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Stalemate in Northern Ireland?

John F. McGarry and James E. Crimmins

More than a year has now passed since the Prime Ministers of Britain and the Irish Republic signed their historic agreement on Northern Ireland at Hillsborough Castle on 15 November 1985. Initially it was heralded at home and abroad as a bold and imaginative attempt to snap the political deadlock that has gripped the province for the past 15 years. This early promise is still to be fulfilled.

The Agreement’s aims

The chief aim of the Agreement was a return to constitutional politics in the six counties of Ulster. It was thought that this could be achieved in two ways. First, by removing the alienation of the Catholic minority from the institutions of state. Second, by reassuring the Protestant majority that concessions to the Catholics would not jeopardise their right to remain within the United Kingdom. It was hoped that the resulting political atmosphere would establish the devolution of a devolved government in Belfast in which Catholics and Protestants could share the responsibility for government. The Agreement would, it was hoped, help to fashion some form of pressure to persuade Ulster’s Protestants to accept power-sharing as a lesser evil eventually.

In order to overcome Catholic alienation the Republic of Ireland was given an unprecedented advisory role in the affairs of the North (Articles 2 and 6). To facilitate this, an Anglo-Irish Intergovernmental Conference was established together with a permanent secretariat, housed in buildings at Maryfield near Belfast. Under the aegis of the new Conference the British government accepted that ‘the Irish government will put forward views and proposals on matters relating to Northern Ireland [. . .] insofar as those matters are not the responsibility of a devolved administration in Northern Ireland.’ To this is added the statement that ‘determined efforts shall be made through the Conference to resolve any differences’ (Article 2b).

The immediate task facing the Conference in November 1985 was to remedy several of the more pressing minority grievances, especially those concerning the judiciary (Article 8) and relations between the security forces and the Catholic community (Article 7a). It was felt that these should include restrictions on the activities of the overwhelmingly Protestant Royal Ulster Constabulary (RUC) and the mainly Protestant Ulster Defence Regiment (UDR), along with an examination of the non-jury Diplock court system and the use of ‘supergrass’ evidence in the trials of suspected terrorists.

The Agreement also promised measures to foster the cultural heritage of both traditions (Article 5b), an implicit reference to plans to legalise the use of the Irish language in Northern Ireland. A specific mention was made of the need to deal with ‘flags and emblems’ (Article 5a), a reference to the Flags and Emblems Act 1954 which prohibits the display of the Irish flag north of the border.

Loyalist compliance with the Agreement was sought principally by a reiteration of Britain’s guarantee that Ulster’s constitutional position can only be changed by majority consent and, more especially, by the Republic’s formal acknowledgement of this fact (Article 1a). In addition, it was felt that enhanced cross-border cooperation on security matters (Article 9a) would provide significant benefits to Protestants by undermining the activities of the Provisional Irish Republican Army (IRA).

It was hoped that the success of these proposals would provide the basis for a devolved government ‘which would secure widespread acceptance throughout the community’ (Article 4b) — in effect a ‘power-sharing’ administration at the highest level. In order to make this an attractive proposition to Protestant politicians, the Agreement indicates that the scope of policy-making of the Intergovernmental Conference will be substantially reduced as soon as a devolved administration is established (Article 2b).

The Irish dimension

This, at least, was the intended result. More than a year later, however, a peaceful settlement to the Northern Ireland problem is further off than ever. In retrospect it can be seen that the British and Irish governments underestimated the vehemence of Protestant opposition to the deal. Unionist objections centre squarely on Hillsborough’s ‘Irish dimension’, that is the role granted the Republic in the new Conference. To many Loyalists the Hillsborough agreement represents a major and unwarrantable concession to the Nationalists. It has bestowed upon the dream of Irish unity a degree of recognition not hitherto given by a British government since the partition of 1921, including the commitment to introduce the necessary measures in Parliament should a majority in favour of a united Ireland emerge in the province (Article 1c). In terms of the ‘zero-sum’ analysis commonly applied by Nationalists and Unionists alike, this outcome could not help but appear as a loss to the latter. Unionists point out, with some plausibility, that the Republic’s recognition that Northern Ireland’s status would not change without majority consent, is worthless while the Republic continues to claim jurisdiction over the North. Article 2 of the Irish Constitution states that ‘The national territory consists of the whole island of Ireland, its islands and its territorial seas’, while Article 3 limits de facto jurisdiction to the 26 counties of the South ‘pending the re-integration of the national territory’. There are no signs that Dublin is prepared to repeal or revise these provisions. Garret Fitzgerald, the Taoiseach (Prime Minister), was very clear about this in the press conference directly after the signing of the Agreement.

As Unionist leaders see it, a change in Ulster’s constitutional position within the United Kingdom has already taken place without their consent. They contemptuously dismiss the statement in the Agreement that ‘there is no derogation from the sovereignty [. . .] of the United Kingdom government’ (Article 2b) and argue that the Intergovernmental Conference is in reality a de facto joint authority. That ‘determined efforts’ will be made ‘to resolve differences’ suggests to them that Dublin’s role is much more than merely consultative. The nature of the Conference, in which deliberations are carried on behind barbed
wire and in secret, fuel Protestant fears that every major decision is made at the behest of Dublin.

Unionists argue that this 'covert joint authority' is only the 'thin edge of the wedge', the first step towards a united Ireland. However dubious this contention may be in fact, it has reinforced the siege mentality that has traditionally dominated the thinking of Ulster's Loyalists whenever their ascendant position has been threatened. Since they have been fed on this diet of suspicion by their leaders since before 1921, it is not surprising that the reiteration by Britain of the constitutional guarantee has failed to dispel their fears. After all, this guarantee existed before the signing of the Agreement (Ireland Act 1949, slightly amended in the Northern Ireland Constitution Act 1973) and it did not prevent the Republic from being given an influence in the affairs of the North. The fact that Article 11 explicitly leaves room for an extension in the scope of the activities of the Conference has only increased Loyalist anxieties.

Ulster's Unionist leaders also recognise that majority consent does not give them a permanent veto. First, they are well aware that the doctrine of parliamentary sovereignty considerably diminishes the worth of the British guarantee. Second, no matter how unrealistic it is, there has long existed a perception among Protestants that one day the Catholics, with a higher birth-rate, will outnumber them. It should also be said that, even at present, majority consent for a united Ireland could be achieved by something less than a quarter of the Protestants voting with an (albeit unlikely) united Catholic electorate. This is all so much fuel to fire the fears of even the most moderate Loyalists.

The Protestant reaction

It is the Irish dimension to the Agreement, then, which explains the bitterness of the Protestant reaction to it. In the January 1986 by-elections Unionists opposed to the deal with the Republic were returned in all but one of the province's 15 contested seats, with an overall increase in the number of votes gained in the 1983 General Election. If the by-elections are considered as a referendum on Hillsborough, the results are unequivocal. With a turnout of 62.2 per cent, 78.1 per cent of the votes cast were for parties opposed to the Agreement (including Sinn Fein with 6.6 per cent) and only 21.9 per cent for candidates broadly in favour (SDLP, Alliance Party, Workers' Party, and the fictional 'Peter Barry'). Applying the '40 per cent of the electorate' requirement employed in the 1979 referendum on Scottish and Welsh devolution, 47.9 per cent voted against the Agreement (43.8 per cent Unionist and 4.1 per cent Sinn Fein), as opposed to 13.4 per cent in favour.3

Events in the South since January 1986 have exacerbated Loyalist insecurities. Southern attitudes on issues like extradition and divorce indicate that people there either fail to understand or, more likely, are simply indifferent to the fears of Protestants. The July referendum on divorce seemed to vindicate the claims of Unionist leaders that the South is still 'the showpiece of Catholic nationalism in Europe' and that, consequently, any form of unification would jeopardise Protestant civil and religious liberties. The failure to expedite extradition, symbolised by the fiasco of the 'Glenholmes affair'—though it was in fact the fault of British authorities that one of the country's most wanted terrorists was allowed to go free—lends credence to the Protestant belief that the Republic remains a haven for nationalist gunmen.

The Protestant reaction to the Agreement was entirely predictable. Since 1921 Unionists have consistently opposed Irish involvement in Northern politics. This was made clear most recently during the Sunningdale episode of 1973-4. Like Hillsborough, the Sunningdale agreement also included proposals for the involvement of the Republic in Ulster, on this occasion via a proposed Council of Ireland involving Ministers from both sides of the border. For several reasons, this institution should have been far more palatable to Protestant opinion than the present Conference of British and Irish ministers. First, some elected Protestant politicians had been closely involved in negotiations leading up to the agreement—they were excluded from the Hillsborough discussions. Second, it was agreed that decisions could only be made in the Council if unanimous consent were forthcoming (a move designed to protect the Unionists from being swamped by an alliance of Southern and Northern nationalists). Finally, and most important, the Council was only to be established once the Northern Ireland Assembly, with its Unionist majority, had approved the details of its form and the scope of its activities. In the event, however, even this considerably diluted Irish dimension proved to be entirely unacceptable to the Protestant population. The 1974 February general election, called for reasons unconnected with Northern Ireland, resulted in anti-Sunningdale Unionists winning 11 of the 12 seats, and the Agreement was subsequently abandoned when the Ulster Workers' Council strike brought the province to a standstill in May of that year.

A similar defeat for the Hillsborough initiative is the ambition harboured by the Unionist parties. But this has proved to be much more difficult to bring about than was the case with the earlier Agreement. For the most part this is due to the 'external' nature of the present arrangement. Initially at least, Hillsborough is not dependent on internal political support for its operation. Though the Agreement makes provision for a devolved government, if this should prove impossible to achieve, Article 5c leaves it open for the Conference to continue to operate indefinitely without any formal necessity to consult either the province's Nationalist or Loyalist communities. This has also given the Conference a certain flexibility in the timing and location of its meetings. Though it was thought desirable to meet whenever possible in Ulster, should events dictate a change the Conference can meet just as easily in London or Dublin. This makes Hillsborough, unlike Sunningdale, relatively invulnerable to the tactics of disruption.

It is this fact which helps to explain the confusion in the Unionist leadership over the past year or so on what course of action to take in its opposition to Hillsborough. Refusing to carry out local government responsibilities, boycotting meetings with the Northern Ireland Office, and calling one-day strikes have so far failed to make an impression. The ineffectiveness of these kinds of protests has put the representatives of moderate unionism, James Molyneaux's Official Unionist Party (OUP), in a dilemma. Unwilling to countenance unconstitutional tactics, they have been forced to vacate the field of protest for Ian Paisley's more aggressive Democratic Unionist Party (DUP). Loyalist desperation at the failure of peaceful forms of protest has resulted in an increase in acts of violence. The current year, for example, is the worst on record for sectarian murders by Protestant paramilitaries since the dark days of 1976.4

The Catholic response

The Catholic reaction to Hillsborough, as one might expect, has been altogether different. Any meaningful treaty between Dublin and London was bound to be more palatable to the minority community. The Constitutional Unionist Party, the Social Democratic and Labour Party (SDLP), has welcomed the agreement as an acceptable basis on which to build a devolved government. A BBC poll conducted in November 1985 found that 54 per cent of Catholics were firmly behind Hillsborough.5 This was confirmed by the January 1986 by-elections, in which Catholic support for the Agreement was the decisive factor enabling Seamus Mallon, Deputy Leader of the


However, for support to become more stable and, most important, extend into the working-class ghettos of Catholic Ulster—the fertile soil of IRA recruitment—some genuinely tangible gains have to be produced. Substantial reforms are called for if the Agreement is to have a real effect upon the everyday lives of the minority population. This, despite the Republic’s involvement, the Conference has so far failed to deliver.

At its first meeting in December 1985, a new code of conduct was drawn up for the RUC, giving application to the principle of ‘police primacy’ in all security operations involving the UDR, and attempting to ensure that Ulster’s policemen discharge their duties with equal respect for both the Protestant and Catholic communities. Since then, however, the need to avoid provoking a violent reaction from Protestants has stalled progress in other areas. Catholics were clearly expecting more positive action from the British government. Once the summer’s volatile ‘marching season’—the period of each year when Catholics and Protestants traditionally take to the streets to celebrate past victories and remember bitter defeats—was over, Britain had the opportunity to move things along. In August, Nicholas Scott, the Minister of State, Northern Ireland Office, almost certainly under pressure from a beleaguered Dublin government eager that the Conference should be seen to be doing something, announced that ‘substantial’ measures to remove minority alienation were to be expected this winter. These measures will probably include repealing the Flags and Emblems Act; official recognition of the Irish language; legal redress for persons discriminated against on sectarian grounds; legislation to improve procedures for dealing with complaints against the police; and a gradual reform of the mainly Protestant Ulster Defence Regiment (UDR).

However, as promising as these measures may appear, it is doubtful whether they will achieve the desired results. First, it is unlikely that they will be sufficient to overcome Catholic alienation. Moderate Nationalists are also calling for an end to the ‘supergrass’ trials and for three judges—not just one—in the Diplock non-jury court system. They feel that these have been used unfairly in the past to obtain the conviction of Catholics. Effective action is also needed to reduce Catholic unemployment, which is currently running at a rate over twice that of Protestants—figures released in 1981 showed that 30 per cent of Catholics were unemployed compared with 12 per cent of Protestants. In line with the greater part of Britain, these figures have increased over the past five years, but the gap between them has not closed. An increase in minority employment would serve to confirm that the new political arrangements are worth supporting, or at least not worth challenging, while there is nothing better on offer.

The second problem with the Scott proposals is of a different order altogether and is indicative of the zero-sum nature of Northern Ireland politics—concessions to Catholics risk alienating Protestants. To date the Unionists’ staunch and often violent opposition to Hillsborough has focused on the underlying principle of Irish involvement in Northern affairs. Should the Intergovernmental Conference actually implement policies of the nature suggested an escalation in violence is bound to result. Loyalists consider the security forces, for example, to be a Protestant force in the front-line against IRA terrorism and any tampering with them will be bitterly resented.

At any rate, attempts to reform the security forces are always likely to be sabotaged by the IRA, who are involved in their own campaign against the Hillsborough initiative. It is not hard to imagine the reaction of Loyalists if the IRA were to launch a spectacular attack upon the RUC at the very time the British, at the behest of the Dublin government, were acting to curtail security operations.

Similarly, to repeal the Flags and Emblems Act to allow Northern Nationalists to fly the Irish tricolour, or to introduce measures to allow the use of the Irish language in an official capacity, and the like, will certainly provoke Unionists to take action to prevent, as they see it, Northern Ireland slipping into Republican hands. Policy-makers on the British mainland may well feel that something just as ominous is happening in the Republic. In a Belfast Telegraph poll conducted after the signing of the Hillsborough agreement a large majority favoured a power-sharing arrangement—79 per cent of Catholics, 61 per cent of Protestants, 68 per cent overall. Despite this support, however, a devolved government in Northern Ireland remains a doubtful prospect. Loyalist politicians have traditionally refused to entertain sharing power with Catholics while the latter aspire towards a united Ireland. Brian Faulkner’s Unionists in the 1973–4 power-sharing Executive were forced to resign because they showed a willingness to discuss arrangements for an Irish dimension. In 1981 when James Prior, the then Secretary of State for Northern Ireland, introduced his plan for ‘rolling devolution’, the Unionist parties signed a declaration stating that they would not share power with the Nationalist SDLP, even though Prior’s initiative did not involve an Irish dimension. Unionist opposition has typically focused on the view that the SDLP are little more than a ‘fifth column’ for the Republic, ever ready to scurry from the Cabinet table to discuss policy with their political masters in Dublin and, therefore, not to be trusted with power. If this is the Unionist attitude when an institutionalised Irish dimension does not exist, how much less likely are they to become involved in a power-sharing government when the Republic is already playing a role in Northern affairs.

If power-sharing was an unlikely prospect before Hillsborough, the provisions of the Agreement have now put it out of the question. As we have seen, in the event that a devolved government could be set up, the Agreement stipulates that the scope of action of the Conference would contract as areas of responsibility were transferred (Article 2b). But this does not mean that the Conference would disappear altogether. For example, it is unlikely that certain aspects of the province’s security would ever be placed in the hands of local politicians. Moreover, Article 5c states that ‘If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the Conference shall be a framework’ within which the Irish government can continue to represent minority interests. Protestant suspicions that Britain is set on moving Northern Ireland into a new phase of constitutional development appear far fetched.

After more than a year of Protestant protest, the British gov-
government’s strategy of seeking to weather the storm of dissent, in the hope that Unionist politicians will come to see the futility of their resistance, has had little success. Unionist leaders have insisted throughout that the Intergovernmental Conference be scrapped as a precondition to any talks on power-sharing. The fate of Brian Faulkner in 1974 is there to remind moderates in the Unionist ranks that they will be outflanked by extremists should they waver in their opposition to the Irish dimension. Mr Molyneaux and Mr Paisley were given an abrupt reminder of this after their show of moderation at their talks with the Prime Minister, Mrs Margaret Thatcher, in late February. Only hours after returning to Belfast they were forced to re-adopt the usual hard-line rhetoric in order to retain control of their supporters, many of whom were suspicious of a sell-out by their leaders. Even if moderate Official Unionists could see the possibility of reaching an understanding with Dublin they are understandably reluctant to say so in public.

Mr Paisley’s usual tactic of marching to the brink only to step back at the last moment has been severely tested in recent months. His failure to make any headway with a British government determined to stand by its commitments had thrown up a new breed of leaders. The possibility of Paisley being outflanked by men of the stamp of Peter Robinson, the deputy leader of the DUP, is a fearful prospect for the province. Even so, August’s much publicised paramilitary ‘invasion’ of Clontibret in the Republic led by Robinson is evidence of the Unionists’ increasing exasperation with the present state of affairs. Paisley was forced to lend support to his deputy leader on this occasion. But it is certain that Clontibret is only a sample of what is to come and the more extreme Unionists may soon grow weary of Paisley’s reticence to associate himself with their activities.

For its part, the SDLP is willing to accept power-sharing only if combined with an Irish dimension. This is in accordance with the terms of the Party constitution, which commits it to ‘promote the cause of Irish unity based on the consent of the majority of people in Northern Ireland’. In 1982 the SDLP, under the leadership of John Hume, began a boycott of the now defunct Northern Ireland Assembly on the grounds that Prior’s ‘rolling devolution’ had not made provision for an Irish dimension. Now that the Republic is being consulted on a regular basis via the new Conference they are unlikely to agree that these arrangements be abandoned. And while the SDLP stand by Hillsborough, so will the Republic.

The fact of the matter is that Hillsborough has placed John Hume’s constitutional Nationalists in a very strong position. Unlike the Unionist parties, they have a direct line into the Intergovernmental Conference via the Southern government. They have already drawn considerable electoral benefits from the Agreement, doubling their representation at Westminster and drawing off the moderate fringe of Sinn Fein support, thereby reasserting their claim to be the main representatives of Nationalist opinion in the province. This puts them in a powerful bargaining position should negotiations for a devolved government get under way. For, if a devolved government proves impossible to establish on terms favourable to the SDLP, the Intergovernmental Conference will continue to operate indefinitely (Article 5c). With the Conference hanging over the heads of the Unionists in this manner, ready to be summoned up whenever a breakdown in talks occurred, this effectively provides the SDLP with a veto over future developments. They will not risk disowning an agreement which, so far as they are concerned, is now carved in stone and deposited at the United Nations, in return for a power-sharing arrangement which might collapse in the not too distant future. Nor are there any guarantees that a future British government would be willing to refloat the initiative if it is abandoned now. The SDLP, acutely aware of the internal pressure to which the 1974 Executive succumbed, will insist that the Intergovernmental Conference remains intact.

Conclusion

It is possible, of course, though we do not think it likely, that the British and Irish governments will succeed in meeting their objectives and secure substantial Protestant support for devolution under the terms of the Agreement. There are signs of strain appearing between the two wings of Unionism, the OUP and the DUP, who draw their support from different Protestant constituencies (divided by class and religious denomination). The OUP, the less extreme of the Unionist parties, would be more willing to compromise if the SDLP were able to make concessions on the involvement of Dublin in Northern affairs. If the Unionist monolith can be broken, it is still possible that a settlement might be reached. In this more optimistic scenario a tripartite conference with all parties represented might just allow Unionists and the SDLP to arrive at an Irish dimension palatable to both communities.

Even on the count of power-sharing without an Irish dimension, however, it is doubtful if much could be achieved. Power-sharing demands a certain degree of consensus on the political objectives of government. This consensus does not exist in Northern Ireland, where the Nationalist and Unionist parties have irreconcilable views on the future of the state they are being asked to share the responsibility of governing. Power-sharing was tried in Northern Ireland in 1974, it has been tried in Cyprus and in Lebanon, all areas with serious ethnic and sectarian divisions, and on each occasion it has failed. There is no reason to suppose that it can be made to work in Ulster today.

It is our opinion, therefore, that the Hillsborough formula does not contain within it the solution to the Northern Ireland problem. While having some success in reducing minority alienation, the Agreement has also incurred seemingly relentless opposition from the majority. And 400 years of history tell us that any settlement that is opposed by the Loyalist community is unlikely to succeed.

2 Indeed, as the Republic’s Minister of Justice declared, the Agreement gives Dublin a major and substantial role in the day-to-day running of Northern Ireland (‘Logical Lobby sees through the Ulster Agreement’, The Guardian, 4 August 1986, p. 4).
3 The figures are taken from Sydney Elliott, ‘A Post Mortem on an Unprecedented Poll’, Fortnight, 10 February 1986, p. 7.
5 For this and other relevant polls see Tom Hadden, ‘What People really think of the Agreement’, Fortnight, 10 February 1986, p. 8.
8 See Note 5 above.