Belfast Agreement @25: UK, EU and Irish double standards on rights have helped cause stalemate

News Letter – 24th April 2023

Having been requested to provide a reflection of the issues surrounding the Belfast/Good Friday Agreement of 1998, my enduring reflection relates to the two governments' inconsistent attitude to human rights. Compromise was required by all. In addition to the three main strands there was another entitled 'Cross-strands issues'. Issues included, still needing resolved, are 'rights and safeguards'. I was the lead negotiator for the Ulster Unionist Party on this issue.

In this context, there was a need to resolve the problem where community identity and allegiance did not coincide with the state. In May 2019, Senator George Mitchell repeated this aspect: "Division over identity in Northern Ireland does remain a threat to the stability of the institutions and addressing those issues must be a clear commitment by all of the political parties and all the leaders in Northern Ireland."

In February 1997 the Labour party's document, 'Bringing Rights Home' described 'rights' as being: "…at the heart of a parliamentary democracy." Subsequently the UK Labour government stated in a paper submitted to the talks on 6 February 1998: "the protection of rights will be of central significance for the achievement of a lasting settlement". It also stated that "there may be some existing models" and "the provisions of certain international instruments on human rights might contain elements" relevant to Northern Ireland. The government clearly had a 'blind spot', as indicated below.

The Council of Europe, home of the European Convention on Human Rights and the European Court of Human Rights - a leading world body regarding human rights - developed a convention to enable the identity of minorities to be protected; our central problem. The UK and Ireland are both members of the Council of Europe. I challenged the government both publicly and within the negotiations to ratify this convention. Eventually the government ratified the convention and agreed: "to legislate as necessary to ensure the United Kingdom's international obligations are met in respect of Northern Ireland".

Thus, the government took the first step towards following the European model of reconciliation between different groups within a state. This convention is generally considered to be the most effective means for ensuring compliance with human rights and significant for peace-building. But, while it provides the means for identity rights to be protected, this must be achieved: "within the rule of law, respecting the territorial integrity and national sovereignty of states". Interesting, given recent political developments. Also, the Irish government agreed to ratify the convention. Subsequently, it gave a commitment to the Council of Europe that "the principle of international law" would be its "rule of conduct in relations with other states".

On reflection, I celebrate what was agreed in 1998. Unionists agreed to a strong form of partnership government. We recognised the Irish dimension by agreeing to new cross-border bodies, with decisions requiring unionist approval. We took risks. Unionist support in the referendum in May 1998 was little over 50% in contrast to the near unanimity on the nationalist side. Articles 2 and 3 of the Irish Constitution were removed. The Irish Times described it as "the most dramatic change in the definition of Irish nationalism since the foundation of the state". After the referendum, there was pressure to form a power-sharing government. This was established in November 1999, but resulted in a stop-start process. Decommissioning was the problem.

In November 1995, the two governments had issued a ‘Joint Communique’ – following the IRA ceasefire of August 1994 – stating that they “have agreed to launch a ‘twin-track’ process to make progress in parallel on the decommissioning issue and on all-party negotiations”. Nearing the conclusion of the negotiations, in order to try to reassure unionism, the PM wrote to David Trimble stating: “I confirm that in our view the effect of the decommissioning section of the agreement, with decommissioning schemes coming into effect in June, is that the process of decommissioning should begin straight away.”

Despite seeking clarity, certainty and completion regarding decommissioning, nothing substantial happened prior to Stormont’s suspension in October 2002. Against this background, it is worth noting that in April 2004 the International Monitoring Commission reported that the IRA: “…remains active and in a high state of readiness”.

Where to now? Decommissioning has occurred. But both governments and the EU, by continuing to ignore conflict resolution procedures applied within wider Europe, have contributed to the lack of political progress. The Council of Europe’s convention enables the identity of minorities to be protected – culture, language, education and religion – as well as the cross border dimension. Overall, Irish identity is fully accommodated by acceptable international standards. And all-island cultural links prevailed after partition, unlike other divided territories such as Korea and Yugoslavia. There is no doubt that these cultural links will continue. As stated in the Belfast/Good Friday Agreement, the right “to pursue democratically national and political aspirations” is not precluded by the Council of Europe.

The Council of Europe has provided the model and this needs to be to the fore in political dialogue over the coming period. In summary, to resolve our problem we must consider international standards. We need to remove local historical arguments and give a clearer focus on what local politicians should consider. It's that simple and it's only in this context that both governments can act impartially.

It is unlikely that North-South trading will be altered. I note the business community’s position that this is advantageous, though it could have been achieved by a specific law for those companies that wish to so trade, without EU laws applying to all. However, a group of hauliers in a letter to this newspaper on April 7 regarding the Irish Sea border stated: “It is now clear that the ‘green lane’ is a complete misnomer due to its heavily fettered access.” This latter aspect needs adjustment.

Both UK and Irish governments have agreed to abide by relevant international law. They must be held to account. Participation in Stormont is also required. Though the task facing unionism is difficult, it must deploy a clear, simple and positive message, based on international human rights law, by showing that the EU and both governments are saying ‘NO’ to unionism, regarding international standards applied elsewhere regarding recognising territorial integrity and sovereignty.

The secretary of state, at the QUB three-day conference when challenging the DUP regarding its position, stated that “…real leadership is about knowing when to say yes and having the courage to do so.” Both governments and the EU also need courage regards fulfilling their international human rights commitments to Northern Ireland.

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