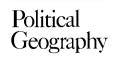


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The transformation of the Irish border

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Abstract

This article introduces a special issue dealing with partition and the reconfiguration of the Irish border. Notwithstanding southern nationalist refusal to accept the partition of Ireland in 1921, the border gradually consolidated its position. The article describes the transformation in relations across the Irish border which first found a place on the political agenda in the early 1970s, but which was given full institutional expression only following the Good Friday agreement of 1998. This new configuration has two aspects, which seem at first sight to be in conflict with each other: it marks a new, unreserved acceptance of the legitimacy of the border by Irish nationalists (though moderated by British agreement to end partition if the two parts of Ireland so wish), and it is characterised by a significant growth in public sector bodies which span the border. © 2007 Elsevier Ltd. All rights reserved.

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Introduction

On 8 August 2007 Northern Ireland's First Minister, Rev Ian Paisley, a long-standing spokesman for uncompromising unionism, caused some surprise by stressing the depth of the gulf between Great Britain and Northern Ireland: there was, he said, "clear blue sea" between the two. The context was the outbreak of highly contagious "foot and mouth" disease among cattle in southern England, posing an immediate danger to the interests of farmers on the other side of the Irish Sea.

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Dr Paisley's emphasis on Northern Ireland's shared interest in this context with the Republic rather than with Great Britain drew attention to an interesting paradox. The community to the leadership of which he had long aspired, the Ulster unionist community, made up overwhelmingly of Protestants, had engaged in a bitter struggle generations earlier to assert its "Britishness"—to retain its links to Great Britain, even if this meant cutting off the rest of Ireland. The partition of Ireland in 1921 had been the result: the southern, predominantly Catholic part of Ireland had left the United Kingdom in 1922 as the Irish Free State (now the Republic of Ireland).

The gulf between northern unionists and southern separatist nationalists was more than just cultural; strong economic arguments had been used since the beginning of the 20th century to defend the North's remaining within the United Kingdom. Recent developments suggest that the economic logic of partition may have changed. Certainly, the broader geopolitical context, and in particular the British—Irish political and administrative framework in which the Irish border is lodged, have been transformed. Almost a decade ago, a special issue of this journal tackled the important question of "why people have struggled violently for a protracted period in the place that is called Northern Ireland" (Douglas & Shirlow, 1998: 128). It also drew attention to the peculiar narrowness of the geopolitical context which was widely seen as defining the conflict: "The existence of boundary conflict is scarcely exceptional in 20th century Europe. What is unusual is the precise way in which this conflict has been institutionalised, reproduced and contained within the narrow confines of Northern Ireland" (O'Dowd, 1998: 240).

The special issue of this journal to which the present article serves as an introduction broadens the perspective of the earlier special issue by focusing on the wider framework, meanings and implications of partition. Our purpose in this introduction is twofold. First, we assess the extent to which the remarkable political developments that have taken place over the past decade have reconfigured relationships across the Irish border. Second, we outline the agenda shared by the authors of the other articles in this collection as they analyse the historical and comparative contexts for re-examining the partition of Ireland, and we discuss how the external and internal boundaries of Northern Ireland are currently being reconstructed—a process not without lessons for other partitioned entities, such as Cyprus, Kashmir and Israel—Palestine.

Changing cross-border relationships

After almost five decades during which the Irish border steadily consolidated itself as a feature of the economic, political and social psychological landscape, the outbreak of civil unrest in Northern Ireland in 1968 seemed once again to call its role, and even its existence, into question. Prior to that, apart from an abortive anti-partition campaign in the early 1950s and episodic and ineffectual IRA campaigns, there were relatively few other pressures to tackle the question. It is true that since 1973 joint Irish and United Kingdom membership of what later became the European Union (EU) had opened up the prospect of a steady erosion of the border. But this was likely to be a gradual process, notwithstanding the largesse of Brussels in supporting a range of important cross-border programmes. Furthermore, its effects were in practice mixed. The break in parity between sterling and the Irish pound in 1979 (a precursor to the later boundary between sterling and the eurozone, of which the Republic of Ireland is part) was the

² There is no need in this article to describe the very large literature on the Northern Ireland problem. For general overviews, see Arthur (2000), Aughey (2005) and Tonge (2005). For more detailed analysis, see Cox, Guelke, and Stephen (2006), McGarry and O'Leary (2004) and Ruane and Todd (1996).

most ironic example of unintended differentiation as a consequence of EU membership. In any case, this was part of a much broader process of British—Irish (and pan-European) rapprochement, with a strictly limited, and until recently largely incidental, focus on the Irish border.

Explicit intergovernmental efforts to undertake more systematic cross-border actions were few, but two stand out. The first (which also involved Northern Irish parties) was the Sunningdale agreement of 1973; but this collapsed within months, and the proposed establishment of a range of North-South institutions was never translated into practice (Farrington, 2007). The second effort (which excluded the Northern Irish parties) was the Anglo-Irish agreement of 1985, which saw the institutionalization of British-Irish political cooperation in relation to Northern Ireland. A new organ, the Anglo-Irish Intergovernmental Conference (with a standing secretariat in Belfast), was created as a mechanism for formal meetings in which the Irish government would be entitled to express its views on matters relating to the government of Northern Ireland, and the British government would be required to give attention to these and to make "determined efforts" to resolve any disagreements. Though leaving British legal sovereignty intact, these arrangements changed the significance of the border by qualifying the earlier exclusion of the Irish government from any role on its northern side. The agreement also sought to promote a new level of cross-border cooperation in the area of security and in economic, social and cultural matters, but subsequent developments in these domains were modest (Aughey, 1989; Owen, 1994).

Part of the problem with these earlier initiatives was that they had little immediate impact on the level of political violence: paramilitary campaigns continued alongside institutional experimentation. The momentous changes since the late 1980s were, by contrast, the consequence of a slowly evolving peace process. The most significant event was the declaration of an IRA ceasefire on 31 August 1994, followed by a loyalist ceasefire 6 weeks later, a development which saw the major paramilitary groups on both sides now turn more decisively to politics. The ceasefires were the result of years of covert diplomacy and indirect negotiation, a process which ultimately led to a fundamental redefinition of the significance of the Irish border (de Bréadún, 2001). There were two dimensions to this redefinition, in principle independent of each other but in practice seen as interlinked: the legitimacy and legality of the border on one hand, and its practical significance on the other.

Even before the Good Friday agreement of 1998, the status of the Irish border in international law had been open to question. In 1925, an agreement between the Irish, Northern Irish and British governments had agreed to leave the existing line of the border unaltered, and to drop earlier provisions for a Council of Ireland which would link the two jurisdictions (Rankin, 2007). But the new Irish constitution of 1937 defined the "national territory" as "the island of Ireland, its islands, and the territorial seas" (while explicitly acknowledging the fact that the Irish government was unable to exercise jurisdiction over all of this). At the same time, it retitled the state "Ireland", *simpliciter*, a name interpreted as an implication that its *de jure* borders enclosed the whole island. The disputed status of Northern Ireland was acknowledged by the international community, which responded by accepting the self-designation of each state: "Ireland", and "The United Kingdom of Great Britain and Northern Ireland".

The two states in dispute, however, refused to extend this level of recognition to each other. For Irish governments, the neighbouring state was "The United Kingdom" (omitting the objectionable geographical appendage); for the British, the other state was "Eire" or, later, "The Irish Republic", or perhaps even "The Republic of Ireland", but never "Ireland" (Daly, 2007; Furlong, 2006). In bilateral treaties, this stand-off was dealt with by ensuring that

such documents were produced "in two originals", one using territorial designations acceptable to the Irish, the other using designations acceptable to the British, but otherwise identical in substantive content, rather than being produced "in duplicate", as is normal in inter-state relations, especially when a common language is shared (Walsh & Oliver, 2003–2004). The most serious consequences of this divergence of perspective were for the most part confined to verbal embarrassment (as when the Irish President, on official visits to Great Britain, had to be described as "President Mary Robinson", rather than as "Mary Robinson, President of Ireland", as is the custom with heads of state). But it occasionally led to real stalemate, as when in 1953 the Irish authorities refused to accept a letter of credence for an Australian diplomat addressed to the "President of Eire" rather than to the "President of Ireland", leaving the Australian embassy in Dublin without an ambassador for several years (the designation "President of the Republic of Ireland" was not acceptable either).

The great change that was later to occur was foreshadowed as early as December 1973, when, in the Sunningdale agreement, the British and Irish governments moved closer to each other's position—the former agreeing to support Irish unity should a majority in Northern Ireland "indicate a wish" for this, the latter solemnly declaring that "there could be no change in the status of Northern Ireland until a majority of the people of Northern Ireland desired a change in that status". The Anglo-Irish agreement of 1985 reiterated the need for the consent of a majority in Northern Ireland to any change in that territory's constitutional status, and the two governments jointly committed themselves to establishing a united Ireland "if in the future a majority of the people of Northern Ireland clearly wish for and formally consent' to this. In a further stage, in the Downing Street declaration of December 1993, the two governments sought to square the Northern Ireland veto with the traditional nationalist insistence on the people of the whole island of Ireland as the crucial unit for self-determination, with the implication that no minority could opt out. They agreed that "it is for the people of the island of Ireland alone, by agreement between the two parts, respectively, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish". This cleverly retained a reference to the principle of Irish self-determination, sacrosanct for traditional nationalists, but utterly transformed its meaning by specifying that this was subject to veto by the people of either of the two parts of the island (Northern Ireland and the Republic).

Finally, the Good Friday agreement of April 1998 spelled out the implications of this. As well as repeating verbatim the Downing Street formula cited above, it made Irish unity subject to referendum in both parts of the island (by stating that "a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island", and arranging for this to embedded in the Irish constitution). It provided machinery by which a referendum on this issue could take place in Northern Ireland, and confirmed the rights of everyone in Northern Ireland to choose Irish or British citizenship, or both. It also provided that all the protections in the Good Friday agreement would apply even in the event of Irish unity. Should this occur, the devolved institutions would continue to operate, though they would now probably be seen as protecting the interests of a different community, the unionist one.

These changes had big implications for Northern Ireland's constitutional status, at least in theory: they provided a mechanism for ending partition, while offering even-handed guarantees to the two communities regardless of the international jurisdiction in which the people of Northern Ireland might ultimately find themselves. In this respect, though, the real significance of this aspect of the agreement could easily be dismissed as a kind of placebo. It offered

a pathway to Irish unity that was unlikely to be used, given demographic realities (a Catholic population approaching numerical parity with Protestants, but not likely for several decades to constitute an electoral majority), and relatively stable patterns of political preference (opinion polls consistently show pro-union Catholics, about 20% of all Catholics in the past 10 years, massively outnumbering Protestants who support Irish unity, about 5% in the same period). While the future attitudes of the two communities are unpredictable, there is no evidence to date of an inevitable trend towards Irish unity; and if such an eventuality comes about, it is more likely to arise from a reorientation of Protestant opinion than to be a consequence of a changed demographic balance (Coakley, 2007).

In this context, it is important that the agreement also offered concrete gestures in the direction of institutionalised North-South cooperation. Earlier efforts in this direction had been strictly limited: by the mid-1990s, the only all-Irish public sector institutions were the Commissioners of Irish Lights (an ancient body responsible for the management of Ireland's lighthouses, and forming part of a broader network directed by the United Kingdom's Department of Transport) and the Foyle Fisheries Commission (established in 1952 to manage fishing interests in a sea inlet separating Northern Ireland from the Republic). Alongside these, there were signs of systematic cooperation in the areas of health, tourism and the development of inland waterways.³ At a political level, the Anglo-Irish Intergovernmental Conference promoted cross-border cooperation as well as giving the Irish government a voice in Northern Ireland's internal affairs. Another spin-off of the Anglo-Irish agreement of 1985, the International Fund for Ireland, promoted highly targeted cooperative projects. In the background, major EU programmes also played a considerable role as the EU took an increasingly explicit interest in the Irish border. But this pattern of cross-border activity was not integrated: unconnected initiatives of varying levels of intensity indeed spanned the two jurisdictions, but these were unevenly distributed across sectors (see Tannam, 1999).

The Good Friday agreement provided a more visible and a more structured form of institutional collaboration. As well as promoting further North—South cooperation between government departments (with agriculture, education, environment, health and transport as the main areas identified in practice), it provided for the establishment of a network of North—South "implementation bodies", free-standing agencies jointly funded by the northern and southern governments in areas where institutionalised cooperation made sense. Six of these quickly came into existence: the Special EU Programmes Body (to administer EU funds), InterTrade Ireland (to promote North—South business development), Waterways Ireland (to manage the island's inland waterways), the Foyle, Carlingford and Irish Lights Commission (in practice, to manage natural resources at the two points where Northern Ireland and the Republic have a sea boundary), Safefood (a health awareness agency) and the Language Body (to cultivate the Irish and Ulster Scots languages).

From an administrative perspective, these transfrontier bodies have functioned relatively effectively since their formal establishment in December 1999; and a *de facto* seventh body, Tourism Ireland (charged with the international marketing of the island as a unit) was added to the list in 2000. The cross-border bodies were designed to operate under the political direction of a North/South Ministerial Council, comprising ministers from the two administrations, but following the collapse of devolved government in Northern Ireland in October 2002 the British and Irish governments jointly exercised oversight on a "care and maintenance" basis,

³ For further discussion of the evolving North–South relationship, see the essays in Coakley and O'Dowd (2007).

leaving the bodies with little scope for long-term developmental planning. A new lease of life for these institutions is in prospect following the restoration of the devolved institutions in May 2007, itself the consequence of a further agreement in Saint Andrews, Scotland, in October 2006, which resolved outstanding issues to the satisfaction of Sinn Féin and the DUP. It may even lead to the establishment of the North—South Civic Forum and the North—South Interparliamentary Body that were envisaged as part of the Good Friday agreement (a British—Irish Interparliamentary Body has been functioning since 1990, but it operates on an East—West rather than on a North—South axis).

Paradoxically, then, two conflicting processes appear to have assisted in redefining the nature of the Irish border. On one hand, in the world of constitutional law and everyday politics, it is much more securely embedded than ever before. Its existence and its location have been finally and fully agreed by the British and Irish governments, even if the real significance of this border, as of others within the EU, has been undermined by the process of European integration. On the other hand, and perhaps related to the political security which confirmation of the border has brought, the volume of cross-border activities is greater than ever before. This applies at many levels, including an increase of casual social contact and an enhancement of civil society cooperation and of institutionalised cooperation in the public sector (Coakley & O'Dowd, 2007). Developments to date suggest that this pattern is likely to intensify further, with even prominent figures from a unionist background extolling the virtues of cross-border cooperation, especially as regards the economy.

Analysing the Irish border

The partition of Ireland in 1921 had, then, set down profound roots. These were not necessarily intended even by those politicians such as Craig, who were among its leading architects. Remarkably, however, it took almost 80 years for a systematic effort to be made to span the divisions which it created or intensified. This background is the starting point for the articles collected in this special issue, which tackle key questions in the evolution of the Irish border, considering these in varying degrees from an historical and a comparative perspective. The articles afford us an opportunity to explore the factors that have shaped and reshaped the partition of Ireland.

The first article which follows seeks to set the Irish border in comparative perspective. In a root-and-branch analysis of efforts to define and classify partition, Brendan O'Leary identifies a set of cases to which the "partition" label may be applied and looks at the consequences of partition for the construction of stable and viable societies—consequences that are much more frequently negative than positive. For O'Leary, the partition of Ireland is just one of several prominent instances of the application of this principle in the 20th century. The experience of partition in India—Pakistan, Israel—Palestine, Cyprus and elsewhere illustrates a point that emerges strongly also in the Irish case: the enormous difficulties associated with this process, which commonly creates many more problems than it resolves. An evaluation of the costs of partition—social, economic, political and human—in these cases suggests that alternative approaches to the resolution of ethnonational conflict are likely to be more effective.

In the next article, by Kieran Rankin, the focus narrows to the Irish case. Rankin describes the stages by which the partition of Ireland was planned and executed, and he sets this in the context of the observations and classifications contained in the academic literature on partition. Like O'Leary (2007), he identifies historical points of comparison between the Irish case and other prominent examples (such as Palestine and India). His careful documentation of the

history of Irish partition highlights the extent to which this process was conditioned by political relationships between the parties to the conflict, with the location and status of the border ultimately reflecting the more limited power resources available to the Irish side rather than coinciding with any objective reality on the ground. Rankin thus points to the historically subjective character of partition, an ethnic management tactic designed to address symptoms rather than causes of conflict, and therefore of limited long-term value in resolving the problem it is designed at least overtly to tackle.

The concrete implications of the arguments of O'Leary and Rankin are spelt out by Anderson and O'Dowd (2007), who set the partition of Ireland in the broader context of British imperial history and the Irish home rule struggle between 1885 and 1925. Their article examines how general intersections between imperialism and nationalism led to the creation of the Irish border in the early 20th century—in many ways a portent of subsequent border conflicts between retreating empires and emerging national states elsewhere. They offer a strong challenge to explanations which are grounded in the view that Irish partition was an expression simply of irreconcilable differences between two communities in the island of Ireland. Without denying the reality of this conflict, they highlight the broader geopolitical context which endowed British imperial interests with a particular role in shaping these conflicts and in implementing and maintaining partition. They also underline the dangers of reading history backwards through the lenses of contemporary national states and ethnonational communities.

The extent to which the partition of Ireland failed to resolve, and may even have exacerbated, underlying ethnic divisions emerges clearly in an article by Cohen (2007) on the phenomenon of loyalist marches in the city of Derry/Londonderry. This city is of particular importance: it is located right beside the border (which deviates from the line of the River Foyle to ensure that all of the city lies within Northern Ireland), it was widely seen as the cockpit of the civil unrest in 1968 that was to spill over into decades of violence, and in many respects it represents the conflict in embryo. Cohen examines the importance of territory for an isolated unionist minority clinging tenaciously to its position in this border city, which has possessed great importance for Northern Ireland Protestants who ceremonially mark its role in defeating Catholic Ireland in a memorable siege in 1688–1689. For Cohen, marches by the loyalist Apprentice Boys of Derry (who parade annually around the city's walls) represent a meaningful symbolic claim to a space that in reality has been lost to the other community. The marches also represent something of importance to Northern Ireland Protestants more generally: reassurance that, in an era when their traditional hegemony has been eroded, ancient practices, rituals and symbols survive, showing that not everything has been lost.

The Irish border conflict was not, of course, just about symbols. Partition may have been a clumsy effort to separate people of conflicting cultural values, religious priorities and political preferences; but it also created a very real economic frontier, though by no means completely inhibiting business cooperation in recent years (Roper, 2007). The consequences of this for labour markets are explored by Shuttleworth (2007) in an article which examines the impact of the Irish border on local labour mobility, itself an important instance of cross-border labour markets more generally. His analysis moves from conceptual considerations to practical issues in cross-border labour markets, describing the response of cross-border workers to the challenge of the border, and considering the strategies used by employers in managing this market and of official institutions in regulating it.

In many respects, then, the Irish experience of partition justifies the reservations expressed by O'Leary (2007) and by Rankin (2007) about the long-term effectiveness of this strategy for ethnic conflict management. In reproducing (arguably in more intense form) the problem it was

designed to resolve, the partition of Ireland contained the seeds of its own destruction, or at least of its reconstitution in a form substantially different from that in which it was initially implemented. The continuing struggle over the symbolic control of territory at local level described by Cohen (2007) is a vivid illustration of the survival of this underlying conflict. The imperial interest discussed by Anderson and O'Dowd (2007), a universal feature of the large modern state, was seen in the early 20th century as pointing in the direction of Irish partition; but the long-term interests of the United Kingdom lie in maximizing its influence in Dublin, not in Belfast. To a large extent, this influence is exerted today through a close relationship with the Irish state—a state which existed only in crude embryonic form in 1921.

This points to a different logic on the part of the contemporary British government, one more favourably disposed to a settlement acceptable to a majority of the Irish than to defence of the interests of a Protestant minority on the island. It seems certain that this new perspective—articulated in solemn claims since 1991 that Britain had "no selfish strategic or economic interest" in Northern Ireland—lay behind the redefinition of the Irish border that was embodied in the Good Friday agreement. It also responded to a definite economic logic, as Shuttleworth's (2007) analysis of labour mobility makes clear. Irish partition has, then, undoubtedly been transformed in its meaning and significance; but its trace on the map is likely to survive for the indefinite future, as is the imprint that records practically every other partition line.

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⁴ This phrase is sometimes wrongly reproduced with a comma which utterly transforms its meaning, and commentators have not always been aware that the comma was deliberately absent. The British did not deny a strategic or economic interest in Northern Ireland; they claimed that any such interest was not selfish—very different from the claim that any such interest was not "selfish, strategic or economic".

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