second was their non-ideological character: these were placard-less protests. The ‘silent scream’ of some 100,000 people across the island was just that—a humanistic cry for a peace without preconditions. Third was the theme of democratic ownership, or rather lack of it. In so far as there was any slogan, it was ‘Give us back the peace.’

This is further evidence of a significant margin of popular flexibility within which progress can be made. The trouble is that until a particular proposal gets past the party-political gatekeepers to a popular vote, no one can be sure whether the political market on the ground will bear more than it has so far been asked. It’s surely imperative to find out.

Part of the problem may be that while opinion polls offer more value-based, open-textured choices—including those reflecting a multi-cultural, multi-ethnic society—the political system tends to offer only narrow, institutional and party-dominated options. In any event, let’s put the matter to a real test—an actual popular vote, in a referendum or preferendum.

3. Give citizens a voice and a responsible choice.

The idea of a referendum is well accepted—but it hasn’t been sufficiently carefully thought out. The 1973 border poll offered an either/choice which was understandably boycotted by most nationalists (and some who were not). Both governments have promised a referendum after successful inter-party talks—an eventuality, however, yet to be achieved. And the referendum supporting talks and an end to violence, proposed by the Social Democratic and Labour party leader, John Hume, was too plebiscitary—too close to Motherhood and Apple Pie—for its outcome to be really meaningful.

But a sharply posed referendum, offering key substantive choices, *in advance or in the absence of* any inter-party agreement, could have two highly beneficial effects. It would put the onus on citizens, thereby faced with the ability actually to effect change for the first time, to exercise their vote responsibly and realistically. Assuming they did, this would in turn place the onus on politicians to respond accordingly.

Such a referendum, or preferendum if a one-two-three ordering is desired, could ask citizens to support, or rank, the following clear choices on the way forward. They encapsulate two ways of

getting *less* Northern Ireland, and the ‘multi-multi’ alternative. Would you favour:

- (i) progress in the direction of Irish unification?
- (ii) a shared, pluralist Northern Ireland, linked to both the UK and the republic?
- (iii) fuller integration of Northern Ireland into the UK?⁵

There is a good chance that even in a first-choice referendum, and more so in a preferendum, option (ii) would attract most support (and, incidentally, that those in favour would comprise a majority of Catholics and a minority of Protestants) after sufficient public debate. No one should be under the illusion, however, that this would be a woolly debate: there would be very sharp political contests around participation in the (p)referendum, the precise meaning and implication of the choices, and which options to back.

Were (ii) indeed to prevail in a (p)referendum with a reasonable turnout, it would revolutionise politics in Northern Ireland. First of all, it would give powerful legitimacy to existing reformist initiatives in such areas as fair employment, integrated education and community relations, and strong endorsement to groups concerned with human rights issues and island-wide reconciliation. Secondly, it would offer a tremendous boost

to the ‘missed generation’ of people who would have been involved in politics in Northern Ireland over the last quarter century, but for its associations with ideology and violence, and for those party activists cramped by years of wearing ideological straitjackets.

More fundamentally, it would for the first time make the political centre in Northern Ireland the magnetic point of attraction, rather than the two mutually repelling poles. (In left-right terms, this would not actually be the centre but essentially the liberal-left, given the concentration of conservatives in the sectarian political forces.) Above all, it would invest the people whose consent is so often invoked with real ownership over their future.

Conversely, if more voters preferred the nationalist options—Irish nationalist or Ulster unionist—than the ‘multi-multi’ one, then at least everyone would know where they stood. The two governments could then legitimately conclude that any democratic settlement was impossible and continue to move, albeit reluctantly, towards exercising joint authority.

4. Start to realign the parties in Northern Ireland.

After decades of stasis, the *partitocrazia*

in Italy was dramatically broken up in the early 1990s. Monolithic parties split, names were changed, new parties formed, new alignments forged. While the anti-corruption investigations played a crucial role, the political earthquake began in June 1991 with the first of a series of citizen-inspired referenda, overwhelmingly carried, on the electoral system, party funding and so on. “This was the first major blow to the ruling parties, and the first detonator of the crisis.”⁶

There is likely to be considerable resistance amongst some within the Northern Ireland *partitocrazia* to any realignment to reflect new popular aspirations, though for others it would be a liberation. But party apparatuses need to remember that they are there to serve the people—not simply to invoke them as an inert, massified ‘mandate’ in support of their particular projects.

Several months before the paramilitary ceasefires, the current chair of the Social Democratic and Labour party pointed out:

All five main Northern Ireland parties have their genesis in the ‘troubles’, if some more recently than others. If the ‘troubles’ no longer existed, what would happen to them?⁷

Even during the ceasefire, however, the answer seemed to be that they would

engage in a ‘cold war’ along the old lines of violent antagonism.

Yet if the political challenge is to establish a multi-ethnic, multi-cultural society, rather than to continue to enter the lists on either side of a futile confrontation, then a realignment of parties, as well as a reinvigoration of politics through the influx of new voices from civil society, is imperative. Indeed, the second is perhaps a condition of the first, and *vice versa*.

Those who would advocate a multi-ethnic, multi-cultural approach arguably comprise a political majority—an argument the envisaged (p)referendum might confirm—yet are currently divided across a range of parties, as well as being heavily represented outside all of them. They would span from some in Sinn Féin to some in the Ulster Unionist and loyalist ‘fringe’ parties, via the mainstream parties of the centre and left, SDLP and Alliance—who surely ought to have a closer relationship—and their smaller counterparts (the Greens, Democratic Left and the Workers’ party).

But they are also to be found within many of the organisations of civil society, particularly in the trade unions and the voluntary sector and amongst women active *qua* women. In each case, there are many who, far from feeling they could articulate a broadly ‘progressive’ politics

within any of the existing parties, fear at the moment they would be politically *compromised* by plumping for one of the relatively narrow choices on offer.

Were the (p)referendum outlined above to lead to a preference for option (ii), it would represent a shock to the existing system of alignments—a crisis of representation would be evident. There would be a rapid rush towards the political centre (in nationalist-unionist terms) and new political formations. Overdramatic? It is worth recalling that the shock of the onset of violence in 1969 led to four of the five current main parties being formed within 25 months.

5. Legislate for a region-wide direct election.

If the (p)referendum secured a result in favour of the ‘multi-multi’ solution, it would herald in turn the opportunity to develop a new kind of democracy in Northern Ireland. Donald Horowitz has persuasively argued that, in ethnically divided societies, “For most politicians, most of the time, it is more rewarding to pursue the conflict than to pursue accommodation.”⁸

Key, therefore, to defusing such conflicts is to establish an electoral system which gives an incentive to politicians to compete for cross-community, rather

than single-community, votes. Malaysia (Malays and Chinese) and Sri Lanka (Sinhalese and Tamils) he presents respectively as benign and malign evidence for this common-sense thesis.

In Sri Lanka, constituencies are largely ethnically homogeneous, and *intra*-ethnic competition within the dominant Sinhalese community favours ‘extreme’ stances. As the massacre in Colombo in January reminded the world, the country is riven by a protracted civil war.

Malaysia, by contrast, has largely heterogeneous, first-past-the-post constituencies, which favour *inter*-ethnic voting: in mainly Malay constituencies, Chinese leaders urge support for conciliatory Malay candidates, and *vice versa* in mainly Chinese constituencies. The country is governed by an inter-ethnic coalition of the political centre, originally formed before independence to prevent victory for the other ethnic parties on either side. While no one should be starry-eyed about the position of the Chinese community in Malaysia, the last serious ethnic violence was in 1969.

Northern Ireland’s segregation and *intra*-ethnic competition in both communities clearly offer strong incentives for politicians to bid for single-community votes, not to co-operate in seeking cross-community pluralities. But this is not

inevitable. One way to favour inter-ethnic voting, Horowitz points out, in the context of fairly homogeneous constituencies, is to make the whole country the constituency.⁹

Let us suppose that a (p)referendum has been held, with an outcome in favour of option (ii). A next step would be to hold a single-constituency, Northern Ireland-wide election for an interim administration of, say, eight members (to have six departmental heads and two co-chairs), on a single-transferable-vote basis. The key would be that, unlike the norm with STV, a high quota would be set—say, 70 per cent. Even through the accumulation of preferences of eliminated candidates, no candidate could thus cross the threshold without cross-community support. A radical version would insist that the first four men *and the first four women* to pass the threshold be declared elected.

Such an election would, in itself, encourage wholly new candidates, not tarred with the brush of the old politics, as well as ‘liberating’ those who could attract cross-sectarian support. It would inevitably promote slates, deals and new proto-parties, reinforcing cross-community voting. It would be attractive to public figures in civil society who would relish the public service of taking part in an inter-community coalition. It would thus reverse dramatically the trend

towards opting out of politics and disengagement between economy and society on the one hand, and politics on the other.

It would rapidly throw into the political sphere people with real experience (rare in the *partitocrazia* as a result of direct rule) of administering substantial modern organisations. And if there was a gender-parity requirement, there would be a sudden scramble for the favours of leading female figures.

Not every individual could stand, of course, if the ballot were to be manageable. Candidates would have to attract a minimum number of signatures for their campaign. This, in itself, would set networks humming—in business, trade unions, women’s organisations and the voluntary sector—and the associated hustings would inspire a lively, indeed unprecedented, debate.

6. Establish an interim government.

As likely as not, whether composed equally of women and men, an administration elected in this way would be majority Catholic: among ‘wasted’ intra-community votes, there would probably be a larger number of Protestant ‘fundamentalist’ opponents of such ‘dialogic’ politics. But once a majoritarian *system* is abolished, who comprises its

successor is neither here nor there.

Taking over from unaccountable British ministers as departmental heads, such an interim government—a ‘technical’ administration, as the Italians would call it—would consist of personnel, by career experience and disposition, attuned to the practices and values of the ‘new constitutionalism’. There would, hopefully, be avoidance of the simplistic dichotomy of a ‘bonfire of quangos’ on the one hand or deference towards unaccountable middle-class power on the other. An intelligent approach to social partnership and the participatory role of the voluntary sector could also be expected, as well as development of reforms like Policy Appraisal and Fair Treatment.

Above all, such an administration would be pragmatic, rather than ideological, and would thus cross with considerable relaxation the hitherto towering ideological hurdles of power-sharing and north-south co-ordination. Indeed, there would be a very real likelihood that, because of civil-service inertia or the constraints of the republic’s constitution, the principal resistance to the delegation of powers to new north-south bodies would be official, rather than political.¹⁰

Nineteen-seventy-four was, of course, the nearest Northern Ireland ever got to crossing these political hurdles, so it is worth contrasting what is being

suggested here with the reasons, ultimately, for failure then. After an interim administration as proposed had stabilised—an opportunity not given to the power-sharing executive—an election could be held to an assembly, elected under proportional representation (preferably the additional-member system in this context, more proportional than STV). Again unlike the Westminster election of February 1974, supporters of the interim administration would be likely to campaign as a single list or coalition, under a common platform, with mutual transfer arrangements.

These incumbency factors, plus the directly-elected legitimacy conferred on the outgoing administration—again, absent from the hand-picked ministers of 1974—would make a strong showing by the government supporters likely. And even a plurality of support in the assembly would be enough for a renewal of the inter-community coalition, given the inability of the ‘fundamentalist’ political forces to agree on any alternative.

Such a transformation should prevent an assembly being the bear garden of the past. But additional measures would be desirable, such as the introduction of the non-adversarial standing orders prepared for a Scottish parliament by Bernard Crick and David Millar.¹¹ Assuming this step was negotiated

successfully, the assembly would take over legislative power for, and render accountable, all the functions currently within the remit of the Northern Ireland departments. There would then no longer be a need for a Northern Ireland cabinet minister, whose role the two co-chairs would assume.

7. Embody the multi-cultural approach in the constitution of Northern Ireland.

Incorporating key international conventions, enshrining the ‘multi-multi’ idea, into Northern Ireland’s rudimentary constitution—the Northern Ireland Constitution Act of 1973—would be a highly symbolic statement of the new departure that was intended to characterise Northern Ireland’s future.¹² The two key documents are the framework Convention for the Protection of National Minorities¹³, promulgated by the Council of Europe in 1995, and the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.¹⁴

What is distinctive about these provisions is that they enlarge the arena of human rights protection beyond abstract individuals to members of subordinate ethnic or religious groups. Neither the UK nor the republic has yet ratified the

framework Convention. Nor has either yet incorporated the European Convention on Human Rights.

If the British government—or perhaps the next one—were to incorporate the framework Convention, the European Convention and other international rights safeguards, such as the two key UN conventions on civil/political and economic/social rights, into the Northern Ireland Constitution Act, for the first time it would have closed the yawning gap between international human rights standards and practice in Northern Ireland. But to ensure that gap was closed, in practice as well as theory—particularly given the non-justiciable nature of the framework Convention—this would have to be followed up by the establishment of a new constitutional court for Northern Ireland, accompanied by a new or revamped human rights commission with enhanced advocacy powers.

In this new atmosphere, of an entrenched human rights culture, the debate about the Royal Ulster Constabulary could transcend the ideological sloganising which has characterised it so far—and a reconstitution of *policing* in Northern Ireland could be set in train.

8. Rebalance state and civil society.

Northern Ireland needs a reinvigorated civil society, as a guarantor against political oppression, as a force for social equality, as a vehicle for cultural pluralism—and, more generally, as the engine of a more dynamic region capable of competing in the new global environment.

The Northern Ireland Voluntary Trust community priority survey found:

Support for the development of a participative democracy ... emerged as a strong priority. At its broadest this was reflected in the call for the need to 'Devise local and national political structures that empower all people', although another group highlighted the need for 'Participative democracy—everyone having a stake in society'. This demand was refined even further in the comment about 'Moves towards participative democracy at a local level rather than the old "representative" focus of patronage'. In effect what a number of organisations saw as a priority was the need for processes which offered inclusive involvement.¹⁵

NIVT concluded that there was a case for "Community Forums which facilitate participative democracy and constructive consideration of social, cultural, political and economic issues".¹⁶ DD report 2 made similar recommendations at a regional level, in terms of proposals for a

revamped Northern Ireland Economic Council and/or the addition of a Northern Ireland Economic and Social Forum.

In that environment, Northern Ireland needs to make a choice. It can either identify broadly with the European social model—based on social partnership and social inclusion—or it can embrace Anglo-American neo-liberalism. As a horizontally unequal region, fractured vertically by sectarianism, the imperatives of social cohesion clearly favour the former.

9. Don't abolish the border—just render it irrelevant.

In addressing the border, unionists have followed the maxim 'Good fences make good neighbours'. But *high* fences make only for lack of contact, suspicion and mistrust—what Germans call *Feinbilder* (enemy images). Yet pulling down fences may bring uneasiness rather than good relations. Over five years after German unification, *Die Wand im Kopf* (the wall in the head) remains. One young *Wessi* (as west Germans are still known) said it was like "sharing a bathroom with a stranger".¹⁷

The *Irish Times/Guardian* poll in February offered encouragement for a more pragmatic approach. In Northern

Ireland, 38 per cent said the border was not even worth arguing about, while 42 per cent said it was not worth risking lives for. In the republic, attitudes were more flexible still. Only 17 per cent in the north and just 7 per cent in the republic felt the border mattered and people should be prepared to fight for it if necessary.¹⁸

What might this mean? The Nobel laureate Seamus Heaney has a deceptive capacity apparently to abjure political commentary yet actually to offer some of the most perceptive political insights. In a little-reported comment during his acceptance speech in Stockholm in 1995, he said he hoped the Irish border would “become a bit more like the net on a tennis court, a demarcation for agile give-and-take, for encounter and contending”.¹⁹

Here another German word may help. The radical veteran of the May '68 events in France Daniel Cohn-Bendit—now a “radical reformer”—was born of German Jews who fled to France after Hitler came to power. Cohn-Bendit is now deputy mayor of Frankfurt and a Green member of the European Parliament. He describes himself thus: “I am a *Grenzgänger* [a crosser of borders]. I have a European identity.”²⁰

The EU recognises Northern Ireland in two ways: pragmatically, as a legitimate region of a member state; geo-

graphically, as part of a peripheral island which often merits an island-wide approach. And as one well-placed European Commission official recently put it, the common membership since 1973 of the republic and the UK has had divergent effects: it has ‘invigorated’ the former while rendering the latter ‘introspective’.

Given Northern Ireland’s interest in the European social model, and the considerable experience of the republic in this regard in the years of economic recovery since 1987,²¹ then—dependent on what kind of régime should emerge after the next Westminster election—Northern Ireland’s interests may best be served by pragmatic maximisation of its socio-economic autonomy from Westminster and of its socio-economic relationships with the rest of the island. This is a formula which Paul Teague has encapsulated as ‘a Northern Ireland with an Irish orientation’.

Once these principles are accepted, it should be possible to elaborate the necessary co-ordinating structures—with the required intellectual input from economists and other public policy interests—outwith the hothouse, hyper-politicised atmosphere in which north-south structures are usually discussed. This might not lead to exotic creations—but sturdy plants would flourish.

10. *Look to Europe, not to Washington.*

If an accountable government were established in the manner suggested above, an obvious asset would be that a good comprehension of the demands of the wider Europe could be anticipated—and an obvious move would be to make the co-chairs of the administration the two (currently unelected) Northern Ireland representatives on the EU Committee of Regions.

But there are wider issues here. In recent years, the primary international focus outside these islands, in addressing the Northern Ireland conflict, has been on Washington. Yet, in terms of a substantive settlement, the US administration can do little more than cheerlead the London and Dublin governments and chivvy American capitalists to invest. And an unintended effect of the US engagement has been to confirm the worst features of Northern Ireland's clientelism and division, as each faction has sued for partisan support in the White House and on Capitol Hill.

By contrast, the 300 million ECU special EU package for Northern Ireland, concluded in the wake of the paramilitary ceasefires, goes nicely with the grain of the bottom-up approach advocated here—as evidenced, for example, in the representation of broad civil-society

interests in the monitoring of the programme and the distribution of some of the funds. Thus, whereas in the past the European Commission was very wary of any suggestion of political 'interference' in Northern Ireland,

Commission officials are keen to emphasise that the unusually democratic, innovative funding mechanisms being used by the EU are themselves contributing in a distinctive and significant way to what might be termed their own track of the peace process. By promoting—and giving strong financial incentives to—local dialogue, they argue they are building reconciliation from the bottom up.²²

Maybe in microcosm, therefore, we are beginning to see the shape of a new relationship between Northern Ireland as a special region and the institutions of the EU which can parallel the 'new constitutionalism' *vis-à-vis* the British and Irish governments which has emerged in recent years.

All in all, this is a radical project. But much of it is disarmingly simple. The (p)referendum would be straightforward to administer. The incorporation of the conventions into the Northern Ireland Constitution Act would also be uncomplicated. There would have to be other legislation, for the

constitutional court, the interim government and the assembly. But the court would have a clear jurisprudence in the constitution act, the interim government would be essentially replacing British ministers by Northern Ireland alternatives, the assembly would not be a legislative novelty, and it would be straightforward to give government and assembly an open brief to establish such all-Ireland structures as wished (though that might require constitutional change in the republic). So none of these is insuperable; none should excite Anglo-Irish dissensus—on the contrary, pragmatism in London and Dublin, and Brussels, should undermine ideologues in Belfast and Derry.

Moreover, this is a step-by-step process of crossing Northern Ireland's turbulent political waters, which can be executed as quickly or as slowly as confidence allows—each step valuable in itself and building belief in the rest of the journey—rather than endlessly essaying an impossible single vault to the other side. Some of these steps go with the grain of existing initiatives and none, without offending democratic principles, depends on prior inter-party agreement.

Far from being utopian, it is thus vastly more credible than the pursuit of the chimera of a 'comprehensive political accommodation', under the 'nothing

is agreed until everything is agreed' talks formula—what a very senior former civil servant disparagingly called the 'all-singing, all-dancing agreement'. As Torkel Opsahl said of the submissions made to him in 1992-93, "Many recognised that there is no 'big solution' in Northern Ireland; others were impatient that the pursuit of such an illusory ideal prevents agreement on the attainable."²³

Nor is it a fixed sequence—thus, for instance, the European dimension can be progressed in the here and now. And if progress can be made when it can, it can also be made where it can, by a range of actors—not just government but citizens' groups, intellectuals and political activists. There are, in other words, a number of routes by which the stepping-stones can be negotiated.

This scenario provides an avenue to replacing direct rule by accountable government, as well as a route to a fuller reversal of the 'democratic deficit'. Indeed, it offers a way to put in place the key Opsahl recommendation of a government with an 'equal voice' for the two communities, without the danger of institutionalised sectarianism to which critics legitimately pointed. It would reinforce, rather than squeeze out, those political forces favouring multi-cultural, multi-ethnic politics. And it would rapidly promote, by democratic means,

political figures who could not only share power within Northern Ireland but who could play a full part in sharing the island as well, and make an intelligent contribution to wider UK and European debates.

Crucially, it can not be held up by the various party-political vetoes that the succession of ‘talks’ and ‘peace’ processes have enshrined. It need not await a new IRA ceasefire and it immediately renders irrelevant such arguments as the ‘de-commissioning’ row. Yet it would also create a context in which politics, thus reconstituted, had rendered paramilitary violence obsolete. **DD**

Footnotes

¹ See, for instance, the poll conducted in the wake of the Opsahl report, which found a welcome for most of its main recommendations, in contrast to the sharp dismissals from almost all parties on its publication; the results are in the second edition of A Pollak ed, *A Citizen’s Inquiry*, Lilliput, Dublin, 1993, pp 435-44.

² as captured in Maurice Hayes’ column in the *Irish Independent*, March 5th 1996

³ Tom Hadden and Kevin Boyle, *Fortnight* 348

⁴ Karen Henderson, ‘Czechoslovakia: the failure of consensus politics’, *Regional and Federal Studies*, vol 5, no 2, 1995, p126

⁵ Hadden and Boyle suggest using a referendum in this way, but their four-way choice is perhaps both too elaborate and too narrowly institutional to excite a clear and compelling popular response—see *Northern Ireland: The Choice*, Penguin, London, 1994, p225.

⁶ Stephen Gundle and Simon Parker eds, *The*

New Italian Republic: From the Fall of the Berlin Wall to Berlusconi, Routledge, London, 1996, p26

⁷ Jonathan Stephenson, ‘Thinking the unthinkable’, *Fortnight* 325, February 1994

⁸ Donald Horowitz, *Community Conflict: Policy and Possibilities*, Centre for the Study of Conflict occasional paper no 1, Coleraine, 1990

⁹ though, of course, the single-constituency idea for the pre-talks ‘elective process’ wouldn’t, in itself, have that effect.

¹⁰ Maurice Hayes, the official at Stormont during the power-sharing executive responsible for seeing what powers might accrue to the Council of Ireland, bemoans how departments north and south offered up only “smaller satellite bodies and lesser functions as sacrificial ewe lambs”, jealous as they were of their core activities—*Minority Verdict: Memoirs of a Catholic Public Servant*, Blackstaff, 1994, p174.

¹¹ B Crick and D Millar, *To Make the Parliament of Scotland a Model for Democracy*, John Wheatley Centre, 20 Forth Street, Edinburgh, no date

¹² These issues of pluralism and parity of esteem will be fleshed out in more detail at the conclusion of a research project, assisted by the Central Community Relations Unit, on which DD is now embarked.

¹³ *Framework Convention for the Protection of National Minorities and Explanatory Report*, Council of Europe, Strasbourg, 1995

¹⁴ Reproduced in Asbjorn Eide, *New Approaches to Minority Protection*, Minority Rights Group, London, 1993

¹⁵ NIVT, *Peace: An Opportunity for Change—Responses to the Northern Ireland Voluntary Trust Community Priority Survey*, Belfast, May 1995, p7

¹⁶ *ibid*, p15

¹⁷ ‘The eagle’s embrace’, *Economist*, September 30th 1995

¹⁸ *Irish Times*, February 28th 1996

¹⁹ 'Heaney tells audience of peace hope for north', *Irish News*, December 8th 1995

²⁰ 'Rebel red of '68 finds peace with Greens', *Independent*, December 11th 1995

²¹ Rory O'Donnell, 'Modernisation and social partnership', in DD report 1, *New Thinking for New Times*, pp 24-33

²² Patrick Smyth, 'Brussels champions of peace process not giving up hope', *Irish Times*, February 23rd 1996. The wider issues of Northern Ireland's relationship to the EU, in the context of the intergovernmental conference, are being explored shortly in a round table organised jointly by the Institute of European Studies at Queen's University and DD.

²³ Pollak, op cit, p3

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