

Options for New Arrangements in Ireland:

Unitary State, Federal/Confederal State, Joint Authority

Introduction

1. This paper sets out for consideration the options for structures of government in Ireland identified by the New Ireland Forum Report in 1984. That Report remains the definitive contemporary statement of constitutional nationalism. As the representatives of the nationalist tradition in Strand One, the SDLP believes that it has a responsibility to avail of this historic opportunity to put directly to the representatives of the unionist people the case for the new Ireland outlined in the Forum Report.
2. We are, of course, conscious of the Unionist reaction to the Forum Report at the time of its publication. It goes without saying that we fully accept that other participants will have their own preferred options in regard to the way forward. In keeping with the openness expressed by the parties in the Forum Report to consider other approaches which could contribute to political progress we look forward to hearing and debating these over the coming weeks and months. We also understand that these issues will, of course, overlap into Strand Two of the Talks. However, given our analysis of the nature of the problem and the

requirements we believe are necessary for any new institutional structures (as set out in our two previous papers), we believe that they are also fully relevant to our mandate in Strand One.

Background

3. The New Ireland Forum was established in April 1983 for "consultations on the manner in which lasting peace and stability could be achieved in a new Ireland through the democratic process and to report on possible new structures and processes through which this objective might be achieved". Participation the Forum was open to all democratic parties on the island which rejected violence and which had members elected to either House of the Oireachtas or the Northern Ireland Assembly. The parties which accepted invitations to participate in the Forum together represented over ninety per cent of the nationalist population of the island. The establishment and work of the Forum were of historic importance in bringing together, for the first time since the division of Ireland in 1920, elected Nationalist representatives from North and South to deliberate on the shape of a new Ireland "in which people of differing identities would live together in peace and harmony and in which all traditions would find an honoured place and have equal validity".

The Forum's Proposals

4. The fundamental analysis of the current crisis in Northern Ireland presented by the Forum and one which we believe to be overlooked by unionists emphasises nationalist recognition of and respect for the unionist identity. The Report declared that:

"the solution to both the historic problem and the current crisis of Northern Ireland and the continuing problem of relations between Ireland and Britain necessarily requires new structures that will accommodate together two sets of legitimate rights:

- the right of nationalists to effective political, symbolic and administrative expression of their identity;
- the right of unionists to effective political, symbolic and administrative expression of their identity, their ethos, and their way of life.

So long as the legitimate rights of both unionists and nationalists are not accommodated together in new political structures acceptable to both, that situation will continue to give rise to conflict and

instability. The starting point of genuine reconciliation and dialogue is mutual recognition and acceptance of both. The Forum is convinced that dialogue which fully respects both traditions can overcome the fears and divisions of the past and create an atmosphere in which peace and stability can be achieved".

Based on this analysis the Forum gave careful consideration to proposals as to how unionist and nationalist identities and interests could be accommodated in different ways and in varying degrees in a new Ireland.

5. The Forum's Proposals

The Forum identified as a "fundamental reality" the desire of nationalists for a United Ireland "in the form of a sovereign, independent Irish state to be achieved peacefully and by consent". The Forum recognised that such a form of unity would require a general and explicit acknowledgement of a broader and more comprehensive Irish identity. It went on to make clear that such unity "would, of course, be different from both the existing Irish state and the existing arrangements in Northern Ireland because it would necessarily accommodate all the fundamental elements in both traditions".

6. The Forum was convinced "that such unity in agreement would offer the best and most durable basis for peace and stability". The Forum identified a **unitary state** as the particular structure of political unity which it would wish to see established. Such a unitary state would be achieved by agreement and consent, embracing the whole of the island of Ireland and providing irrevocable guarantees for the protection and preservation of both the unionist and nationalist identities. The Forum believed that a unitary state on which agreement had been reached would also provide the ideal framework for the constructive interaction of the of the diverse cultures and values of the people of Ireland. Paragraphs 9 and 10 following contain a broad outline of the unitary state as envisioned by the Forum.

7. The Forum Report made clear that "constitutional nationalists fully accept that they alone could not determine the structures of Irish unity and that it is essential to have unionist agreement and participation in devising such structures and in formulating the guarantees required. In line with this view, the Forum believes that the best people to identify the interests of the unionist tradition are unionist people themselves. It would thus be essential that they should negotiate their role in any arrangements which would embody Irish unity".

8. In addition to the unitary state, two other structural arrangements were examined in some detail - a **federal/confederal state** and **joint authority** and a broad outline of these are set out in paragraphs 10-13 following. The Forum further indicated, paragraph 5.10, that the parties remained "open to discuss **other views which may contribute to political development**".

Unitary State

9. The Forum envisaged that a unitary state would "embrace the island of Ireland governed as a single unit under one government and one parliament elected by all the people of the island. It would seek to unite in agreement the two major identities and traditions in Ireland. The democratic basis of a unitary state in Ireland has always existed in modern times. Historically up to 1922 Ireland was governed as single unit and prior to the Act of Union in 1801 was constitutionally a separate and equal kingdom. Such a state would represent a constitutional change of such magnitude as to require a new constitution that would be non-denominational".
10. The principal features of a unitary state as identified by the Forum were as follows:

- The rights of all citizens would be guaranteed in the constitution;
- There would be a single legal and judicial system throughout the island;
- Political and administrative arrangements would be devised to ensure that unionists would not be denied power or influence in a state where nationalists would be in a majority Mechanisms for ensuring full Northern participation in an integrated Irish civil service would have to be devised;
- There would be a single police service recruited from the whole island so designed that both nationalists and unionists could identify with it on the basis of political consensus;
- "A redefined relationship between Ireland and Britain would take account of the Unionist sense of Britishness. In a unitary state, persons in Ireland, North and South, who at present hold British citizenship would continue to have such citizenship and could pass it on to their children without prejudice to the status of Irish citizenship which they would automatically acquire. The state could

develop structures, relationships and associations with Britain which could include an Irish-British Council with intergovernmental and interparliamentary structures which would acknowledge the unique relationship between Ireland and Britain and which would provide expression of the long-established connections which Unionists have with Britain";

- "All the cultural traditions in Ireland, North and South would be guaranteed full expression and encouragement. The education system would reflect the two main traditions on the island. The Irish language and culture would continue to be fostered by the state, and would be made more accessible to everyone in Ireland without any compulsion or imposition on any section";

- A unitary state achieved by agreement between the nationalist and unionist traditions would for the first time allow full participation by all traditions in the affairs of the island. At a practical level, there would be clear and major benefits across a whole range of economic and social sectors. Integrated economic policies, for instance, would ensure a united voice in advancing vital interests of both parts of

Ireland, especially in the context of the European Community.

Federal/Confederal State

11. This proposal, as envisaged by the Forum, would involve a two state federal/confederal Ireland based on existing identities, North and South. Such an arrangement was seen as reflecting "the political and administrative realities of the last 60 years and would entrench a measure of autonomy for both parts of Ireland within an all-Ireland framework. While protecting and fostering the identities of the two traditions, it would enable them to work together in the common interest".

12. The Forum identified the main feature of a federal/confederal state as follows:
 - Its constitution would be non-denominational and there would be safeguards within each state and in the country as a whole for the protection of individual and minority rights;

 - In a federation, residual power would rest with the central government. Certain powers would be vested in the two individual states. A confederation would comprise two states which would delegate certain specified powers to a confederal government;

- each state would have its own parliament and executive. Authority would be vested in the federal/confederal government in order to gain widespread acceptability and to ensure that law and order functions were administered in the most effective and impartial manner;

- "In a federation, the federal parliament could have one or two chambers, a House of Representatives, and or a Senate. Laws relating to previously agreed fundamental issues could be passed only if they received the support of a weighted majority of the Senate in a two chamber system or of the House of Representatives in a one chamber system. The federal government would be approved by and be responsible to the federal parliament. The powers held at the federal level would be a matter for negotiation but in an Irish context matters such as agriculture, industry, energy, transport, industrial promotion and marketing might be more efficiently administered by the individual states. The function of Head of State would be carried out by a President, the office alternating between persons representative of the Northern and Southern states";

- In a confederal arrangement, the powers held at the centre could be relatively limited (eg foreign and defence policies, internal security matters etc), requiring a less elaborate parliamentary structure at the confederal level;

- "A federal/confederal arrangement would, in particular, provide institutions giving Unionists effective power and influence in a new Ireland. The Northern parliament would have powers which could not be removed by an Act of another parliament. Existing civil and religious rights in the North would be unaffected. With a federal/confederal framework unionists would have parallel British citizenship and could maintain special links with Britain. Mechanisms for ensuring full Northern participation in the federal/confederal civil service would have to be devised. Provision would be made for the full recognition and symbolic expression of both traditions";

- A federal/confederal arrangement would allow the retention within the North and South of many laws and practices reflecting the development of both areas over the past 60 years. All the cultural traditions

in Ireland, North and South would be guaranteed full expression and encouragement;

- A federal/confederal arrangement would allow all those living on the island to share and give expression to the common aspects of their identity while at the same time maintaining and protecting their separate beliefs and way of life. The central authority would promote their common interests while the state authorities protected individual interests.

Joint Authority

13. The Forum Report indicated that under the terms of the joint authority proposal the Dublin and London Governments would be responsible for all aspects of the government of Northern Ireland. "This arrangement would accord equal validity to the two traditions in Northern Ireland and would reflect the current reality that the people of the North are divided in their allegiances. The two Governments, building on existing links and in consultation with nationalist and unionist opinion, would establish joint authority designed to ensure a stable and secure system of government".
14. The main features of the proposal, as outlined by the Forum Report, were as follows:

- Joint authority would give "political, symbolic and administrative expression of their identity to Northern nationalists without infringing the parallel wish of unionists to maintain and have full operational expression of their identity";
- It would involve shared rule by the British and Irish Governments. "Although this could be exercised directly, there would be enabling provision for the exercise of major powers by a locally elected Assembly and Executive";
- The proposal envisaged full and formal recognition of British and of Irish identity in Northern Ireland (including joint citizenship rights) and promotion of the cultural expression of the two identities;
- There would be a comprehensive and enforceable Bill of Rights for Northern Ireland;
- The overall level of public expenditure would be determined by the two Governments. Problems of external representation of northern Ireland would be resolved between the two Governments;

- "Under joint authority the two traditions in Northern Ireland would find themselves on a basis of equality and both would be able to find an expression of their identity in the new institutions. There would be no diminution of the Britishness of the unionist population. Their identity, ethos and link with Britain would be assured by the authority and presence of the British Government in the joint authority arrangements. At the same time it would resolve one basic defect of (a) the failed 1920-25 attempt to settle the Irish Question and (b) the present arrangements for the government of Northern Ireland - the failure to give satisfactory political, symbolic and administrative expression to northern nationalists. Structures would thus be provided with which the nationalists in the North could identify, which might reverse their progressive alienation from existing structures. Security arrangements in which for the first time both nationalists and unionists could have confidence could be developed, thus providing a basis for peace and order. The climate would thus be created for the emergence of normal political life, of compromise and of mutual confidence based on security in the reciprocal acceptance of identity and interests".

Relevance to Current Process

15. This then is the outline of the options for a new Ireland identified by the Forum. It is clear from even a cursory reading that they are as relevant today as when the Report was first published in 1984. In our view, each option outlined by the Forum addressed in a cogent and effective way the realities which we believe underlie the situation in Ireland.

16. Each of the Forum options takes full account of the fact that we are a divided people, with divided traditions, loyalties and aspirations and that the only path to enduring peace and stability is one which allows us to accommodate these divisions and differences in a way that is satisfactory to everybody. In this regard, it will be noted (see paragraph 7 above) that, crucially, the Forum explicitly acknowledged that the structures of Irish unity which it envisaged could only be achieved with unionist agreement and consent. In no way, therefore, could the argument be sustained that the Forum options represent an attempt by nationalism to impose its vision of a new Ireland on unionism. This fundamental desire to accommodate the unionist identity was further underlined by the willingness of the parties in the Forum to discuss other views which may contribute to political progress.