

## **The British State and Northern Ireland: Can the National Question be Reformed?**

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Edmund Burke reminded his readers in his book, *Reflections on the Revolution in France*, that "a state without the means of some change is without the means of its conservation" Echoing this view during the parliamentary debates on the reform of the franchise in 1831, Macaulay promoted this change on the grounds that:

*"At present (...) we drive over to the side of revolution those whom we shut out of power (...). Turn where we may, within, around, the voice of great events is proclaiming to us, Reform, that you may preserve!"*

In turn, when the Reform Bill was finally passed, Sir Robert Peel in his address to the electors of Tamworth accepted the outcome as a final settlement of a great constitutional issue. He carefully added that he would not support continuous agitation for its own sake. While the pillars of the constitution could not be challenged he accepted that:

*"if the spirit of the Reform Bill implies merely a careful review of institutions, civil and ecclesiastical, undertaken in a friendly temper, combining, with the firm maintenance of established rights the correction of proved abuses and the redress of real grievances, in that case I can, for myself and for my colleagues, undertake to act in such a spirit and with such intentions."*

In each of these cases, three quite different politicians are grappling with the question of political change by adopting an approach to reform. Burke, for example, explicitly demanded the reform of the Irish political system on the grounds of better government and the extension of civil rights to Catholics, believing that if this did not happen revolutionary influence would increase among the oppressed.<sup>1</sup> Burke's reasoning was to remain central to British thinking about Ireland throughout the second half of the nineteenth century.

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<sup>1</sup> Conor Cruise O'Brien, *The Great Melody: A Thematic Biography of Edmund Burke*, Sinclair-Stevenson, London 1992, pp.468-503.

Macaulay applied a similar view to Britain, while Peel reasoned that some changes were necessary to prevent more serious challenges to the constitutional *status quo*.

Each of these elements have played a role in the British reform tradition during the nineteenth and twentieth centuries.<sup>2</sup> The tradition itself has had a number of features. The first of these is the extent to which preservation is central to the reform process and the sentiments expressed by these three writers. Even the Great Reform Act is seen by Macaulay as preservative, and this continues to be a feature of both conservative and liberal thinking for most of the nineteenth century. Reform for its own sake is rarely the issue. The case must be made for change, the offence obvious to all (or most of the political elite at least), but in essence reform is a response to a threat of disruption to the state and society. Whether the question involved electoral reform, catholic emancipation, or social reform, change in response to pressure is justified on three grounds. There must be a case for reform; there is an agitation which is a political threat to the good order of society; and the action proposed by reformers will preserve the fundamentals of the "Constitution" One does not have to share the views of Mr Podsnap in the book, *Our Mutual Friend*, who explained to a foreign enquirer that "We Englishmen are very proud of our constitution (...) it was Bestowed Upon Us by Providence", to recognise that this approach to reform has been extremely successful in accommodating disruption and in preventing revolution in the United Kingdom.<sup>3</sup>

This preservative aspect of reform had placed both reformers and radicals on the defensive in their criticism of the Constitution and the nature of the British state, a difficulty which continues down to the present day.<sup>4</sup> The preservation of the constitution through reform may be one of the "myths" of contemporary Britain, but it continues to be a powerful one. When then is reform not revolutionary? The answer must be when the constitution has not been radically altered. But when has this not been the case: Catholic emancipation, electoral reform, the 1911 Parliament Act? In each case reformers emphasised the partial and preservative nature of the changes, but critics stressed the

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<sup>2</sup> Brian Girvin, *The Right in the Twentieth Century: Conservatism and Democracy*. Pinter, London 1994, pp.40-45 for a discussion of the nineteenth century origins of the reforming movement.

<sup>3</sup> John Morison and Stephen Livingstone, *Reshaping Public Power Northern Ireland and the British Constitutional Crisis*, Sweet and Maxwell, London 1995, p.4 for the Dickens citation.

<sup>4</sup> See the discussion in Morison and Livingstone, *Reshaping Public Power*, pp 35-88.

revolutionary aspects of them. This has something to do with party politics and the nature of a two party system within a first past the post political system. If the "essence" of the constitution has not been changed has there been a reform? Radical criticism of the British Constitution would certainly support this version of the question, but there may be other ways of interpreting it.

Does reform require some form of continuity to be a reform and to distinguish it from revolution or more ambiguously from disruptive change which is radical in intent and consequence? Again a reform might be radical but because the elements of continuity remain strong the impression is one of continuity. However, if a reform, no matter how moderate, destabilises the political system can this be considered a reform within this meaning? A concept of reform must not exclude change, but at the same time any one change as a consequence of reform cannot change the system entirely. At this level we are approaching revolution rather than reform. The change will be a reform if in this instance it does not transform the system but a large number of changes may do so over the longer term. In their discussion of political stability Dowding and Kimber offer the following outline of what stability might consist of:

*"Continuity of some elements is needed between moments in time in order that the system may be said to survive - but as long as continuity of some elements is maintained, over a long period there is no reason why all the elements could not be replaced."*

If this approach is applied to the question of reform, it allows for continuity within the system, but also provides for long term change which can have cumulatively radical consequences. The gradual nature of change is what links reform to stability, thus eschewing in the short term at least more radical (or revolutionary) consequences. If the emphasis in reform is placed on continuity then it is possible to draw a distinction between change in a system (reform) which preserves the system and the change of a system into something entirely new and perhaps unrecognisable (revolution). If change is accepted, then the process is one of reform, whereas forced change brings about the instability of the political system and usually the disruption of the system itself.<sup>5</sup>

The legitimacy of a political system may be said to be challenged when significant sections of a society excluded from power and influence organise to challenge that exclusion. A crisis will affect that system if the ruling groups are unable to either counter or meet the demands. One alternative is the reactionary one, the effective repression of the challenge and a restoration of the *status*

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<sup>5</sup> Keith M Dowding and Richard Kimber, 'The Meaning and Use of 'Political Stability'', in: *European Journal of Political Research* 11/3 (1983), pp.229-243.

*quo*. This option has not been available in Britain since the 1830s. The alternative is to introduce reforms to meet the insurgent's demands and this has been the most authoritative response on the part of British elites since the 1820s. If a legitimisation crisis can normally be met by reform, this does not always prove to be the case. In the decade before 1914 the United Kingdom entered a period of political instability and established notions of power and authority were seriously challenged. Yet not all the issues of concern at this time have equal status in terms of reform and continuity. In principle, though more difficult in practice, the demands of the suffragettes, the Labour movement and for social reform were amenable to reform and indeed as we now know were in fact resolved as a consequence of legislative reform within two decades. This is not to deny the seriousness of the challenge, but to argue that British political institutions were flexible enough to come to terms with the key elements of the insurgent's demands.<sup>6</sup>

The Irish question and Home Rule is often bracketed with other movements as part of the reform tradition. British reformers believed that the Irish question was amenable to reform and that Irish nationalist demands were not qualitatively different from those of non-conformists, trade unions or suffragettes. If continuity is central to the reform process then it is arguable that Home rule was not in principle resolvable within the existing constitution. It is a grey area, however. At the beginning of the twentieth century there were few examples of regions within states gaining home rule or indeed seceding; Hungary in 1867 is one exception as is Norwegian independence from Sweden in 1905. Home rule remained uncharted territory for British politics and for constitutional theory. What distinguishes the Irish question from British reform are the following. The presence among Irish Catholics of a strong sense of nationality which distinguishes this population from the rest of the United Kingdom. This nationality is expressed in political terms by a well organised and self confident national political movement. The serious divisions which emerge within Ireland between nationalists and unionists do not respond to reform and are based on quite different senses of identity. Furthermore, divisions between nationalists and unionists reflect older divisions between Catholic and Protestant. Both Liberals and Conservatives had believed that it was possible to reform Ireland to take account of these differences, to provide better government and to integrate Ireland more fully into the United Kingdom. The home rule movement and especially the divisions which emerge between 1905 and 1914 weaken any such strategy. The evolution of the Irish crisis between 1912 and

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<sup>6</sup> Brian Girvin, *The Right in the Twentieth Century*, pp.49-53.

1922 highlights the limits of reform when nationality is involved. While a settlement based on home rule might have been achieved at one time or another, more ominous outcomes were likely even in the absence of war in 1914. The Home rule question was a surrogate for self-determination by Irish nationalists and it is likely that any reform would fall short of what would be expected. Even before the war in 1914 the polarisation of opinion within Ireland, and in Britain, indicated that the reformist approach had been exhausted.

#### FROM HOME RULE TO PARTITION

The various Home Rule bills are frequently presented as moderate reforms and the failure of the British state to concede them is seen as the stimulus to more radical strategies by Irish nationalists. What this ignores is the growth of nationality as the main source of identity among Irish Catholics during the nineteenth century and the emergence of a British political identity among Protestants. These views were increasingly polarised by 1914. By then the island of Ireland had already divided in political, social, economic and to an extent in military terms. Home Rule for Ireland came increasingly to mean home rule for nationalist Ireland because Protestant Ireland refused to participate in devolution. The difficulty here is that successive British governments meant something different when they referred to home rule than was the case with nationalists. For the British home rule was devolution and no more, but for nationalists it was increasingly a first step on the road to sovereignty.<sup>7</sup> Nationalist Ireland was prepared to take power in Ireland by 1914 and to establish a regional government which would in many ways be different to that of the United Kingdom generally. The opposition of unionists in Ireland was based on the fear of what Irish nationalism would do with its new power. Issues of nationality are not easily resolved, especially when there are overlapping claims between a secessionist nationality and the metropolitan state. These pressures become even stronger when there is also a minority left behind by the withdrawal of the metropolitan power.<sup>8</sup>

The Irish War of Independence and the establishment of the Irish Free State tends to obscure the real shift in British government policy towards Ireland after 1918. Partition was not at first seen as an attractive option by British governments either before or after the War. However, the political terrain was transformed by the war. In many parts of Europe partition became the normal

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<sup>7</sup> D. George Boyce and Alan O'Day (eds), *Parnell in Perspective*, Routledge, London 1991 for a number of contributions concerning the consequences of devolution.

<sup>8</sup> Anthony D. Smith, *National Identity*, Penguin, London 1991

way to resolve boundary problems, especially when they involved ethnic conflict. In the case of Ireland it was evident to the British government that it would prove difficult to refuse some partitionist solution to the Ulster Unionists. Increasingly the question was not whether there should be partition, but what form it would take and its territorial extent. Lloyd-George and his government were influenced by the presence of leading Conservatives in the Cabinet, but also by the loyalty of the Ulster Unionists to Britain during the War. In this context, it would be near impossible for a British government to force a settlement on the unionists, but policy had also to recognise the radicalisation of Irish opinion between 1916 and 1919. Partition emerges out of this environment as a solution to the difficulty posed by incompatible loyalties.<sup>9</sup>

During these years policy and perception in relation to Ireland, but especially to Ulster, changed. The presuppositions underwriting British policy altered appreciably. The War contributed to this outcome, but the growing appreciation of the strength of nationalism and its moral validity deeply affected the behaviour of politicians and the general public. The sea change is not only detectable in public documents, but in the general climate of opinion.<sup>10</sup> Irish public opinion at the time and subsequently was sceptical about the British claim to be fighting for small nations, yet this was an important contribution to the change in British attitudes. Imperial self-confidence was seriously weakened in the face of strong and self-reliant nationalism (whether in Ireland or in India).<sup>11</sup> By 1922 the intellectual terrain had shifted and all of Ireland was removed from the centre of British politics in a fashion which would have been unthinkable a decade previously. Ireland and Northern Ireland no longer divided the British political parties. A bi-partisan approach was adopted which has been maintained since the 1920s, though the Labour Party has made more of its commitment to a united Ireland in the long term. Northern Ireland, though remaining part of the United Kingdom, was defined as different and apart. Northern Ireland was not only not seen as British as Finchley, as Margaret Thatcher once famously claimed, but was also not as British as Glasgow, Newcastle or Cardiff. This is a significant shift, which is apparent in the structure of Northern Ireland and in the development of policy towards Ireland from

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<sup>9</sup> T.G. Fraser, *Partition in Ireland, India and Palestine*, Macmillan, London 1984

<sup>10</sup> D. George Boyce, *Englishmen and Irish Troubles: British Public Opinion and the Making of Irish Policy, 1918-1922*, Cape, London 1972.

<sup>11</sup> Judith M. Brown, *Modern India: The Origins of an Asian Democracy*, Oxford University Press, Oxford 1985, pp.187-242.

1919.<sup>12</sup> This treatment of Northern Ireland as different predates by nearly half a century the decline of Unionism within Britain itself.<sup>13</sup>

The Government of Ireland Act of 1921 was intended as a reform to address the consequences of political instability in Ireland. In its application to both parts of Ireland the British intention was to create conditions for reconciliation within Ireland by retaining the two home rule governments within the structure of the United Kingdom. This Act falls within the meaning of reform, but the Treaty Settlement which established the Irish Free State with Dominion status in 1922 went beyond the meaning of a reform. This action actually broke up the United Kingdom and established a new state, admittedly one with somewhat limited sovereignty at that time.

If by 1919 Government policy reluctantly accepted some form of partition, this was not a prospect which was at first welcomed. The First Report of the Cabinet Committee on the Irish Question concluded that two premises operated in policy: that the government should do "everything possible to promote Irish unity", but that it would not be imposed on the unionists. To an extent this is the origin of the nationalist view that the unionists have a veto over policy, but what it actually meant is that a British government would not use force to bring about a united Ireland. Despite this the government continued to work for a united Ireland solution. At the end of 1919 the view of the Cabinet was that Ulster would not remain part of the United Kingdom as then constituted; "the ultimate aim of the Government's policy in Ireland was a united Ireland with a separate parliament of its own, bound by the closest ties to Great Britain."<sup>14</sup> This was not a realisable policy on the part of Lloyd-George or his government: there was a war in Ireland, the Conservative Party was restless, the unionists were well organised and influential in Conservative circles. To attempt a resolution of the impasse without taking into consideration either the views of the unionists or those of the Conservative party would have involved

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<sup>12</sup> Arthur Aughey, *Conservative Party Policy and Northern Ireland*, in: Brian Barton and Patrick J Roche (eds), *The Northern Ireland Question. Perspectives and Policies*, Avebury, Aldershot 1994, pp.121-150 (121-125)

<sup>13</sup> Graham Walker, *Intimate Strangers Political and Cultural Interaction Between Scotland and Ulster in Modern Times*, John Donald, Edinburgh 1995 for an evaluation of some of these themes.

<sup>14</sup> PRO CAB 24/92, First Report of the Cabinet Committee on the Irish Question, 4th November 1919; Cabinet Meeting PRO CAB 23/18, 3rd December 1919, cited in Fraser, *Partition in Ireland*, pp 27-30

breaking up the coalition government and/or war with the unionists, with all the uncertainties which that would bring.<sup>15</sup>

The Government of Ireland Act of 1920 was an attempt to resolve the basic contradiction in the Government's policy. It sought to make concessions to the Irish nationalists, secure unionist acquiescence but also provide a mechanism for the eventual unification of the island. When the second reading of the bill was moved, Ian Macpherson, the Chief Secretary for Ireland, claimed that the division of Ireland was "distasteful to the Government, just as it is distasteful to all Irishmen" By late 1919 this was somewhat disingenuous, for while Sir Edward Carson opposed the Bill on grounds of principle, the Northern unionists under the leadership of James Craig accepted partition for the six north-eastern counties of Ireland. Macpherson outlined the government's hopes for the bill:

*"All of us hope that the division may be temporary only, and our arrangement has, therefore, been to frame the Bill in such a manner as may lead to a union between the two parts of Ireland."*<sup>16</sup>

The Bill aimed to "provide for the better government of Ireland", a reflection of traditional reformist politics. However, the Bill's objectives went well beyond the reform tradition. The intention of the legislation was to set up two parliaments in Ireland with clearly devolved power. While neither would be entirely sovereign, each would have considerable local authority. This, it was anticipated, would persuade the Republican movement in Ireland to agree to end the armed conflict and accept the Act as the basis for a settlement. The long term objective of the legislation was to create the conditions for a united Irish parliament, though one with continuing close links with the United Kingdom. The emphasis within the legislation was, therefore, on all-Ireland institutions and arrangements. Section 2 (1) provided for the establishment of a "Council of Ireland" comprising the Lord Lieutenant with equal representation from north and south. The purpose of the council was:

*"the promotion of mutual intercourse and uniformity in relation to matters affecting the whole of Ireland, and to providing for the administration of services which the two parliaments mutually agree should be administered uniformly throughout the whole of Ireland, or which by virtue of this act are to be so administered."*

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<sup>15</sup> Richard Murphy, Walter Long and the Making of the Government of Ireland Act, 1919-20, in: *Irish Historical Studies* 25/97 (1986), pp.82-96.

<sup>16</sup> Fraser, *Partition in Ireland*, p.37



Section 3 (1) provided further that an all Ireland parliament could be established at some future date if both parliaments voted by a majority to replace the council of Ireland with a parliament for the whole island. The intention of British legislators was that the Act would allow for the eventual reconciliation of unionists and nationalists in Ireland, a well intentioned if unsuccessful objective. Northern unionists were prepared to accept a devolved government in Northern Ireland if this was the only alternative to an all-Ireland devolved government. Both the British government and Irish nationalists attempted to persuade the unionists during the Treaty negotiations in 1921 to accept rule from Dublin, but to no avail. One of the aims of constitutional nationalism since 1921 has been to detach Northern Ireland from the United Kingdom but retaining its devolved status within a federal but united Ireland. Section 6 and 75 of the Government of Ireland Act sustained the unionist position by providing that the United Kingdom parliament would remain the "supreme authority" in the context of devolved government. The Act offered attractions to unionists and nationalists, but unionists gained considerably more from its protection than did Northern Irish nationalists from its promise.

The Government of Ireland Act proved to be inoperative in the southern counties of Ireland due to its rejection by the nationalist movement. The Treaty between the British government and the Irish nationalists led to the southern counties receiving Dominion status, similar to that of Canada, Australia, New Zealand and South Africa. The Irish Free State acquired effective, though not formal, sovereignty and began its gradual journey towards establishing a Republic in 1949.<sup>17</sup> Henceforth, the two parts of Ireland evolved separately, though connected in mutual hostility and incomprehension. One other factor affected the future of the relationship between the two parts of Ireland. The Treaty between the United Kingdom and the Irish nationalist movement acknowledged Northern Ireland's status but contained a commitment to establish a Boundary Commission to adjust the border between the two jurisdictions. Many nationalists believed that the outcome of this deliberation would lead to the effective dismemberment of Northern Ireland, therefore making the region unmanageable. These hopes were to go unrealised. The Commission's report (only published in 1969) was partially leaked in 1925 and was essentially a technical document with minor alterations to the border as it then stood. In the context the Northern area would have fared better than that of the South, lead-

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<sup>17</sup> David W Harkness, *The Restless Dominion The Irish Free State and the British Commonwealth of Nations, 1921-31*, Macmillan, London 1969, W K Hancock, *Survey of British Commonwealth Affairs*, vol 1, *Problems of Nationality, 1918-36*, Oxford University Press, London 1937

ing the Irish Free State to denounce the outcome but also providing the basis for the three governments to negotiate a formal agreement to sustain the existing boundaries in the Ireland (Confirmation of Agreement) Act of 1925.<sup>18</sup>

This latter agreement has been considered to be "a significant agreement" and in some respects it was. It appeared to stabilise the territorial situation between north and south and to offer some hope for cordial relations between the two Irish governments. Yet it also highlighted the extent to which the two parts of Ireland were developing separately and did not provide a means for developing relationships between the two. Furthermore, the leaked report radicalised nationalist opinion in the Irish Free State, making it more difficult to cooperate with the northern government. This was reinforced by the existence of the nationalist minority in Northern Ireland, who were seen by southern nationalists as hostages in a state alien to their identity but seen by the unionists as a force hostile to the very existence of that state.<sup>19</sup>

#### THE CONSEQUENCES OF PARTITION

The Government of Ireland Act had quite different consequences to those intended by the British government. By devolving power to a parliament in Northern Ireland the act locked both unionists and nationalists into a state where the status of the state remained the central political issue. Unionists had been unhappy about devolved government, considering integration within the British state to be the best security for the future. In turn, nationalists believed that the border was an imposed and artificial entity and refused for the most part to accept the legitimacy of the Northern government. The basic political framework enhanced rather than reduced tensions within Northern Ireland. Whereas in the South the Treaty settlement enhanced stability, in the North instability was built into the system by the presence of a sizeable minority hostile to the existence of the state, and a government in the South which continued to challenge the legitimacy of its Northern neighbour, a feature which characterised policy after 1932 in particular. Consequently, conflict remained the main feature of the politics of Northern Ireland.<sup>20</sup>

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<sup>18</sup> Geoffrey Hand (ed.), *Report of the Irish Boundary Commission, 1925*, Irish University Press, Shannon 1969.

<sup>19</sup> David Harkness, *Ireland in the Twentieth Century: Divided Island*, Macmillan, Basingstoke 1996, p.46; Paul Bew, Peter Gibbon and Henry Patterson, *Northern Ireland, 1921-1994: Political Forces and Social Classes*, new edition, Serif, London 1995.

<sup>20</sup> Brian Follis, *A State Under siege: The Establishment of Northern Ireland 1920-25*, Clarendon Press, Oxford 1995; Eamon Phoenix, *Northern Nationalism. Nationalist Politics*,

If, in a formal sense, Northern Ireland remained not only part of the United Kingdom and subordinate to Westminster, the relationship between the two parliaments was characterised by irresponsible neglect on the part of successive British governments and abuse of power within Northern Ireland by the unionist governments. Westminster neglected the region, consistently refusing to invoke its power over the devolved government. In effect, the Northern Ireland parliament was given almost total autonomy over the governing of the north. This led to the paradoxical outcome that in some areas the Northern Ireland parliament was able to function as a state, while in others it was not. Thus formal sovereignty was retained at Westminster, yet successive British governments refused to intervene in Northern affairs even when there was clear evidence that the unionist government was behaving oppressively against the nationalist minority. At the same time Northern Ireland cannot be considered a state: it certainly had a monopoly over the means of violence, but it did not have the required autonomy to function as an independent state. The autonomy to act that it acquired was a consequence of the neglect which the British governments considered to be proper policy in that case.<sup>21</sup>

The attraction for the unionists of this situation was that while it might not have wanted a devolved government, once given the power this was exercised ruthlessly when required against its perceived enemies. The dilemma for the British government was that while it might not have welcomed this behaviour, it was not prepared to act against the unionists. For forty five years the Northern Ireland government was permitted to function as a autonomous region within the British state, utilising resources, particularly military and judicial, which would not have been acceptable elsewhere in the United Kingdom. Time and again during that period British governments were faced with the same choice:

*"the imperial government could do little to supervise the conduct of government in Northern Ireland. This incapacity was partly self-induced, arising from an unwillingness to become once more directly involved in Irish affairs and from a respect for the sovereignty of parliaments. But it was also, and very largely, based upon an appreciation of political realities. The plain fact was that there was no*

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Partition and the Catholic Minority in Northern Ireland 1890-1940, Ulster Historical Foundation, Belfast 1994

<sup>21</sup> Patrick Buckland, *The Factory of Grievances Devolved Government in Northern Ireland 1921-39*, Gill and Macmillan, Dublin 1979, D W Miller, *Queen's Rebels*, Gill and Macmillan, Dublin 1978

*alternative government to call upon in Northern Ireland should the unionists resign in protest against the exercise of Westminster's sovereignty.*<sup>22</sup>

Once the British government accepted the unionists' right to self-government within the Six counties, their choices were limited. However, they were not as powerless as this might imply. An assertion of authority on questions relating to policing, electoral mismanagement and civil rights would have made a significant difference to political outcomes in Northern Ireland and might have enhanced the legitimacy of the British government among the nationalist minority. In a sense, Northern Ireland only operated as a state while Westminster permitted it to do so. That it did, in the way it did, was a result of the British government's unwillingness to become directly involved in the management of ethnic conflict.<sup>23</sup>

The management of ethnic conflict by Imperial powers is notoriously difficult, and the British experience in Northern Ireland is no different in this respect than was to be the case subsequently in India, Palestine or Cyprus. The unique feature of Northern Ireland was that a majority in that region wanted to remain in the United Kingdom. However, the difficulty arose with the minority in Northern Ireland which not only refused to accept the legitimacy of partition and the Northern government, but was supported, alternatively passively and actively, by successive Irish governments. The behaviour of the Northern Government may have alienated northern nationalists, but the behaviour of Irish Free State governments reinforced the nationalists hostility to unionism and enhanced the fears of the unionists.<sup>24</sup> At first the government of the Irish Free State did attempt to develop more cordial relations with the Northern government, but after 1932 with the election of a Fianna Fáil government this process ended.<sup>25</sup> The new government blamed the British government for partition and believed it was incumbent on Britain to resolve the problem. While it was never clear what steps the Fianna Fáil administration thought the British could pursue to achieve Irish unity, its public statements and its increasingly nationalistic legislation further divided north and south. In these circumstances the

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<sup>22</sup> Buckland, *The Factory of Grievances*, p 275; Follis, *A State Under Siege*

<sup>23</sup> Brian Girvin, *National identity and conflict in Northern Ireland*, in Brian Girvin and Roland Sturm (eds), *Politics and Society in Contemporary Ireland*, Gower, Aldershot 1986, pp.105-134

<sup>24</sup> Dennis Kennedy, *The Widening Gulf: Northern Attitudes to the Independent Irish State 1919-49*, The Blackstaff Press, Belfast 1988, pp.133-240.

<sup>25</sup> David Harkness, *The Restless Dominion*; Kennedy, *The Widening Gulf*.

British government, given its policy of inaction in Northern Ireland, could do little. When in 1937 the Irish government introduced a new constitution which replaced the one imposed by the British in 1922, the British authorities could complain but do very little else. For the future the 1937 constitution is of importance as it institutionalised the nationalist claim over Northern Ireland in Articles two and three of the new document:

*"Article 2*

*The National territory consists of the whole island of Ireland, its islands and the territorial seas.*

*Article 3*

*Pending the re-integration of the national territory, and without prejudice to the right of the parliament and government established by this constitution to exercise jurisdiction over the whole of that territory, the laws enacted by the parliament shall have the like area and extend to application as the laws of Saorstát Éireann and the like extra-territorial effect."*

The British government complained about the claim implicit in these articles, but chose to ignore the demand contained in them. In 1938 during the negotiation of the Anglo-Irish Trade Agreements, the Irish government returned to the question of partition. De Valera argued that without an agreement on partition the talks would fail. In response to this Chamberlain insisted that "the suspicion that the United Kingdom desired the disunity of Ireland was a profound delusion", adding that:

*"the government of the United Kingdom had no desire to prevent in any way a free and voluntary agreement between the two Irish Governments on the subject if such an agreement could be reached".*

The Dominions Secretary, Malcolm McDonald, argued with de Valera that the partition of Ireland would not be changed even if the British withdrew all subsidies from the North. Interestingly, Chamberlain suggested that a transfer of population in border areas might help, but this was not pursued by the Irish government.<sup>26</sup>

One of the ironies of the policy of appeasement is that it was most successful in respect of the Irish Free State in 1938. Concern over the threat of a European war prompted Chamberlain to make considerable concessions to de Valera, in-

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<sup>26</sup> National Archives Dublin, Department of the Taoiseach: S.10389, Annex: Transfer of Ports, Finance and Trade Agreements, Conference in London, minutes of meeting 17th January 1938.

cluding returning naval ports to the Irish. As a consequence of these agreements, the North took on a more strategic importance than heretofore. This certainly increased the negotiating power of the Northern government, but even this had limits. When Britain announced its intention to introduce conscription in 1939, the Irish government successfully pressurised it not to include Irish people in Britain and to exclude Northern Ireland. Although Northern Ireland remained part of the United Kingdom, and its government wished to play a part in the war against Nazi Germany, the British government continued to treat it as a separate entity within the state. This can be best appreciated in 1940 when the British government offered to secure a united Ireland in return for Irish participation in the war effort. While de Valera rejected the offer, and there is considerable doubt concerning the ability of the British government to enforce its offer, it is clear that the Northern government were seriously concerned that a British government under pressure was prepared to reconsider its relationship with the devolved government in Belfast.<sup>27</sup> While the nature of this "offer" remains open to debate, the evidence suggests that British governments at various times were considering reopening the issue of Northern Ireland's status if that was required by the interest of the state.

Irish neutrality during the Second World War alienated British opinion from the nationalists during the post war years. At the same time the North entered a period of uncertainty with the election of a Labour Party government in 1945. The Labour Party remained committed to a united Ireland and had a well organised pro-unity lobby on the back benches. Sir Basil Brooke, the Northern Prime Minister, was certainly concerned about the political changes in Westminster, believing that a socialist regime would not have much sympathy with the pro-conservative unionist government in Belfast. A Dominions Office report in 1945 was critical of the 'religious persecution' in Northern Ireland, while in 1947 during the Commons debate on the Northern Ireland Bill there was considerable criticism of the unionists' record in respect of civil rights. Yet, as Brian Barton points out, Irish issues had a fairly low priority for the Labour government, the main focus of legislation was on economic and welfare legislation. Indeed the Northern Ireland Bill itself was introduced to provide for the extension of British welfare and economic legislation to the North. In addition, the active participation of the North in the war effort persuaded many, including Attlee, that the unionists were part of the British political system and should be treated as such. This, in fact, was to be the relationship between Northern Ireland and Westminster until the mid 1960s.

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<sup>27</sup> J. J. Lee, *Ireland 1912-1985: Politics and Society*, Cambridge University Press, Cambridge 1989, pp.248-251.

The one direct involvement by the British government in Northern Ireland during this period was to secure the area as a part of the United Kingdom. This was a consequence of the decision by the Dublin government to declare a Republic and to leave the Commonwealth in 1949. There were a number of responses to this. The unionist government called an election in the face of what it considered to be a threat to its integrity and won an impressive victory on the partition issue. The British government introduced legislation to regularise the position between it and the new Republic. The Ireland Act, 1949 declared that though Eire was no longer part of the Dominions neither was it "a foreign country for the purposes of any law in force in any part of the United Kingdom or in any colony, protectorate or United Kingdom trust territory" The Act also committed the British government to maintain the link between the North and the rest of the United Kingdom on the following terms:

*"1. (2) It is hereby declared that Northern Ireland remains part of His Majesty's dominions and of the United Kingdom and it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland."*

The preamble to the Act had made it categorically clear that the intention of this clause was "to declare and affirm the constitutional position and the territorial integrity of Northern Ireland" This is the direct source of the complaint by nationalists that the unionists have a veto over the future. Although most of the Act concerned the Irish Republic, and indeed conceded a considerable amount to the state, it was these two elements of the Act which drew criticism from Dublin. This led to the formation of an all-party Anti-Partition campaign, the revival of the IRA, and perhaps also the IRA border campaign during the 1950s. During the furious exchanges which continued throughout the late 1940s and early 1950s the British government insisted that the Dublin government had no cause to complain about the British position in Northern Ireland nor did they have any privileged role to play in the region.<sup>28</sup>

Little changed between 1949 and 1966 by which time the Civil Rights movement had emerged in Northern Ireland. Attempts at reconciliation between Dublin and Belfast during the 1960s were warmly welcomed in London in the belief that closer relations between the two parts of the island would bring about accommodation. The proposed entry to the Common Market by the Irish Republic

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<sup>28</sup> Dermot Keogh, *Twentieth-Century Ireland: Nation and State*, Gill and Macmillan, Dublin 1994, pp.185-213 for a discussion of this relationship.

and the United Kingdom reinforced the belief that the border and partition might in time cease to be a dividing line between the two parts of Ireland. The initiatives however rested on rather fragile foundations. It remained an arrangement between elites which did not have deep roots on either side of the border. Polarisation between the two communities in Northern Ireland continued to be the main experience for the vast majority of people. The year 1966 is important in that it contributed to the revival of a more fundamentalist attitude on both sides of the border. The positions taken then and during the next two years did much to negate all the positive work by the two governments and by 1969 there was an effective return to polarisation.

#### NATIONAL IDENTITY AND RELIGIOUS POLARISATION IN NORTHERN IRELAND

The polarisation since 1969 is not new and its presence has frequently undermined British attempts to introduce change into the region. In contrast to Scotland or Wales, Northern Ireland remains a deeply divided society along ethno-religious lines. Whereas in Scotland and Wales, a majority in favour of devolution and new institutional arrangements will be respected by the minority no such assurances can be given in Northern Ireland. The divisions are real and deep rooted in the historical antagonism between two peoples with distinct world views. That both groups are Christian has often caused comment and condemnation, yet the failure to reach accommodation and agreement in Northern Ireland has everything to do with religious difference. Religion in Northern Ireland has been the template of difference for three hundred years and the institutionalisation of these differences within Northern Ireland after 1920 simply entrained them deeper than ever. In this sense Northern Ireland can be compared with former Yugoslavia and the Indian sub-continent where the existence of an external force restrained the conflicting groups, but once political power was removed from the state and majority rule becomes the norm for decision making, those in a minority assert their independent and separate identity.<sup>29</sup> Comparisons with consociational democracies, such as the Netherlands or Austria, are mistaken in Northern Ireland. A more accurate comparisons can be made with Sri Lanka or the Lebanon where such arrangements failed to secure the necessary accommodation. In one, inter-communal conflict and secession becomes the norm; in the other it is only the imposition of Syrian state power which leads to a settlement of the conflicts between the different components. This is not to claim that change is impossible in Northern Ireland,

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<sup>29</sup> Cyprus is another example which might be compared with Northern Ireland. I am grateful to Andrew Adonis for drawing my attention to this.



but it is to claim that when national identity is central to the conflict and especially when it is expressed in religious terms the likelihood of a 'solution' is much more unlikely. National identity in the Netherlands has not been in doubt and this provided the basis for a consociational solution; this condition is simply not available in the case of Northern Ireland, indeed it is at the heart of the problem.<sup>30</sup>

By the time that renewed violence broke out in 1968-69, little had changed in Northern Ireland in formal terms. At the constitutional level the British government maintained its guarantees, but retained the right to ultimate sovereignty as it was to do in 1969 and again more emphatically in 1972. Successive Irish governments maintained the view that the only solution was a united Ireland. The revival of the IRA was not just a reflection of the polarisation of the two communities after 1968, but it was also the traditional response to inter-communal violence in Northern Ireland. Irish nationalists had been effectively excluded from political influence in Northern Ireland, partly due to their own reluctance to legitimise the unionist state but also due to the conscious strategy of the unionists. Although an equilibrium was achieved between 1922 and 1966, it was one which remained unstable. The two communities remained polarised throughout this period. For the most part nationalists and unionists found themselves on opposite sides on virtually all the major political issues during the twentieth century and this reinforced both the confrontation with one another and the degree each side did not communicate with the other. This process continues up to the present day, as can be seen in the response to the Falklands war.<sup>31</sup>

Voting patterns reflect this polarisation. Despite the introduction of proportional representation, there is little evidence that nationalists or unionists are likely to transfer votes to the other camp. Support for virtually all the political parties is based on ethno-religious identity. Very few Catholics vote for unionist parties (0-1 per cent), and the same pattern is evident among Protestants in respect of nationalist parties. Only the Alliance party receives support from both Catholics and Protestants, but its vote normally does not exceed 10 per cent. Likewise on many major political issues unionists and nationalists display quite different attitudes. Most unionists favour the death penalty, whereas nationalists oppose it. When the IRA ceased violence 92 per cent of Protestants believed that Sinn Fein should not be allowed to enter into political dialogue until the IRA had handed over its weapons, the comparable figure for Catholics was 46 per cent with 37 per cent maintaining that this would not be necessary. When asked whether the Irish govern-

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<sup>30</sup> Girvin, *National Identity and Conflict in Northern Ireland*.

<sup>31</sup> Girvin, *National Identity and Conflict in Northern Ireland*, pp.116-117; Richard Rose, *Governing Without Consensus*, Faber and Faber, London 1971, p.334.

ment should have a say in the affairs of Northern Ireland, 70 per cent of Catholics agreed with this notion while 82 per cent of Protestants disagreed.<sup>32</sup>

A December 1993 poll, taken after the Joint Declaration between the two governments, further highlights the differences between the two communities. When asked how they would vote in a referendum on the future status of Northern Ireland the breakdown reinforces the distance between the two communities. The overwhelming majority of Protestant voters wish to remain in the United Kingdom (over 90 per cent); in contrast 52 per cent of catholic voters support a united Ireland, but 28 per cent wish to remain in the United Kingdom.<sup>33</sup> This evidence suggest that whatever changes have taken place between the two sovereign governments there has been remarkably little change in the disposition of opinion on the constitutional issue in Northern Ireland. Some writers have objected to this pessimistic approach on the grounds that there are significant differences between the political parties and "ordinary" public opinion. The premise of this view is that there is an untapped 'non-sectarian' sentiment available across the communities which the political parties are subverting. The evidence that we have suggests that Rose's observation that both communities are socialised into violence and polarisation still holds. In fact, recent research suggests that segregation of the two communities has accelerated since 1969, especially in urban areas. For the most part the communities do not meet socially and spend most of their time within their own 'pillar' but without the benefits of consociationalism. What may be in place in Northern Ireland is pillarisation without consociationalism.<sup>34</sup>

This is closely linked to the different sense of identity held by the communities, and everything rests on this. Because identity is so divided within the region, it may be unlike other regions of the United Kingdom where similar tensions do not appear. The complex nature of identity in Northern Ireland is closely linked to the data presented above. In 1994 71 per cent of Protestants considered themselves to be British, 3 per cent Irish, 11 per cent Ulster and 15 per cent Northern Irish. Among Catholics 62 per cent considered themselves to be Irish, 28 per cent to be Northern Irish and 10 per cent British. The boundaries of identity remain firmly established and may have become more segmented since the late 1960s. In 1968 Protestant identity was more fluid than in 1994, with some 39 per cent considering themselves British, 20 per cent Irish and 32 per cent Ulster. However

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<sup>32</sup> For detail see Data Section, in: *Irish Political Studies* 10 (1995)

<sup>33</sup> Data Section, in: *Irish Political Studies* 9 (1994), p 225

<sup>34</sup> Rose, *Governing Without Consensus*; Kevin Boyle and Tom Hadden, *Northern Ireland: The Choice*, Penguin, London 1994; Andy Pollak (ed.), *A Citizen's Inquiry: The Opsahl Report on Northern Ireland*, Lilliput Press, Dublin 1993.

once unionist identity was challenged there is a reassertion of Britishness on the part of the Protestant community, an identification which has remained fairly solid ever since. On the basis of this evidence, Gallagher has argued that there are three nations in Ireland (or alternatively two nations and a part of another one). Different interpretations are possible, but nevertheless polarisation remains deep and most importantly is closely associated with different senses of identity.<sup>35</sup>

The rather pessimistic conclusion is that little has changed in Northern Ireland. Despite the violence, the end of devolved government, the break up of the Unionist Party and the emergence of Sinn Fein as an electoral force of some importance the same cleavages take precedence and people are politically deployed within their own historic ghettos. To date at least the source of the conflict remains deep rooted ethno-religious divisions, which the society reflects and which has remained almost impermeable to change. Why this has been so and the ineffectiveness of reform is discussed in the next section.

#### THE FAILURE OF NORTHERN IRELAND AND BRITISH ATTEMPTS AT REFORM

As a deeply segmented society Northern Ireland is not a problem which British politicians have found easy to deal with. Having ignored the difficulty for forty five years the collapse of the power of the unionist government was not welcome to the Wilson government, more concerned with 'mainland' matters such as industrial relations and welfare issues. Yet the circumstances for British government re-entry into Northern Ireland were aspects of a wider breakdown of public order and a challenge to political legitimacy during the late 1960s and early 1970s. The first stage of this response was to maintain the unionist government in place but to insist on a number of reforms which, it was believed, would undercut the unrest and allow for a return to 'normality' The entry of British troops into Northern Ireland in 1969, the decision to disband the para-military B. Specials and the reorganisation of the Royal Ulster Constabulary were all parts of this process. Nor did the change of government in 1970 alter this approach. The Heath government maintained the view that what was required was continuing reform of institutions and close co-operation with the Northern government. However, this failed for a number of reasons. In the first place ethnic conflicts in deeply segmented societies are always difficult to control, especially by outsiders. In addition the British army in the North was not seen as neutral by either side and the organisation of the Pro-

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<sup>35</sup> Karen Trew, National Identity, in: Richard Breen, Paula Devine and Lizanne Dowds (eds), *Social Attitudes in Northern Ireland: The Fifth Report 1995-1996*, Appletree Press, Belfast 1996, pp.140-152; Michael Gallagher, How Many Nations Are There in Ireland?, in: *Ethnic and Racial Studies* 18/4 (1995), pp 715-739.

visional IRA increased the perception of the army as partisan. The unionist party was in crisis and its government could not be depended upon by any British government for it was also partisan and seen to be so by a significant portion of the nationalist population.

The introduction of internment by the British in 1971 on the advice of the unionist government highlighted the failure of Unionism in this context. It did not recognise that the British government was not especially sympathetic to Unionism and the failure of internment as a policy undermined further the legitimacy of the unionist government in the eyes of British policy makers. By 1972 radical action was required and in the Northern Ireland (Temporary Provisions) Act of 1972 devolved government ended and direct rule by the British government introduced. The legislation may have been originally conceived as temporary, but despite every effort on the part of successive British governments it has proved impossible to generate a set of institutions in Northern Ireland which would command enough support to justify a return to devolved government. In this context, Northern Ireland provides an interesting example of the failure of reform in the face of ethnic segmentation and political polarisation. In general terms three approaches have been attempted in respect of Northern Ireland by British governments. The first of these is the legal/administrative approach. The approach here is to create new institutions and legal frameworks with the objective of establishing a framework within which "progress" can occur. The weakness of this approach is that "progress" is not always clearly defined, or if it is agreement cannot be secured for its objectives. The second method is to seek agreement among the political parties in Northern Ireland through all-party talks and then to establish the administrative means to facilitate this. To date all-party talks and consociational arrangements have all failed because agreement has always proved elusive. The third approach is inter-governmental and this has proved the most successful in terms of establishing new frameworks, but in the absence of all-party agreement within Northern Ireland there are limits to this strategy.

It is not the purpose of this chapter to review in detail the failed attempts at reform in Northern Ireland, but it is important to illustrate some of the examples to highlight why it has proved so difficult to achieve agreements. The Sunningdale Agreement of December 1973 was based on the assumption that power sharing between the communities, a constitutional guarantee for the unionists and a Council of Ireland for the nationalists would provide the means to secure support for new institutions and structures. It was an unprecedented move and at first seemed likely to succeed. Yet, at its heart, the initiative was flawed. Brian Faulkner, the leader of the Unionist Party, believed that a Council of Ireland would destabilise unionist opinion and in this he was correct. By February 1974 a majority of union-

ist opinion in Northern Ireland had demonstrated electorally its opposition to the power sharing government. The nationalist view was that this should be ignored but the British government was also under pressures from instability in Britain and were reluctant to use force. The Ulster Workers Strike in May 1974 brought down the power sharing executive and led to an escalation of the conflict and further polarisation. Subsequent attempts to return power to Northern Ireland either through the Northern Ireland Convention of 1975 (dissolved in March 1976), or Rolling Devolution and the Northern Ireland Assembly in 1982 failed in their intended purpose. Whether the various initiatives associated with Peter Brooke and Sir Patrick Mayhew during the 1990s will fare any better remains an open question at this time.

When the British government has not had to take direct account of the political parties in Northern Ireland, its initiatives have been far more successful. Most legislation for Northern Ireland is a result of Orders in Council and for the most part Northern Irish legislation is not scrutinised in Westminster in the same way as British legislation is. This has allowed for considerable flexibility in respect of Direct Rule. There have been significant advances in the introduction of anti-discrimination legislation to Northern Ireland. The Fair Employment (Northern Ireland) Act of 1976 and its 1989 successor Act provided extensive powers for the Fair Employment Agency to investigate and prosecute discrimination on the grounds of religious and political opinion. The 1989 Act has been described as "the toughest and most extensive anti-discrimination measure passed by parliament", and "is among a number of social, economic and political initiatives directed since the mid-1980s at the roots of conflict in the province."<sup>36</sup> In these and other matters Direct Rule has had an important impact on the socio-political environment in Northern Ireland. Yet few enough of these changes have affected the polarisation of the communities or the political parties. For example the decision to establish a Northern Ireland Affairs Select Committee in 1993 was opposed by the Labour Party and by the Social Democratic and Labour Party (SDLP) on the grounds that it was a trade off between the unionists and the British government for the former's support of the Conservative party in the Maastricht vote in 1993. Yet in 1990 and again in 1993 the all-party Procedure Committee had recommended the establishment of a select committee for Northern Ireland on the

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<sup>36</sup> Richard Jay and Rick Wilford, *An End to Discrimination? The Northern Ireland Fair Employment Act of 1989*, in: *Irish Political Studies* 6 (1991), pp.15-36; other examples of measures noted by the authors are the repeal of Flags and Emblems (Northern Ireland) Act; the Education Order (1989); the establishment of the Central Community Relations Unit within the Northern Ireland Office (1987); and the Community Relations Council (1989)

grounds that in the context of the United Kingdom its isolation in this respect was anomalous in comparison with Wales and Scotland. The Select Committee has the same responsibilities and powers as other committees and in that sense places Northern Ireland in the same relationship to Westminster as other regions of the United Kingdom. The real objection to the Select Committee is based on nationalist opposition to any action which would integrate Northern Ireland further into the United Kingdom.<sup>37</sup> The other impact of Northern Ireland on the British political system has been the continuing refusal of parties organised in Britain to extend membership to Northern Ireland. The Labour Party has consistently refused to do so, but in a successful campaign against the leadership grass roots conservatives succeeded in persuading the 1989 party conference to support party organisation in Northern Ireland.<sup>38</sup>

There has also been a significant shift in British policy since the election of Margaret Thatcher in 1979. The paradox here is that a party with a strong unionist tradition and a Prime Minister personally attracted to the integrationist position on Northern Ireland should enter into new and quite important inter-governmental arrangements with an Irish government. There are a number of factors which help to explain this. The most important is Mrs Thatcher's notion of the state. For her the focus of policy was on the state as a whole, of which Northern Ireland is but a part. While she was personally more sympathetic to the unionist case than her Labour predecessors or some of her colleagues, there were limits to this in policy terms. The defence of the realm was more significant by 1985 than maintaining unionist support. This general factor was reinforced by a belief that Britain could reach an accommodation with the Irish government on security issues and on a political framework for progress. Further influences include the successful diplomatic offensive waged by the Irish government especially under the Taoiseach Garret FitzGerald between 1984-85, concern with the electoral success of Sinn Fein and disillusionment with the actions of unionism.<sup>39</sup> This recognition that inter-governmental arrangements could deliver a measure of co-operation had been

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<sup>37</sup> Rick Wilford and Sydney Elliott, *The Northern Ireland Affairs Select Committee*, in: *Irish Political Studies* 10 (1995), pp.216-224.

<sup>38</sup> Arthur Aughey, *Conservative Party Policy and Northern Ireland*, in: Brian Barton and Patrick J. Roche (eds), *The Northern Ireland Question: Perspective and Policies*, Avebury, Aldershot 1994, pp.121-150.

<sup>39</sup> Garret FitzGerald, *All in a Life*, Gill and Macmillan, London 1991, Brian Girvin, *The Anglo-Irish Agreement 1985*, in: Girvin and Sturm, pp.150-165; Brendan O'Leary, *The Anglo-Irish Agreement: Meanings, Explanations, Results and a Defence*, in: Paul Teague (ed.), *Beyond the Rhetoric: Politics, the Economy and Social Policy in Northern Ireland*, Lawrence and Wishart, London 1987, pp.11-40.

absent during the 1970s, but during the 1980s the basis for widespread agreement was established. In 1981 the two governments set up the Anglo-Irish Inter-Governmental Council with membership drawn from both states. This co-operation did not emerge easily or quickly however. Indeed, the decision by the Irish government to convene the New Ireland Forum as a nationalist response to the electoral rise of Sinn Fein was independent of relations with Britain. Furthermore, Mrs Thatcher openly rejected the findings of the Forum in 1984 on the grounds that none of them were acceptable to her notions of sovereignty. Despite this, the institutional work was already in place before this for a change in policy. This was implicit in the Northern Ireland Act of 1982 and more especially in the 1982 White Paper Northern Ireland: A Framework for Devolution as part of James Prior's rolling devolution strategy. Though Prior was replaced by Douglas Hurd as Secretary of State in August 1984, the contours of policy were in place and maintained by him through to the Anglo-Irish Agreement in 1985. Prior's intention between 1982 and 1984 was to create a momentum for negotiations between the parties in Northern Ireland in the hope that co-operation would be facilitated. He also recognised that an Irish dimension was also required to make co-operation work. The failure of this approach to create the conditions for internal agreement persuaded Thatcher that an inter-governmental approach might improve the security position and isolate Sinn Fein.<sup>40</sup>

The Anglo-Irish Agreement never delivered what Mrs Thatcher and the British government hoped it would. In part this was a result of the two governments having very different objectives in the matter. For Dublin the agreement was only in part about security, it was primarily about guaranteeing the Irish government's position in Northern Ireland. In this the Agreement delivered far more to the Irish government and the SDLP than to the British government or the unionists. While it is correct to claim that British sovereignty was not breached in the Agreement, the establishment of the Inter-Governmental Conference and its secretariat (Article 2 (b)) gave the Irish government a significantly enhanced role within Northern Ireland and more importantly over the British administration of direct rule.<sup>41</sup> For the SDLP, in particular, the agreement was a vehicle for achieving a united Ireland, a view endorsed as a 'constitutional imperative' by the Irish Supreme Court in

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<sup>40</sup> Compare FitzGerald, *All in a Life with Margaret Thatcher*, The Downing Street Years, Harper-Collins, London 1993 for the different emphasis of the two leaders

<sup>41</sup> Brian Girvin, *Constitutional Nationalism and Northern Ireland*, in: Brian Barton and J. Roche (eds), *The Northern Question: Perspectives and Policies*, Avebury, Aldershot 1994, pp.5-53; Brendan O'Leary and John McGarry, *The Politics of Antagonism: Understanding Northern Ireland*, Athlone Press, London 1993, pp 220-276.

1990.<sup>42</sup> For the unionists the Agreement widened the gap between them and the British government and alienated them from the political and negotiating process until the mid 1990s. Although the British government did not achieve its aims, the Agreement continued in place on the grounds that it would facilitate negotiations between the two states and, perhaps, offer a bargaining chip to unionists in the event of movement on an internal settlement. The extent of British disquiet can be appreciated in Ken Hind's attack on the Irish government for its failure to deliver on the security aspects of the Agreement, pointing out that violence was at much higher level in 1991 than in 1985.<sup>43</sup>

Peter Brooke's appointment as Secretary of State in July 1989 generated new momentum in the Northern process. Although the Anglo-Irish Agreement remained in place, there was an effective stalemate in the process. In introducing the 'three strand' approach to the North, Brooke hoped to bring about movement which would allow all the parties to co-operate. While he was anxious to include the unionists in this process, his most significant contribution was his insistence that a British government would accept Irish unity if it was consensual and that there was a place at the negotiations for the Republican movement if it eschewed violence. This was a view which had been promoted with some vigour by the leader of the SDLP, John Hume.<sup>44</sup> Brooke's successor, Sir Patrick Mayhew, continued this approach. The tone and substance of his politics were subtly different from Brooke's. In July 1992 he openly and contemptuously condemned the behaviour of Orange marchers, an uncharacteristic attack by a British minister on a central symbol of Unionism. More importantly, in September 1992 he tabled a paper during the talks process which advocated the need for an "agreed Ireland", the desirability of north/south institutions while recommending the establishment of an Irish government office in Belfast and a Northern Ireland office in Dublin. While this paper was withdrawn under unionist pressure, the change in emphasis in British policy and intentions was widely noted. Furthermore in a speech in Coleraine in December 1992, Mayhew appealed to Sinn Fein to renounce violence and to enter the negotiations. He insisted that the government's role was of a "facilitator" in any ne-

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<sup>42</sup> *McGimpsey v Ireland* Irish Law Reports, Incorporated Council of Law Reporting for Ireland, Dublin 1990, pp.110-125

<sup>43</sup> Ken Hind was the Parliamentary Private Secretary to Peter Brooke, Irish Times 4th December 1991; for discussion Aughey, Conservative Party Policy, John Wilson Foster (ed), *The Idea of the Union: Statements and Critiques in support of the Union of Great Britain and Northern Ireland*, Belcouver Press, Vancouver 1995 for a representative sample of opinion from the unionist perspective.

<sup>44</sup> Paul Arthur, *The Brooke Initiative*, in *Irish Political Studies* 7 (1992), pp.111-115



gotiations, implying that the government was neutral as to outcome. This speech takes on greater importance when it was later revealed that Sinn Fein had a preview of its content as early as October.<sup>45</sup> In response to unionist criticism of his role as Secretary of State Mayhew was at pains to insist that the government was not adopting joint rule with Dublin as an objective. In a speech in April 1993 Mayhew maintained that the *status quo* would be upheld by the government, while adding an interesting 'but':

*"there is no prospect of an agreement precluding a politically united Ireland if, at some future date, the public's view should change. The key to the whole issue is public opinion in Northern Ireland, which would be decisive."*<sup>46</sup>

This speech might be open to a number of interpretations, but the intention was to register the British government's commitment to open ended negotiations on the future of the North.

This movement in British attitudes has to be placed in a wider perspective. Irish opinion had also moved considerably since the Anglo-Irish Agreement. The Irish Minister for Foreign Affairs, Dick Spring, announced Six Principles upon which his government believed progress could be made. Although general in form, their content was important as they included a commitment to accept the right of unionists to withhold consent to a united Ireland.<sup>47</sup> In November 1993 it was announced that Sinn Fein and the British government had been in communication in an attempt to secure an end to violence. According to the British a genuine end to violence, "whether or not that fact had been announced" would lead to dialogue. Government policy on this issue was outlined in detail in a letter dated March 19th 1993:

*"the British government has no desire to inhibit or impede legitimate constitutional expression of any political opinion, or any input to the political process, and wants to see included in this process all main parties which have sufficiently shown they genuinely do not espouse violence. It has no blueprint. It wants an agreed accommodation, not an imposed settlement, arrived at through an inclusive process in which the parties are free agents."*

While the British government would not enter the negotiations with a commitment to the "ending of partition":

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<sup>45</sup> Paul Arthur, *The Mayhew Talks*, in: *Irish Political Studies* 8 (1993), pp. 138-143.

<sup>46</sup> *Irish Times*, 24th April 1993.

<sup>47</sup> *Irish Times*, 29th October 1993.

*"Should this [a united Ireland] be the eventual outcome of a peaceful democratic process, the British government would bring forward legislation to implement the will of the people here. But unless the people of Northern Ireland come to express such a view, the British government will continue to uphold the union, seeking to ensure the good governance of Northern Ireland, (...)."48*

The Downing Street Declaration, agreed on the 15th of December 1993, advanced the inter-governmental process further. The general intention of the Declaration was to provide the means for the IRA to end its campaign of violence and to lay the basis for all party discussions. The detail of the Declaration has been discussed elsewhere, but the British government in paragraph 4 maintained the views outlined in the exchange with the IRA earlier in the year and:

*"reiterated, on behalf of the British government, that they have no selfish strategic or economic interest in Northern Ireland. Their primary interest is to see peace, stability and reconciliation established by agreement among all the people who inhabit the island, and they will work together with the Irish Government to achieve such an agreement, which will embrace the totality of relationships. The role of the British government will be to encourage, facilitate and enable the achievement of such agreement over a period through a process of dialogue and co-operation based on full respect for the rights and identities of both traditions in Ireland."*

One conclusion which might be drawn from these commitments is that the British government has accepted the rubric of the Irish government in presenting its case on Northern Ireland. There is a token insistence that the constitutional status of Northern Ireland will be accepted, but this is not framed in the language of unionism which one finds in Conservative party policy on Scotland or Wales. In this important sense Northern Ireland remains outside the Union for Conservative policy makers. It is a passive rather than an active support for the Union.<sup>49</sup>

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<sup>48</sup> The documents exchanged were published in Irish Times, 30th November 1993; Paul Arthur, *Dialogue Between Sinn Féin and the British Government*, in: *Irish Political Studies* 10 (1995), pp.185-191.

<sup>49</sup> See also the speech by Sir Patrick Mayhew to the Birmingham University Debating Society on 23rd February 1994 when he cites paragraph 4, and then glosses it to illustrate Britain's neutrality in the process; for the strong Unionist case within the United Kingdom see John Major's speech in Glasgow on 22nd February 1992 which clearly included Northern Ireland as part of his unionism, and Peter Brooke's later remarks which restricted the unionism to Britain. Aughey, *Conservative Party Policy*, pp.143-144.

The Declaration was successful in achieving one of its aims. Despite the IRA's rejection of the Declaration, it came under serious pressure to call a cease-fire. This was achieved on the 31st of August 1994, preparing the ground for further negotiations. On the 22nd of February 1995 the two governments agreed to a Joint Declaration, comprising two documents. The first of these, The New Framework for Agreement, outlines in detail the commitments of the two governments on agreed matters, especially constitutional. The second, A Framework for accountable government in Northern Ireland, presents the position of the British government on how local accountability might be returned to Northern Ireland and the conditions for achieving this. According to the British government any new set of institutions would have to be based on democratic principles, but would not be simply majoritarian on the grounds that any institution would have to provide "an appropriate and equitable role for both sides of the community, such that the main parts of the Northern Ireland community should be able to identify with them and feel their representatives have a meaningful function to perform" Of considerable importance is the belief that a stable and durable outcome could not be "dependent on a particular election result or political deal. The system should, so far as possible be self-sustaining." Developments would have to achieve widespread agreement and polarisation would have to be avoided. The commitment to consociational arrangements is serious and deep. Institutions created under these circumstances would have to:

*"provide all the constitutional parties with the opportunity to achieve a role at each level of responsibility, and to have a position proportional to their electoral strength in broad terms"*

In effect, the government accepted that the Westminster model simply does not apply in deeply segmented societies and the various possible arrangements suggested reflect this reality in detail. An Assembly with 90 members would be established alongside an Executive with specific powers for devolved government in Northern Ireland. Elections would be on the basis of proportional representation while a separate Panel would also be elected of three people to complement the working of the Assembly. Assembly Committees would reflect the strength of the parties in the Assembly. Detailed checks and balances would be introduced, including weighted majority voting in the Committees in the region of 65 to 70 per cent. While many matters would be transferred to the new Assembly and Executive (the government seems to have the 1973 power sharing model in mind), law and order and raising public expenditure would remain in the hands of the Secretary of State. The document also outlines the governments' recognition of the equality of both political traditions in Northern Ireland, recognising in particular the nationalist right to work for a united Ireland. Annex B, An outline of a Com-

prehensive Settlement, draws together the main elements of the proposals discussed above. New North/South bodies would be established and it is envisaged that the relationship at the administrative level would be denser than that of the Anglo-Irish Agreement. This would require the latter to be replaced by a new agreement between the two Governments to reflect the changing circumstances.<sup>50</sup>

The Downing Street Declaration and the Framework documents provides the foundations for a renewed drive to 'solve' the Northern Ireland problem. They have also established a consensus upon which the two governments have agreed to work. This consensus has been extended by Tony Blair and the Labour Party which now adopts a fairly consistent bi-partisan approach to Ireland. Blair has also de-emphasised the party's commitment to Irish unity, adopting the government's role as facilitator rather than persuader. This pragmatism has alienated some sections of the party but is an indication that Labour policy on Northern Ireland will not differ appreciably from that of the present government.<sup>51</sup> Consequently the groundwork for change has been established yet they were more insecure than at first thought. While nationalist politicians insisted that the IRA would not return to violence, British and unionist politicians wanted greater proof and John Major in particular maintained that an indication that the IRA would de-commission arms was required. This was not forthcoming during 1995 and the situation gradually deteriorated. Despite the cease-fire polarisation between the communities continued, especially during the Orange marching season in 1995. A proposed summit between the two Prime Ministers collapsed in September 1995, leading to a crisis in Anglo-Irish relations. The report of the Mitchell Commission on de-commissioning in January 1996 did not resolve the situation. John Major's response to it was considered inadequate by nationalists and his call for elections was at first rejected by the nationalist parties. The IRA response to this was to resume its campaign of violence in February, actions which were fairly widely condemned but with different nuances.

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<sup>50</sup> A New Framework for Agreement: A Shared Understanding Between the British and Irish Governments to Assist Discussion and Negotiation Involving the Northern Ireland Parties, Stationary Office, Dublin 1995; A Framework For Accountable Government in Northern Ireland, Stationary Office, Dublin 1995. While this chapter has discussed in detail the latter document the reader should also be aware of the importance of the former joint document and the commitments contained therein. For a reading of the two documents together see Brendan O'Leary, *Afterward: What is framed in the Framework Documents?*, in *Ethnic and Racial Studies* 18/4 (1995), pp.862-872.

<sup>51</sup> See interview with Tony Blair in *Irish Times*, 4th September 1995.

## THE PROSPECTS FOR REFORM IN A POLARISED REGION

The end of the IRA cease-fire prompted responses which were entirely predictable and based on ethnic identity. Nationalists blamed the British rather than the IRA, while unionists believed their position had been vindicated.<sup>52</sup> The two governments quickly responded and after an Anglo-Irish Summit on the 28th of February agreed to a strict timetable to re-establish negotiations. This involved intensive consultations with the political parties, but if no agreement could be reached an election would be held prior to the beginning of all-party negotiations on the 10th of June 1996. However, the election to the Northern Ireland forum and to all-party negotiations resolved few of the outstanding difficulties. Sinn Fein was excluded from the negotiations because of the failure of the IRA to reinstate its cease-fire. Unionists objected to the proposed appointment of former United States Senator George Mitchell as Chairman of the talks process. Furthermore, the confrontations which became a feature of the Orange Order's 'marching season' in July and August led to serious deterioration of relations between nationalists and unionists by September. As the negotiations opened again on the 9th of September, the prospects for progress were not good.<sup>53</sup>

The British public response to this is one of exasperation. This can be seen in the opinion polls. Around 50 per cent of the British public want troops removed from Northern Ireland, while political independence for the region is the option most favoured by them. In a 1994 Gallup Poll, some 44 per cent of respondents considered events in Northern Ireland to be taking place in another country.<sup>54</sup> In effect, although the British public will not actually expel Northern Ireland from the United Kingdom it has no interest in retaining the region. This is why successive British governments have been able to experiment with Northern Ireland and treat it as a distinct and separate entity within the United Kingdom since 1920, but especially since 1972. As has been argued above the problem in Northern Ireland cannot be construed in reformist terms because the essential ingredients for suc-

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<sup>52</sup> See *Guardian/Irish Times*, 28th February 1996 for results of opinion poll in Britain, Northern Ireland and the Republic of Ireland for the startling contrast in apportioning blame

<sup>53</sup> This can be appreciated from a number of features in the *Irish Times*, 7th September 1996, which included the following headings "Adams describes Catholic boycott over Drumcree as legitimate tactic", "Alliance may quit Forum because of 'play acting'", and "We're not there to be ordered about, says UUP head"

<sup>54</sup> The polls are reported in Bernadette C Hayes and Ian McAllister, *British and Irish public opinion towards the Northern Ireland problem*, in: *Irish Political Studies* 11 (1996), pp.61-82

successful reform are missing. While the institutional structure of the region has been significantly changed this has had little impact on the polarisation between the two communities. What this demonstrates in a British context is that it is possible to reform the institutional, political and legislative environment without these changes affecting the dynamics which led to the decision to introduce reforms. The reason for this is that the basis for agreement to make the reforms work within and between the communities does not exist, nor has it existed at any time since 1920. Thus, it is mistaken to deal with Northern Ireland in the context of the British reform tradition, a more appropriate response is one which accepts that the conflict reflects deeply felt ethno-religious divisions which often manifest themselves in sectarian fashion. Such an approach would allow for Northern Ireland to be placed in a wider framework, but one which begins to assess the real nature of the conflict and the difficulty of dealing with polarised communities. Such a recognition might allow for more radical or innovative responses to the question.<sup>55</sup>

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<sup>55</sup> It is not my intention to pursue these questions here, but the influence of the reform tradition has prevented the two governments from considering repartition for example. This is not the only possible approach which might be taken, but it does highlight the limited policy environment within which the two governments operate.