An assessment of the Belfast Agreement

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The Belfast Agreement is not a perfect document, but it does represent a significant attempt to deal with issues that affect all situations of inter-group conflict. The approaches that were adopted in the Agreement may help others attempting to resolve similar problems elsewhere. The threat to peace and stability within Europe is now often more likely to come from intra-state than interstate disputes. Any assessment of the Agreement should therefore be made in the light of developments in international principles and practice demonstrated in the array of international agreements, including, most recently, the Council of Europe's Framework Convention for the Protection of National Minorities, which became operable in May 1998. These agreements aim to guarantee the rights of citizens within states and the obligations of states towards their citizens. They represent the collective wisdom of all involved and have been based on the often bitter experience of the realities of differing allegiances within a state – the intrinsic problem in Northern Ireland.

Conflicting national identities

The basis for a lasting solution of intra-state conflict has often been referred to as 'group accommodation' or 'minority protection'. In order to try to solve such conflict the underlying dynamics of the intrinsic problem need to be clearly understood. The difficulty in Northern Ireland, according to Austin Currie, a former member of the SDLP, is that 'fundamentally the Northern Ireland conundrum is one of conflicting national identities between those who believe themselves Irish and those who believe themselves British. There are religious, social, cultural, political and other dimensions to the problem but they are only dimensions of that central issue.'
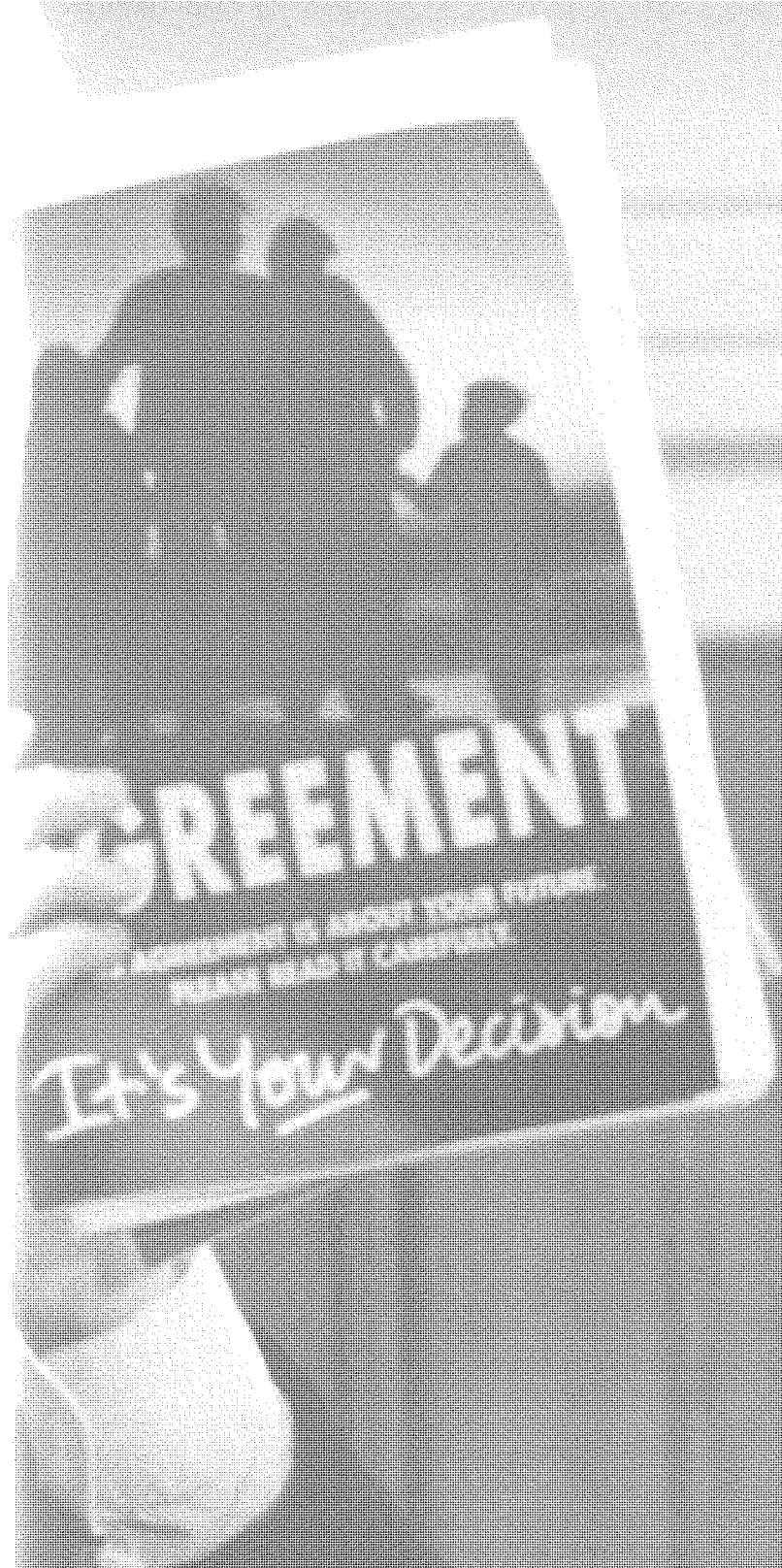
The talks process has endeavoured to resolve the central problem where community identity and allegiance do not coincide with the state. The challenge has been to find ways to satisfy the concerns of different groups and at the same time not concede on fundamental international principles and practice. The unionist community has for a long time faced formidable pressure in this respect, for example in the arrangements proposed under the Anglo–Irish Agreement (1985) and the Framework Documents (1995). This challenge has been met in the last round of negotiations with not only determination and resolve by the UUP but also a clear and positive vision for the future. No doubt other parties have felt that they were responding to similar challenges.

The Belfast Agreement reflects international norms, in their broadest interpretation, with, for example, its inclusive form of government and methods of cross-border co-operation. The Agreement contains many detailed provisions such as the proposals for oaths of office and draft constitutional changes for the British and Irish Parliaments. The ethos of the Agreement is most clearly expressed in its approach to the concept of minorities, the question of human rights, the division of a homogeneous group by state boundaries, and the recognition of territorial boundaries. One other issue that needs to be considered is the commitment to democratic principles and the existence of armed groups.

Concepts of minority

The word minority, often used in reference to Northern Ireland, is one that in many quarters is disliked because it implies a lesser degree of importance. The Council of Europe has referred to a national minority as a group of people within a state 'who display distinctive ethnic, cultural, religious or linguistic characteristics' and are 'motivated by a concern to preserve together that which constitutes their common identity'. Such a national minority is to be 'sufficiently representative, although smaller in number than the rest of the population of that state or a region of that state'. This reflects more truly the unionist concept of minority and accords with the usage of the term in the Belfast Agreement.

No grouping should consider itself a minority within Northern Ireland in the sense of being less important. The Celtic Romansh in Switzerland consider themselves to be not a minority, with all its connotations, but rather the fourth and smallest language group in Switzerland and equal in status to the French, German and Italian speakers. Dr Michael Breisky, the Austrian ambassador in Dublin, stressed in a speech at Queen's University Belfast the equal importance of protecting minorities by the norms of international rules and the breaking down of psychological barriers. The sense of superiority and inferiority must be eliminated and confidence and trust must be built.

Unionists must convince nationalists that there will be a fair deal for all within Northern Ireland, that they have a stake in Northern Ireland and will play an important role at each level of government. Equally, nationalists must convince unionists that they will work within the institutions of government in Northern Ireland. This is where real confidence building is required. When David Trimble was elected Leader of the Ulster Unionist Party in September 1995, a review of party policy was carried out and in November, at a special meeting of the party's ruling Executive, it was agreed that all constitutional parties should have 'a role at each level of responsibility in proportion to party strengths'.

The structures of government contained in the Belfast Agreement reflect this inclusive dimension. In Strand One – Democratic Institutions in Northern Ireland – Section Two refers to 'safeguards to ensure that all sections of the community can participate and work together successfully in the operation of these institutions and that all sections of the community are protected'. Measures proposed include the proportional allocation of ministerial positions and committee chairs using a mathematical formula (the d'Hondt system) which ensures that parties are allocated positions according to their party's strength in the Assembly. There are also proposals to ensure that key decisions have cross-community support. Rather than ignoring the identity background of members of the Assembly, each member is required to register 'a designation of identity – nationalist, unionist or other', and two alternative voting systems are proposed for key decisions. The first option is 'parallel consent' under which a majority of both unionists and nationalists must support the motion. The second option is 'weighted majority' under which sixty per cent of all voting members must be in favour and at least forty per cent of both unionists and nationalists. These arrangements did not satisfy those who feel uncomfortable with either identity. They argued that the divisions in the community are being entrenched. Nonetheless their inclusion provides reassurance to the two major sections of the community. Two sections of the Agreement are devoted to human rights and economic, social and cultural issues in order to provide further protection and reassurance.

The question of human rights

The UUP's manifesto for the elections to the Northern Ireland Forum for Political Dialogue in June 1996 stated that rights were 'the fundamental building block in any agreement regarding the future governance of Northern Ireland'. This pledge reflects much more than a party

obligation: it is an obligation on all involved to subscribe to international norms. The basic requirements for order in any democratic society today are found within international human rights law.

One submission to the Forum for Peace and Reconciliation, convened by the Irish government in 1994 to bring momentum to the process of reconciliation stated that 'The human rights to be protected... are defined by established conventions drawn up by international agreement... As such they form part of international law and must not be thought of as subject to bargaining between parties.'

Asbjørn Eide, Director of the Norwegian Institute of Human Rights at the University of Oslo and a leading international authority in the field of human rights, in another submission to the Forum in Dublin described the Framework Convention for the Protection of National Minorities as 'the most effective contemporary international instrument ensuring compliance with human rights'. It details a set of principles which include freedom of peaceful assembly and religion; access to the media for national minorities in order to promote tolerance and to permit cultural pluralism; usage of personal names in the minority language; the right to display minority language signs of a private nature visible to the public; and the right to use freely and without interference minority language, in private and in public, orally and in writing.

It is the intention of the Agreement that these principles should be reflected in a Bill of Rights for Northern Ireland. In the context of Northern Ireland there is no more important issue to be addressed than how to organize society with respect to human rights. This corpus of rights embraces a number of categories: civil, political, economic, social, religious and cultural. The question is how to manage the differences that exist in Northern Ireland in ways consistent with democratic values and human rights.

Consequently a separate section in the Belfast Agreement (Rights, Safeguards and Equality of Opportunity) deals specifically with rights. It states that the European Convention on Human Rights will be incorporated into Northern Ireland law, a new Northern Ireland Human Rights Commission will be established and that body will advise on the development of a Bill or Rights for Northern Ireland reflecting 'the principles of mutual respect for the identity and ethos of both communities and parity of esteem'. There is also an obligation on the Irish government to take comparable steps to further strengthen the protection of human rights in its jurisdiction.

Interstate division of peoples

By viewing the Northern Ireland situation as different from others, UK and Irish governments created for themselves an unnecessary problem in their efforts to resolve the questions posed by a divided society. In the foreword to Frameworks for the Future published on 22 February 1995, which set out proposals for accountable government in Northern Ireland and relationships within the island of Ireland and between the two governments, Northern Ireland was described as being in a special, even unique, position. The population was made up of different communities with allegiances to different states: the United Kingdom and the Republic of Ireland.

The assertion that the central problem in Northern Ireland is unique is not based on objective judgement: there are perhaps a hundred million people across Europe who consider themselves to be on the wrong side of a border. Nor does the presumed size of the nationalist community in Northern Ireland make it unique. There are national minorities in some countries, for example the German speakers in the South Tyrol region of Italy that constitute majorities in their own regions. Eide has described this type of conflict as 'ethno-nationalism' and often the most difficult to resolve.

The dispute between Austria and Italy over the South Tyrol was resolved in 1992 within current internationally accepted norms after a conflict of over thirty years that saw bombs, many people dead and bitter arguments regarding the self-determination of the South Tyrol. The German-speaking (Austrian) community in the South Tyrol has achieved full parity of esteem with the Italian community within a framework of self-government established in line with the accepted principles of government in other parts of Italy.

What threatened to make the Northern Ireland conundrum insoluble was thinking that it was uniquely complicated to the extent that it could only be tackled by pursuing measures such as joint authority which, unionists argued, were untried, dangerously innovative, complex and without precedent elsewhere, and which would offer only continued instability. The overwhelming international consensus favours accepting the territorial integrity of existing states and offering maximum internationally defined guarantees to national minorities within them as the best hope for stability.