

F. 078

Forum for Peace and Reconciliation

Discussion Paper

by



The Green Party/Comhaontas Glas

The Nature of the Problem and the Principles underlying its Resolution

"It is precisely because we believe that Opinion, and nothing but Opinion, can effect great permanent changes, that we ought to be careful to keep this most potent force honest, wholesome, fearless and independent."

John Morley: "On Compromise".

Tá an Comhaontas Glas den bharúil go gcaithfidh gach dream sa Tuaisceart meas a thabhairt do gach dream eile, an meas céanna ar mhaith leo a fháil ón dream eile. Is é seo eochair na síochána, agus caithfidh muid, - san Fhóram seo, agus taobh amuigh de, an eochair seo a chasadh.

Caisleán Bhaile Átha Cliath, Eanáir 1995

CONTENTS

SECTION 1 - THE NATURE OF THE PROBLEM

1.1 - THE NATURE OF THE PROBLEM\POLITICAL ANALYSIS

1.2 - T H E N A T U R E O F T H E PROBLEM\HISTORICAL BACKGROUND

SECTION 2 - THE PRINCIPLES UNDERLYING ITS RESOLUTION

2.1 - THE PRINCIPLES

2.2 - THE METHODOLOGY TO GIVE EFFECT TO THE PRINCIPLES

SECTION 1:

THE NATURE OF THE PROBLEM: POLITICAL ANALYSIS

- 1.1 The primary political cause of the current Northern Ireland problem is the absence there of a consensus on the constitutional status, or the governance of the state.
- 1.2 This consensus has been absent at every stage in the development of the state from its inception.
- 1.3 A constitutional consensus is the norm in other democracies, and a prerequisite for any state's claim to democratic status.
- 1.4 The exclusion of the minority, perceived by them as structural and permanent, undermined the legitimacy and stability of the state and led to violent resistance. The forced implementation of a majoritarian form of democracy in these circumstances amounted to institutional violence on the part of the state.
- 1.5 In Northern Ireland those who regarded themselves as Irish Nationalists, who supported Home Rule and who considered themselves as a part of the Irish people as a whole on the island were originally alienated by the violent process of the initial construction of the Northern Ireland State. This dissenting population, who then formed a substantial minority in the new state, were never thereafter encouraged to feel included in it. Their experience was that of second class citizenship. Northern Ireland was no closer to achieving a constitutional consensus by the time of the violent Unionist response to the non-violent Civil Rights campaign in 1969 than it was at its foundation in 1920.
- 1.6 The internal conflict has been exacerbated by two external claims to the sovereignty of the state: the claim by the Government of Britain in the "1920 Government of Ireland Act" , the Treaty of 1921 and the "Ireland Act, 1949", and the de jure claim in the 1937 Free State Constitution.
- 1.7 Both of the communities in confrontation in Northern Ireland were committed to the majority rule "winner takes all" approach to politics, and the state was enmeshed in a deadly zero sum game. Polarisation of both communities was inevitable, and led to widespread abuses and discrimination both on the part of the state and of other agencies.
- 1.8 As a consequence of this, whilst the drafters of laws and of constitutions in Britain and Ireland concentrated upon the creation of institutions which emphasised our differences and difficulties, almost nothing was done to construct institutions which emphasised what we had in common, such as there has been, for instance, for the Benelux countries.

- 1.9 The first decision making process to exacerbate alienation in Northern Ireland was the majority rule system and the prompt abandonment by Unionists of proportional representation in Parliamentary elections (specified in the 1920 Act). Some of those outraged by this process then resorted to an even worse decision-making process i.e the use of intermittent violence, at the cost of many lives. Both of these approaches are of the "win or lose category: both tend to encourage, if not indeed force, people to take sides; and both allow the victor to then dominate the vanquished.

- 1.10 The stability other democracies enjoy derives primarily from the presence within them of a constitutional consensus on the nature of the state and its governance. It follows, as far as a political analysis can go, that the fundamental nature of the problem in Northern Ireland derives from its absence.

1.2

THE NATURE OF THE PROBLEM: HISTORICAL BACKGROUND

- 1.2.1 This conflict has its roots in the centuries of conflict arising out of Gaelic Ireland's resistance to the English annexation of Ireland, and indeed some would argue that historical precedents for it go back much further. Be all that as it may we shall concentrate here upon the events of the present century.
- 1.2.2 The Partition of Ireland and the creation of the separate state of Northern Ireland came about as a result of a deep division within Ireland, a division brought about originally by England's imperialist policies in Ireland. However, this was unacceptable to the Unionist/British community, and a course of armed rebellion to frustrate Home Rule was embarked upon. Under the threat of Unionist violence and in view of the outbreak of the First World War, the Home Rule Act was suspended, and never came into effect.
- 1.2.3 The crude compromise that was the 1921 Treaty, even if the legislation and articles of the Treaty and the Government of Ireland Act had been fully honoured regarding the Boundary Commission, Proportional Representation and a Council of Ireland created in Northern Ireland a state hopelessly devoid of the type of constitutional consensus that underpins the stability of democratic states. For the island as a whole it created two mutually antagonistic states defined in all but name along sectarian lines.
- 1.2.4 This institutionalised divide was detrimental to the development of both states. For the Protestants of the Republic the experience was one of exclusion and decline as their numbers dwindled, whilst their relative economic strength buttressed them from any worse effects. For the proportionally larger Catholic population of Northern Ireland the sense of grievance was greater, not only because of the very significant demographic differences between their situation and the Protestants in the Free State but also because of their sense of betrayal as part of the national majority sacrificed to accommodate what they saw as the national minority. Their sense of alienation was further intensified by their weaker economic position vis á vis the majority population in Northern Ireland.

There are lessons in this for us all when devising systems based upon the "parity of esteem" principle. All need to be mindful when advocating models not to repeat the errors of the past by constructing systems which institutionalise the divide such as happened in Bosnia, contributing towards the outbreak of civil war in that country.

- 1.2.5 The Free State, with its greater level of consensus and the relative economic strength of its minority grew to enjoy a great degree of stability, Nevertheless it must be said it did little if anything during its first fifty years of life to allay Northern Unionists fears that "Home Rule is Rome Rule". On the contrary, from the enactment of the Constitution in 1937, through the Mother and Child debacle in 1951 to the more recent Divorce Referendum it enacted a raft of social legislation reflecting a largely Roman Catholic ethos.
- 1.2.6 The Northern Ireland State, dubbed a "Protestant Parliament for a Protestant people" by its Premier developed into a single party state operating through its own brand of sectarian domination. The resulting experience of the Irish Nationalist, predominantly Roman Catholic population, was one of exclusion and discrimination, generally perceived as tolerated if not indeed initiated by the State itself.
- 1.2.7 Normal politics could not develop in this situation, neither within the institutions of the State nor in society at large. When in the late 1960's the civil rights movement attempted to redress these grievances through non-sectarian and non-violent agitation the response was a pogrom with mob attacks and the burning of hundreds of houses. An historic opportunity to build a consensus was lost, and as Northern Ireland was pulled downward into a violent vortex the civil rights movement all but disappeared and the old conflict, predicated upon the war between Irish separatism and British State in Ireland, was reborn.
- 1.2.8 The deadly and stalemated endgame between the two forces required acts of generosity and trust to alter the political landscape and to give peace a real chance. On September 1 1994 the Republican movement made one such gesture, and following the Loyalist ceasefires an historic opportunity was created to construct in Northern Ireland, in the whole of Ireland, and within these islands, a true political consensus, founded not upon the sovereignty of monarchs, nations nor Governments, but upon the pooled sovereignty of individuals.

2.1

THE PRINCIPLES

- 2.1 **COMPROMISE:** An inclusive settlement that has the support and agreement of all groups, within the Northern Ireland area, within all of Ireland and between all of us on these islands, is the only settlement that will work. It follows that a decision making process that allows for compromise will be critical to that process.
- 2.2 **CONSTITUTIONAL BALANCE:** There is no consensus in Northern Ireland for a united Irish Republic. Equally there is no consensus for a purely internal settlement within the United Kingdom. Somewhere between these extremes there exists the parameters of a consensus. It is important that this reality is reflected in the forthcoming Joint Framework Document and that there are no plans within it for uni-lateral constitutional change either for Ireland or for the United Kingdom, but that both Ireland and the United Kingdom would undertake to accept and legislate for the consensus which emerged in Northern Ireland
- 2.3 **NO COERCION:** The coercion of Unionists into a United Ireland cannot form any part of an agreed settlement and likewise nor can the continued coercion of Northern Nationalists into the United Kingdom.
- 2.4 **CONSENT:** As a matter of practicality no major change in the constitutional status of Northern Ireland can come about without the consensual agreement of its people.
- 2.5 **CONSTITUTIONAL CHANGE:** A new constitutional arrangement will be at the heart of any agreed settlement. It must be based upon the highest degree of consensus arrived at through negotiation and voting with the use of consensual techniques such as the preferendum (see appendix).
- 2.6 **NON-VIOLENCE AND DE-MILITARISATION:** This can only be achieved through a non-violent process, which as well as requiring the ending of paramilitary violence also requires the full de-militarisation of society. In practical terms for Northern Ireland this means the return of all troops to barracks and their subsequent standing down or withdrawal from Northern Ireland. It further requires the normalisation of the judicial process and ultimately the complete de-commissioning of paramilitary weapons and the huge number of legally held firearms. We further perceive the long-term need for local community based police who have the respect of the whole local population and who do not carry arms. Policing methods and organisation should be reviewed to enhance the prospect of cross-community support. Common standards of policing should apply on the model of the 41 constabulary committees in the United Kingdom. In the interim the R.U.C. should immediately cease to carry weapons.

- 2.7 BILL OF RIGHTS: Interim measures will be required to both consolidate the peace and to move the process on. These would include the passing into law of a Bill of Rights and the involvement of international observers of the peace, and particularly of security matters in this interim.
- 2.8 POST-NATIONALIST ANTI-IMPERIALISM: Given Northern Ireland is an area occupied by differing groups of people of differing national allegiances it follows that any agreed polity would both reflect and value this diversity and no longer offer them as mutually exclusive alternatives. As there may be need to give a territorial definition to this reality there must be no bar to Northern Ireland defining itself within a model that goes beyond the limits of the nation state, allowing for models such as joint authority, confederation, cantonisation and federation to be considered.
- 2.9 SEPARATION OF CHURCH AND STATE: The full separation of church and State, i.e. all churches and all States party to the conflict, together with the encouragement of non-denominational and multi-denominational education (without affecting the rights of parents to choose a denominational education for their children), together with the provision of a pluralist school curriculum which values equally all the various cultural strands that make up a society will be an important aspect in any agreed settlement.
- 2.10 PARITY OF ESTEEM: Any political proposals to end the current political conflicts in Northern Ireland should be based, then, not upon victory of any one of the parties to the conflict, but upon a polity which recognises the common dependence of each and the need for each to extend total parity of esteem to each other. It is a challenge, but one which can be overcome, for a system to be devised whereunder individual and joint British/Irish citizenship can be recognised and flourish. It follows that parity of esteem should extend to both the Irish and the English language.

2.2

THE PRINCIPLES UNDERLYING THE METHODOLOGY OF REACHING A SOLUTION

2.2.1 THE CONSTRUCTION OF A CONSENSUS

If the fundamental problem is the absence of a constitutional consensus it follows that the fundamental work of those working towards the resolution of the problem will be the creation of a METHODOLOGY to achieve such a consensus. The methodology proposed by the two Governments involves a series of talks, presumably bilateral at first, between the mandated political parties in the North and the British Government. These would lead to round table talks leading on to all-party talks involving the Irish Government. When all-party agreement is reached concurrent referenda would be held in both jurisdictions. Whilst the Green Party would of course cooperate with such an approach, and whilst we would support any agreed settlement that might emerge from it, we would here point out what we see as the weaknesses of such an approach and suggest improvements.

The principal flaw in this approach lies in its near total dependence upon the political parties as the main instruments for achieving a consensus. Political parties are designed to function which an adversarial context and may prove unable to make the adjustments necessary to convert themselves into "the engines for consensus". The British Government, implicitly recognising this, are suggesting that in the event of a breakdown THEY ALONE would present their own proposals to the people of Northern Ireland. This is a very high risk strategy and one we believe that is democratically flawed. As the only democratically mandated organisations involved in the conflict the parties will of course have a central role to play, however it is the Green Party's view that sovereignty derives not from political parties, nor from Governments nor nations but in the final analysis FROM INDIVIDUALS. Below we outline a methodology that takes this into account.

2.2.2 An open constitutional conference should be initiated, made up of elected representatives elected by PR-STV in 17 five member constituencies, a number of additional members should be elected on the following criterion: for each 2% of the overall vote which each party receives, that party should get 1 elected representative. The conference would be open to proposals from church leaders, womens groups, community associations etc. all proceedings would be facilitated by independent facilitators and consensors chosen from abroad. The consensors would be charged with the task of drawing up a multiple choice referendum (preferendum-see Appendix) offering a range of (perhaps ten) evenly balanced options, and these would then be voted on by the electorate. The proceeding of the conference should be broadcast.

CONCLUSION

In conclusion then let us summarise that the conflict in Northern Ireland has its roots in a centuries old conflict which has involved all of these islands. In simple political terms the problem may be expressed as the absence of a constitutional consensus resulting in the exclusion and/or the withdrawal of one community from the state. It follows that the work of the peace process, in strictly political terms, must be the facilitation of the construction by the people of a true consensus. The above serves as a methodology to this end.

APPENDIX

THE REFERENDUM - A SUMMARY

Under most electoral systems, be they majoritarian or proportional, the success of any one policy proposal or candidature depends on the views or votes of only a faction in society; and most voting systems (i.e., the decision-making procedures) are even worse, allowing as they do one faction to dominate the rest, some win, and win everything, while others only lose.

In consensus systems, in contrast, the success of any one policy proposal or candidature depends, not on the views of just a faction in society but on the views of everyone (who votes). So no one person or party will win everything, but almost all participants will win something.

It should be stressed that consensus voting is not some mathematical concoction by which "the silent majority" shall be better represented; rather, it is a methodology based on human rights. For no "majority" has the 'right' to impose its views upon others, and no minority the 'right' of veto. Instead, we all have a responsibility to our neighbours. Accordingly, the democratic process should be a means by which is established "the greatest good of the greatest possible number". The majority vote, a comparative methodology, cannot reach this aspiration; but consensus voting facilitates exactly that.

The basic criteria are as follows:

decide how many options best represent all proposals now "on the table" and present a balanced list as a referendum.

Accordingly, when it comes to the referendum vote:

- * there shall always be at least 3, usually 5-10 options, and rarely more than 12;
- * each voter - and let us assume the first one is a she - may vote for (most if not) all the options listed; thus, in a ballot, she should give 5 points to the option she likes the most, and she may give 4 to her second choice, 3 to her next preference.. and so on, down to a 1 for the option she likes least of all.

The rules for partial voting are as follows: he who votes for only one option/candidate will exercise only 1 point; she who votes for two will exercise $2 + 1 = 3$ points; he who votes for three will exercise $3 + 2 + 1 = 6$ points, and so on; so only she who votes for all five will exercise the full $5 + 4 + 3 + 2 + 1 = 15$ points; in other words, those who participate but

partially in the democratic process shall exercise just a partial influence, and only those who participate fully shall exercise a full influence;

- * the count shall be conducted by adding all the points cast for each option. The option which achieves the highest number of points is the one with the highest level of consensus.

Full details may be found in:

"The Politics of Consensus" ISBN 0 9506028 4 1 by P.J. Emerson