

A problem to every solution: Hard Borders, Reconciliation and Ireland's ethnic frontier

Duncan Morrow

Famously, Northern Ireland is a place where history still provides a reliable guide to the future. Remembrance and history has a meaning for the present. There is another way to put it: every act has its history. Nothing can be isolated as an act in itself, but must be 'understood' as part of a narrative and a story without which it loses its meaning, and without which nobody can grasp its import or moral value. Every event has its identity with time and place: no text without context.

The US constitution, in as far as it is still with us these days, is one of the apex documents of the enlightenment. In it, equality between human beings is declared 'self-evident'. In a sense the enormous change this represented in the way a hierarchical world looked at itself has got more attention than the more obviously radical claim that some things speak for themselves- without further inquiry. But in places like the north of Ireland, and later Northern Ireland, where divisions have never disappeared but reproduced and reinforced, this was never true. There were self-evident things, but they were always something different. What was self-evident was that others in close proximity represented a threat. It was not just that they were different, it was that they were dangerous, hostile and armed.

Everything that happened between us, had to be understood from this '*weltanschauung*'- this place from which to look at the world. Things that could appear grotesque from somewhere else- including murder, expulsion, lynching, discrimination – made sense in context. If you could not reason to the conflict, the conflict could provide the reasons. What elsewhere might look like madness, could be understood by understanding the narrative. What might be considered criminal if taken in itself, was transformed into something eminently reasonable, probably necessary and even possibly heroic. And even where things went wrong or individual acts could no longer be justified, the cause, and more specifically the threat posed by them, meant that even these could not take away from the bigger picture.

The narrative puts every event into a chain, from which no single action can be isolated. Violence is never causal, and always reactive. It is always justice, even where it is driven by revenge.

The problem was not just that the world was divided into them and us - difference. But violence and threat it posed either politically or economically meant that this difference was a matter of 'friend' and foe'. And among the many problems with friends and foes, is that they cannot, indeed we dare not, be treated equally. Equality is always potentially a Trojan horse, a wolf in sheep's clothing, a subtle claim to virtue which camouflages and wilfully distorts the ongoing narrative of enmity- to strategic purpose.

In this world maintaining access to the resources of the state and its violence became the essential tool to manage this balance. Of course in the experience of those outside the state, discrimination, indeed systemic exclusion, was of a piece with the rest of the story. Evidence that 'them and us', 'friend or foe', was not only violent but immoral. The distinction was not only technical but ethical. In a society where religion took on a special significance, the bridge to sacred violence in pursuit of the cause was but a short step. Not only that, peace requiring compromise was little short of betrayal running risks with the very survival of the community.

All of which is to give some background to the obvious: societies divided by this kind of escalated rivalry can no longer be treated as 'the same' as societies outside. Everything coloured by friend and foe looks different. And everything in the north of Ireland was coloured by friend or foe.

Politics, even if it is mediated by the ritual of elections, is not about choosing an executive and legislature but a battle for control of the resources and identity of state between mortal enemies. Eventually, accommodating a corruption scandal or saving the health service has to be subordinated to the primary issue. What makes these places intractable is that security, respite from threat, is never achieved by physical distance. 'we' can never be rid of 'them.' And trying to get rid of them reinforces the friend/foe dynamic. The other is not only enemy but permanently present. The longed-for hard borders cannot be achieved

except by the physical expulsion of the other from the public square. Domestic policy is always also foreign policy; wary, interest based, without external or final rules outside the balance of power.

This is what Frank Wright meant when he described the north of Ireland as a whole, and other places like it, as an 'ethnic frontier'. The 'dispersed frontier' has been the reality of the Northern Ireland since its inception. In some ways Northern Ireland is the isolated, insulated intractable interface of British- Irish affairs. Borders separate them from us, but inside the cauldron, nothing final or physical separates us from our enemies.

Instead inter-community life in Northern Ireland is managed in codes of behaviour and pervasive divisive structures, sometimes including violence, discrimination and separation which contain the crisis in both senses: the crisis is 'contained' and Northern Ireland 'contains' (is essentially dominated by) crisis. Public life is a daily experience of automatic 'discourse analysis' in what was said has to be translated into what was really said across the friend/foe barrier. None of which is necessarily visible or obvious to the casual observer.

In the north of Ireland, and later in Northern Ireland, retaliatory violence grew roots which lasted past rural plantation and became cyclical, eternal and endemic. Violence begets violence, but it NEVER ends violence. *Precisely because it is a chain, it's effects are toxic, destroying the future as it seeks to rectify the past. To bastardise Shakespeare: "It poisons him who gives and him who takes"*

Critically, it also means that peace cannot be achieved by a single act or a single final expulsion. Peace has to enter and close the narrative chain. Reconciliation is, as the cliché goes, not an event. It is a change in an embedded mimetic pattern of relationship through which what was once self-evident, that the other is a hostile foe, gives way to the possibility of partnership, trust and friendship. And we should never underestimate just how much it calls us to "believe in miracles and cures and healing wells." Polarisation is the well-worn groove that can be re-established, almost without effort. No wonder reconciliation is dismissed as soft.

I apologise for this rather sketchy reflection on our historic predicament. I am sure it does not tell you anything you do not know. And yet without it, as the British press- and no doubt those wider continentals take an interest- are rapidly discovering- you simply cannot make sense of the speed with which a quiet vote in June 2016 has catapulted this bankrupt backwater into the centre of European geopolitics. Without wishing to push the simile too far, in structural terms, Ulster is to the EU and the UK what Bosnia-Herzegovina was to Serbia and Austria-Hungary before 1914 and the Sudetenland was to Czechoslovakia and Germany after Versailles. Thankfully we are some way off the wider geopolitical tensions which turned those clashes into world events.

Having raced scandalously through history, I want to turn now to two related aspects of political science – the question of assimilation and legitimacy. My old friend Frank Wright described in his work how ethnic frontiers enter the modern democratic era because the state cannot or does not wish to assimilate part of its population. To assimilate in this sense to become part of a group or state so as to belong and (in a democracy at least) take responsibility and become a ‘citizen’. Where empires decay into democracies, the potential for previously dominated populations in distinctive territories is to refuse assimilation and to assert distinctiveness in the form of a demand for their own state. ‘Nationalism’ rests on ‘self-determination’ and the assertion that ‘we’ are not ‘them.’ The crisis is most acute, however, where neither the old state or the new state can assimilate all of the people in a territory. In the north of Ireland, religion had separated people by its association with colonisation. In the modern era, both nationalism and unionism made claims over the whole for the territory and people, but neither could assimilate the other. Instead a ‘hard border’ emerged between them, which, by definition, could not be territorially established. The ‘crisis of assimilation’ was not resolved by self-determination but turned into a bitter struggle for control, in which ‘all means necessary’ were rational. Both unionism and nationalism claimed that the higher purpose of national bond legitimised breaking the law to defend the law *in extremis*. Violence was bad, until it was good!

Which takes me to legitimacy. Legitimacy refers to the capacity to make and enforce the rules, the law, within a given territory. It is the thing which gives permission, formally and informally.

As the German sociologist Max Weber observed, the definition of a state is the body commanding the monopoly of legitimate violence, usually translated in English as force in a given territory. The state decides on what violence is permitted, indeed required, in its territory. The non-violent state does not exist, but a well-regulated state uses it sparingly and in way which makes that violence very different to any other.

Legitimate violence works best when it is not noticed and law is taken for granted and understood as preventing rather than fomenting other violence: the law is the law. Law is the critical element turning enforcement into duty rather than aggression. Without the distinction between force and violence, the state is reduced to a competitor for authority, and usually has to rely on ever greater levels of violence to enforce.

I could lecture on this for a while, but to cut to the chase, one way to understand the north of Ireland and Northern Ireland is that it suffers from a prolonged and profound crisis of legitimacy. There has been no agreement in what violence is legitimate and permitted, there has been no agreement that the law is force and not violence and every effort to enforce merely pushes the cycle.

There are two aspects to this: firstly and descriptively, at least three claims to legitimacy have claimed the right to resort to enforcement with evident levels of public support and tolerance. The most significant, of course, is the state, which claims the classical right to the monopoly of legitimate violence. As everywhere, not only is force understood as absolutely distinct from violence but there can be no equivalence. Force exercised under law, is regulated and on behalf of the community against criminals. Under extreme duress, the state may have to introduce extraordinary measures but this is justified only by the extremity of the criminality it faces. But where this lasts for a long period, the claim of the state to be non-violent begins to fray. In Northern Ireland historically, these included

special powers over fifty years, including internment without trial, the deployment of the army to support the civil power, special courts and the 'Prevention of Terrorism Act'.

In Northern Ireland, however, the democratic state has been forced to compete directly with an anti-imperial narrative which has deep roots in Ireland and which claims a right to 'resist the forces of occupation'. The state is not the law, but an act of violence rooted in an illegitimate claim. Defence of the people is a higher claim, a more sacred cause, that 'permits' legitimate killing. In this context, the very special measures taken to robustly defend the rule of law were seen to illustrate the bankruptcy of the state's claim to legitimacy. This logic too respects no equivalence between violence in support of the cause and that of its opponents. The extent to which this implicit logic (albeit in its softer version that killing was 'not crime' rather than the state 'is crime') could engage almost the entire nationalist community in Northern Ireland was dramatically in the Hunger Strikes in 1981.

But by identifying police and security forces, economic targets and local 'state collaborators' as 'legitimate targets' this logic also drew in the civilian population of Northern Ireland. Facing what felt like a ruthless terrorist onslaught, a third claim to legitimacy took root claiming an unsophisticated but straightforward claim to the right to 'defend my community', which is the victim, against the ruthless attack from terrorists, up to and including pre-emptive murder. Again, this recognises no equivalence between the abused and the abuser.

In every case legitimacy gives permission for some violence and rejects the legitimacy of other violence, and seeks to impose its narrative by violence. Even worse, making any equivalence is a moral anathema: peace between people claiming different grounds for violence is unjust and morally wrong. Only victory is legitimate.

The second aspect is simply to observe the consequences which flow from this crisis. The key to legitimacy is that creates permission for some things and prohibition for others. In a context of violence, it permits robust action in defence of 'us' - the community and prohibits and deters all friendly contact with them- 'the criminals'. In Northern Ireland, as is inevitable in a cycle, this led to a permissive environment in communities for preventative

violence and serious managed separation, which took on informal aspects of de facto segregation (it was not only that people separated but that they had to separate). Minorities were expelled without any resistance from the majority community, and the state ultimately saw its job as making the process as untraumatic as possible. Even more, however, legitimacy divides between heroes and villains, victims and perpetrators and the decent community and the criminal classes. But because these labels apply in the frontiers to institutions and groups, the implications have become part of the physical, organisational and community fabric.

The critical importance of this for me today is the way in which these issues – the possibility of a common relationship to a shared political system (assimilation) and the establishment of a monopoly of force within the law (legitimacy)– are the political heart of the peace process. Seamus Mallon famously described the peace-process as Sunningdale for slow learners. But I think he was too simple. For me, the watershed moment was the Anglo-Irish Agreement of 1985, because it took seriously the depth of the legitimacy crisis, was clear that ‘reconciliation’ was the only alternative to the death spiral of escalation and took responsibility for law back to the states and the wider British and Irish communities. Peace was no longer about Northern Ireland alone, but the transformation of the narrative of Britishness and Irishness and the articulation and establishment of a system of government which could claim a monopoly of legitimate force which could make and enforce law in a divided society.

The Good Friday Agreement was one of the most sophisticated and creative efforts to establish this, possibly ever. Without exaggeration, it was a complete overhaul of Irish-British relations, especially as they related to Northern Ireland, which had at its core the twin goals of ending all legitimacy for violence and establishing a platform for trust. To do so, it changed the constitutions of two countries and generated a system of balances mediated by international standards. And it tried to entice the ethnic leadership of both Unionism and Nationalism in Northern Ireland to engage in developing and steering the process.

We do not have time to fully re-examine the Agreement but some aspects need to be emphasised. Above all, the GFA legitimised being British and Irish, or both, in every sense: Citizenship was declared a matter of personal decision to be protected in all present or future jurisdictions, aspirations to be part of a British or Irish state were equally legitimate and the sovereign state had to treat everyone as if they were their own, without favour. The state was to exist with parity of esteem between cultures. Decisions over sovereignty were declared to be a matter for the people of Ireland, to be exercised through a system of parallel consent. This radical British derogation from the doctrine of Parliamentary Sovereignty was matched by changes to the constitution of Ireland to enshrine consent. British sovereignty was confirmed as resting in consent rather than imperial projection. Institutionally, Northern Ireland was uniquely enmeshed in internal power-sharing, integral relations to the Irish Republic and relations between Ireland and Britain. On the back of this, all future violence was now declared unambiguously illegitimate by all parties: “We affirm our total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues, and our opposition to any use or threat of force by others for any political purpose, whether in regard to this agreement or otherwise.” Reinforcing all of this was the open trade of the European Union, supported by huge pots of money to encourage cross-border and inter-community and the European Convention of Human Rights which was placed at the centre of North-South relations, policing reform and bills of rights for Northern Ireland. The whole deal was designed to promote as single new narrative purpose: “achievement of reconciliation, tolerance, and mutual trust, and the protection and vindication of the human rights of all “ through partnership, equality and mutual respect.”

The Agreement was strongly weighted towards the aspirational, the visionary and the positive. At the level of narrative and institution, it assumed the shift it promoted. Furthermore, with the enthusiastic support of two governments plus their international allies in the US and Europe it had important friends. But its critical weakness still lay in Northern Ireland where what the Agreement did not say left significant remnants of potential for ongoing division. The Agreement prohibited violence in the future, but it said nothing about violence in the past, other than acknowledging the deep and profoundly regrettable legacy of suffering. The rules around decommissioning weapons were left to be

negotiated, and responsibility for them and penalties for failure were not articulated. Prisoners on political offences were released, but without formal amnesty and maintenance of criminal records. Controversy over the police force itself was put off for another day and an international commission. Symbolic issues like flags and parades were not formally regulated, leaving plenty of room for claim and counter claim.

Emphasising just how deep is the groove of division in Northern Ireland, every single one of these issues hobbled the functioning of the world after the GFA. The institutions of government themselves proved inoperable when the IRA refused to decommission. Loyalist organisations even refused to engage on the topic. For nine years, the governments struggled to establish the frameworks, in a series of endless negotiations which were no longer general but specific and bilateral and directed at appeasing the critics. After 2003, when the DUP and SF took over the leadership of their respective 'ethnic' polities, the governments prioritized getting them to take shared power over commitment to reconciliation. But, in practice, the result was that one was traded against the other. Power-sharing was made less sharing, commitments to lead a policy of integration whether in schools, communities or institutions were abandoned and issues like the past, language and culture, flags and emblems and even the devolution were fudged. In the end, the commitment to decommission and co-administration of the rule of law were enough.

But what it did was turn the GFA into the ceiling rather than the floor for future development. As the years developed, it was clear that hopes for reconciliation, tolerance and mutual trust were romantic rather than real. No walls came down, integrated education was left to rot, nepotistic distribution of cash to ethnic clients was normalized and no compromises were forthcoming on violence in the past, cultural pluralism or emblems. Justice was devolved, but only possible because it alone was treated outside the d'Hondt system. The British and Irish governments reduced their intervention to the crisis. International visits covered the cracks, but it was increasingly clear that the Governments saw no role for themselves other than to keep the institutional show on the road. Requests for commitment to reconciliation were increasingly reduced to handwringing, but as long as Northern Ireland remained off the urgent to do list, out of sight was out of mind.

Until, that is, Brexit. It remains surprising to me the extent to which this issue itself has been treated as a surprise. Even the voters in Northern Ireland did not really consider its implications. Beforehand it was presented as a consumer choice like any other: to build a road or not, to belong to the golf club or not. Many have commented that nobody expected the result. It may be so. But to be fair, nobody accused the DUP of taking an ice pick and hammer to the peace process by promoting leave with other people's money – and it is not even clear that that is what they thought they were doing. But it may be what we have ended up with. Others also failed to sense the scale of the risk. With hindsight, Sinn Fein's commitment to stopping leave was woeful until it was too late. By far the lowest turnouts anywhere in the UK were in Sinn Fein land- those parts of West Belfast and Foyle where the party polls best.

For 17 months, London in particular treated Brexit in Ireland as a matter of 'comforting language'. Although the entire thrust of Euroscepticism was to create hard orders, there would, apparently, be no hard border at the actual land frontier - everything would be frictionless. To the growing alarm of many, it was increasingly clear that this was diplomatic cover for a focus on the cash and citizenship issues which London thought mattered and serious neglect of the Irish issue which London thought didn't. With the DUP holding the balance of power in Westminster after June, everything suddenly telescoped into crisis mode in Autumn 2017 when both sides realised that lack of progress on the border could have catastrophic consequences for both the Brexit project and Northern Ireland.

Furthermore, the point when British-Irish relations were plummeting coincided with the collapse of power-sharing in Northern Ireland. Brexit and the discussions around it started to accelerate a rapid centrifugal development in Northern Ireland. The DUP made clear that Northern Ireland could have no special status, despite the fact that special status had defined Northern Ireland's destiny since 1920. The Irish government demanded in effect that Northern Ireland at least be maintained within the Customs Union and Single Market. The Secretary of State did everything he could to not take responsibility and find himself with limited legitimacy in Northern Ireland. And progress on the most significant issue for the future of Ireland as a whole came down to shuttle diplomacy and chaos.

The significant and dangerous part of this, is the potential for Brexit to reopen the dynamic of mistrust which the GFA and the peace process strove so painfully to close. The long run damage to Northern Ireland is not even economic, and not confined to the unworkability of the Agreement institutions under a hard Brexit. Unilateral 'Hard Brexit'-with its indifference to the politics of relationship (assimilation) and to the problems in Northern Ireland with the legitimacy of a decision taken in the UK and England certainly, but rejected in Northern Ireland and with greater effect on precisely that part of Northern Ireland that is most opposed to it - would be an act of remarkable violence to a fragile web of relationships, institutions and experiments established in 1998 and allowed to decay badly in the intervening 20 years. The damage is already visible. Once again we are trading in friend and foe, them and us good and bad. Once again we polarise. And, potentially we have weakened, and seem to be prepared to trash, the narrative and institutions which delegitimised violence. To name this is NOT to promote terrorism or to threaten it if we don't get our way. For me, it is the opposite in fact: my aim is to point out that a successful policy to prevent cyclical polarisation in a historic ethnic frontier requires basic common sense and clear understanding of the intense fragility of a divided society when legitimacy again comes under question.

I am not that hopeful for the next few years. Northern Ireland appears to remain largely instrumental to London's wider interests. Dublin too has interests to manage Northern Ireland as do the EU. But living on Ireland on and in this frontier, the question of sovereignty and borders and assimilation and legitimacy is not theoretical it is immediate and real. Either Brexit will now be conducted from within the atmosphere of the GFA, with its emphasis on accommodation, problem-solving, openness, lack of force, equality, international standards and, above all, reconciliation or the GFA will be consigned to history as a nice try by the juggernaut of national sovereignty, rhetoric of hard borders, control, 'Britain is Great Again' and apparent hatred for the ECHR. Whether the whole of the UK can buy into this or whether Northern Ireland is treated as 'special' or 'unique' is a matter for the British government. But either way, Northern Ireland will be 'special', because it is, in the way that special education has to attend to special needs. If it is not treated specially, it will react specially. If there is an agreement for a two year or longer transition period, then for me, an urgent priority would be a convention on the future of peace in Ireland and

Northern Ireland established at its core. Peace in a frontier region in the midst of a debate about hard frontiers is not just a 'Phase One issue', but goes to the heart of whether either Britain or the EU mean it when they say that their priorities are peace, freedom and democracy, or whether that has to be understood in a purely national, single-identity way.

The long lesson of Northern Ireland, is that violence cannot be ended unless we find our way to a shared narrative and a new legitimacy. In this light, reconciliation is not a defeat but an escape route from toxic enmity. The case, which seems so hard to make, is not that reconciliation is an option but that it is the option, and that this should be at the heart of all constitutional processes in Ireland and Northern Ireland in particular.

Solutions to manage borders, and to avoid turning friends into foes are the crucial instruments of success, not just for here but for everywhere. Brexit is not currently a good omen, in my view. It is why I oppose it not just in practice but in principle. And we all have to be realistic; it is the decision of the United Kingdom. It is not too late to find ways to deal with this. Good leadership, civic insistence, and a new seriousness are required. That does mean farmers and workers and business people getting very serious too. But it is not going to happen without commitment and protection- and a new sensibility which commits to a new idea of 'mutual assimilation' and legitimacy of the rule of law over the long haul.