Steps towards a constitutional compromise

THREE clichés stop us high about Northern Ireland. The first declares that this region is inescapable, the second that it is impossible. The third is the acceptance of intelligent people of the formula of indivisible sovereignty: the idea that a territory and its population must be part of just one state's legal authority.

Indivisible sovereignty is an ideological commitment shared in different ways by the British and Irish governments, and by republicans and loyalist paramilitaries. It is a notion that is conceptually seamless. It implies that no British or Irish politicians or commentators demand that the other state attend to claims to sovereignty, and tidy Northern Irish problems and territories is to persuade or expect the other to accede to the jurisdiction of their preferred nation-state.

The UK's claim to sovereignty over Northern Ireland is successively expressed in the Government of Ireland Act of 1920 (Article 51), the Ireland Act of 1949 and the Northern Ireland Constitution Acts of 1973 and 1998. It is the understanding of the British government that the Anglo-Irish Agreement does not qualify as sovereignty, but provides a procedure through which ownership of Northern Ireland might one day be changed.

The Republic, in contrast, claims Northern Ireland as part of its national territory in its 1937 Constitution (Articles 2 and 3). It is the understanding of the Irish courts that the Anglo-Irish Agreement does not qualify this claim. The result is a minority in the region. A revised declaration of shared sovereignty was accompanied by appropriate changes in the Irish Constitution and in British law. Unilateral could be assumed that the new arrangements would not be a step towards Irish unification. Shared sovereignty should protect better security for all, since the two governments would have both legitimacy and power to tackle terrorism and organized crime.

Sharing sovereignty offers an answer to the dilemma of Northern Ireland as a local or nation state. It is the logical goal towards which the 1985 Anglo-Irish Agreement paved the way.

In plain words, both governments should recognize the mutual validity of each other's constitutional claim.

This, of course, would merely be the first step toward a stategic and just settlement for Northern Ireland, but its attraction is obvious. Both parties to Northern Ireland would gain because their national identity would be respected by full citizenship of their preferred nation-state and both would lose because their national sovereignty would be accomplished through shared power and shared sovereignty.

The most powerful argument for sharing sovereignty is that it compels a partnership, which is superior to competition, because it is susceptible to a large number of people. It is better than independence because it is more politically feasible and economically viable. It is more workable than Irish unity.

For the Republic, shared sovereignty would be easier to manage, both politically and economically, than the unification of Ireland. It would be much more acceptable to Irish nationalism than the status quo. Shared sovereignty would also preserve Ulster against the threat of demographic erosion - plainly evident in the latest census returns. If sharing sovereignty is desirable now, when nationalists are a majority within Northern Ireland, it would be equally just if and when Unionists become a minority in the region.

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Sharing sovereignty offers an answer to the dilemma of Northern Ireland as a local or nation state. It is the logical goal towards which the 1985 Anglo-Irish Agreement paved the way. How could they ever imagine that the longer the process of developing a viable solution to the problem of Northern Ireland went on, the more likely it was that the solution would be found at the expense of Irish unity?

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