

Thinking in Dublin on the Taoiseach's 'not fit for purpose' comment

Rory Montgomery

Rory Montgomery is a former Irish diplomat. He is an honorary professor at the Mitchell Institute, Queen's University Belfast. He is a member of the steering committee of the Royal Irish Academy/University of Notre Dame Analysing and Researching Ireland North and South (ARINS) Project (www.ria.ie/arins) and hosts a monthly ARINS podcast.

The Irish Government strongly hopes to see the restoration of the Northern Ireland institutions, and consequently of the North/South Ministerial Council, before the twenty-fifth anniversary of the Good Friday Agreement in April.

The Agreement remains the proudest achievement of Irish statecraft, and a distinctive calling card internationally. Notwithstanding its evident shortcomings, its continuing value and significance as the bulwark of peace and stability on the island are unchallenged in Dublin.

However, while the Government continues to engage strongly in the efforts to unblock the current impasse, its influence is limited. Its appeals for progress have no impact on the DUP. The rotation of Leo Varadkar and Micheál Martin ought not lead to any change in Southern policy, but Varadkar is widely, if exaggeratedly, seen by unionists as unsympathetic.

Relations with the Sunak government have got off to a decent start and are certainly better than with Johnson and Truss. How far that can be translated into a restoration of trust remains to

Leo Varadkar

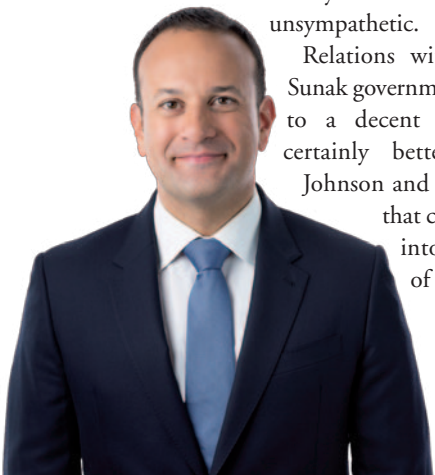
... a return to direct rule ... would be a recognition that devolution was, if not dead, in a coma from which it might never wake up.

be seen. Meanwhile, the European Commission remains in charge of negotiations on the Northern Ireland Protocol. Dublin can feed in its analysis of developments in Belfast and London, and support a constructive approach, but is not directly involved.

Despite positive noises, the negotiations between the UK and EU may yet fail. In that case Dublin would be faced not just with the continued stalemate in Northern Ireland but with the risk that some in the EU will push for controls south of the border, or between Ireland and mainland Europe, to protect the Single Market. That prospect had to be seriously considered in 2019 when it looked as if there could be a no-deal Brexit. Even if it did not come to pass, fending it off would consume considerable diplomatic capital.

EU-UK relations

More likely, perhaps, is an EU-UK agreement on the Protocol which is rejected by the DUP. Placing the implementation of the Protocol on a firmer basis and offering certainty to Northern Irish businesses and consumers would be very positive in



itself. It would also overcome an obstacle to better EU-UK relations in general – something in which Ireland has a larger stake than any other Member State. But major parts of the GFA would remain frozen. And it is hard to envisage how this could then change in the short-to-medium term.

Future of government

The two Governments would then have to engage seriously on what to do next. Those who know most about the realities of government in Northern Ireland, including former top civil servants, have made clear that the current hybrid arrangements, with NICS officials in day-to-day charge, but with NI Secretary of State and Westminster intervening when they think they have to, will not work satisfactorily, in terms either of democratic accountability or effective government. This sounds right to me. The alternative is a full return to direct rule. This has rightly and understandably been avoided so far, and is strongly opposed by nationalists and the Irish Government, not least on symbolic grounds. It would be a recognition that devolution was, if not dead, in a coma from which it might not ever wake up. But it would at least create some prospect of greater clarity and effectiveness in decision-making and administration, and a measure of democratic accountability at Westminster.

The political quid pro quo would be a much-enhanced role for the Irish Government, both strategically and in day-to-day governance. Joint authority is evidently an impossibility, both practically and constitutionally. But a clear precedent exists in the Anglo-Irish Intergovernmental Conference (AIIGC) of 1985–99, which gave the Irish Government the right to be consulted about the government of Northern Ireland, to raise concerns and to make proposals. It is a deep irony that the abolition of the AIIGC was a key offensive objective of unionism in the 1990s.

The GFA provides for a British-Irish Intergovernmental Conference (BIIGC) “to promote bilateral co-operation at all levels on all matters of mutual interest within the competence of both governments” – which include non-devolved Northern Ireland matters. A return to direct rule would greatly add to the list of such matters. The BIIGC has in fact met only occasionally, in particular since 2007. Discussions between the two Governments on matters of high politics have mostly taken place ad hoc. The British

Government has wanted to avoid doing damage to unionist sensibilities. And, following the devolution of policing and justice, the number of non-devolved issues has been greatly reduced. When the BIIGC has met, most recently on 7 October, its main achievement is to underline its continuing existence.

At the heart of the AIIGC was a joint secretariat well-staffed by high-level officials in constant and direct contact with one another. The Irish team included some of the ablest people in the Irish civil service. While the Irish government maintains an official presence in Belfast it is in effect more a representative office cum-listening post, as the Secretariat as such has essentially withered away. Re-creating a vigorous, high-calibre Secretariat, genuinely joint in its operation, but adapted to new challenges, would not be easy.

A more fundamental challenge would be for the Irish Government to develop the capacity to offer meaningful views and proposals on most current issues. Those which preoccupied the AIIGC stemmed from the nationalist community’s sense of alienation, including as regards security and justice policy and practice, rights issues such as fair employment, and socio-economic inequality. Fortunately, most of these issues have either been resolved or are much less salient (and continuing socio-economic problems strongly affect elements of both communities).

In developing its contributions, the Irish

A more fundamental challenge would be for the Irish Government to develop the capacity to offer meaningful views and proposals on most current issues.

Government relied to a considerable extent on its contacts with SDLP politicians, Catholic clergy, community leaders, and well-disposed academics (though we also maintained good contacts with unionists and others). The problems Northern Ireland now faces are very considerable – such as its dysfunctional health service, significant educational underachievement at the lower end of the academic scale, infrastructural development, improving productivity. But for the most part these affect society as a whole, not one community or the other. So for the Irish Government to play a role would require its deep immersion in a wide range of issues of which it currently knows little. And it would have to avoid acting as some sort of super-NGO or as a channel for exclusively nationalist views. An important exception to this would be the possibility of more dynamic and ambitious cross-border co-operation.

Reform of the institutions

The other major issue would be whether the institutions could be reformed in a way which would prevent one party from exercising a veto on the creation of an Executive or the functioning of the Assembly. [*Various ideas are discussed elsewhere in this journal, and I wrote on it in the July issue*]. More minor changes, such as a reversion to the pre-St Andrews procedure for the joint election of the First and Deputy First Ministers, would not in themselves make any

... making a significant change over the heads of most of the unionist community would raise troubling questions ...

significant difference for as long as the majority of the representatives of one community wished to block progress. More fundamental changes, such as a move away from parallel consent, would represent a departure from a core element of the Agreement. There are legitimate arguments for this, including the changing nature of identity and affiliation in Northern Ireland, though wishful thinking may lead to exaggeration of the extent of that change so far. But this would not be so much a reform of the Agreement as the replacement of it without majority support in one community. .

As for how such changes might be carried through, it is true that the St Andrews's Agreement did alter aspects of the Agreement, and that this was carried forward through the amendment of the Northern Ireland Act. But those changes could not be said fundamentally to depart from core principles. And, critically, they won the support of the Northern Ireland parties.

It has been suggested that, as the only legally binding text, the British-Irish Agreement (BIA) could be changed by agreement between the Governments alone. I am not any kind of lawyer, but it has to be remembered that the BIA was effectively a mirror of the Multi-Party Talks Agreement (MPA), with each being annexed to the other and the two Governments affirming their solemn commitment to support and implement the provisions of the MPA. This was the package upon which the people of the island, and critically the people of Northern Ireland, voted in May 1998. And making a significant change over the heads of most of the unionist community would raise troubling questions about the credibility of commitments made before or after a referendum on unity.

The Irish Government therefore has particular reason to hope that in the early months of 2023 a deal on the Protocol is reached, and that it is then accepted by the DUP. If not, the GFA's 25th birthday celebrations will be far from festive. ■



Maroš Šefčovič