



Brexit, the Irish Shamrock and the English Rose

By Melanie Sully
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Policy Recommendations

1. The Irish border issue has aroused bitter controversy in the Brexit negotiations. It is high time for an emotional reset to rebuild trust and understanding in an effort to avoid a return to violence on the island of Ireland.
2. To consolidate the peace efforts of the last twenty years, it is imperative that adequate funding is guaranteed by all parties, including the EU, to promote cross-border and cross-community projects with or without a Brexit deal. A vital role could also be played by international organisations in assisting the work of civil society and human rights defenders.
3. Northern Ireland political institutions are inherently weak and vulnerable to increased stress posed by Brexit. Sustained efforts should be made to get the Northern Ireland Assembly up and running after a three year hiatus.

Abstract

Relations between the Emerald Isle with its symbol the shamrock, and the rose the heraldic emblem of England, have been historically fraught. Brexit has unleashed unwanted attention reviving old wounds. Whatever the outcome of the UK election and irrespective of whether the country leaves the EU next year, there is a shared responsibility to foster the fragile peace process that has so painstakingly been built up since the 1998 Good Friday Agreement. In the fractured politics since the 2016 referendum on leaving the EU, trust has evaporated in an emotionally charged political climate. Whether in the capitals of Dublin, Belfast, London or Brussels suspicion has re-

placed any shred of goodwill in the long negotiations to date.

There is a hope that a calmer more realistic approach could develop after the UK leaves the EU so that mutual recriminations can be replaced by good neighbour policies. In this the island of Ireland will be a litmus test of this success or otherwise.

This paper examines some of the most vexed issues in the awkward relationship between the UK and the Republic of Ireland, two countries which joined the European club together. Brexit means that these two are now destined to go separate ways with all the complications that brings.



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Rebuilding Trust in the post-Brexit Era

The decision taken by voters in the UK to leave the European Union has thrown up a number of problems in the negotiations, for instance, the border between Northern Ireland and the Republic of Ireland. This issue has consumed much time and negative energy. Suspicion and mistrust on all sides concerned has clouded progress and even at this late stage many questions remain unanswered and unresolved. The elites in this process could set an example by defusing the emotion in a mutual effort to avoid outbreaks of violence. So far the opposite has been the case. Too often politicians have accused their opponents of increasing the potential for violence. Instead protagonists on both sides should categorically together condemn any effort to use Brexit as a pretext to resort to the use of violence.

Theresa May as Prime Minister to her credit tried to placate tensions in a visit to Northern Ireland.¹ In her speech she stressed the good relations between Dublin and London and the positive ties which have brought about reconciliation and understanding. On the very same day Donald Tusk EU President was giving a speech condemning those who had initiated Brexit and hoping they would find some special place in hell.² Whereas May tried to build a bridge across the divide, rhetoric emanating from the EU often sent out a different signal.

For many London was guilty of age old imperialism and failing to recognise the politics in Ireland. It was the EU that tried to claim a monopoly on a peace project. But during the worst of the Troubles IRA violence spread to mainland Britain causing deaths, injury and fear. A bomb explosion during the

Conservative Party Conference in Brighton narrowly missed killing the then Prime Minister Margaret Thatcher. The so-called imperialist elites in London understood only too well the fragility of the peace process in Ireland. Historical insensitivity on both sides has clouded the negotiations.

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This was heightened through lack of trust of the other side's motives. Eurosceptic Conservatives firmly believed that the EU sought in some form or other to punish the UK for the referendum decision. The solutions proposed by the EU for the border between Northern Ireland and the Republic were viewed as a way of in the long term prising the North away from Great Britain. Sooner or later it was believed the Republic would inhale Northern Ireland which would be left defenceless according to the terms of the Withdrawal Agreement. The break-up of the United Kingdom was seen rightly or wrongly as a punitive measure and it was enshrined in the notorious word the “Backstop”. This was seen as a bridge to a permanent customs union and tantamount to being bound by the shackles of the EU.

From Backstop to Frontstop and Stop

One of the main objections of Conservatives was that the backstop infringed the concept of sovereignty a long-standing principle that stipulates that Acts of Parliament cannot be challenged in the courts and that no parliament can bind its successor. Unlike countries with a written constitution the UK parliament is sovereign and the greatest limitation on this is the will of the people. The UK has a so-called binary legal system and membership of the European Economic Community (EEC) was navigated via the European Communities Act which

1) <https://www.gov.uk/government/speeches/pm-speech-in-belfast-5-february-2019>

2) <https://www.bbc.com/news/uk-politics-47143135>



technically did not negate the sovereignty of parliament. The backstop threatened this principle as there was no exit clause; even membership of the EU could be terminated under Article 50. Theresa May had sought reassurances from the EU that the backstop was merely a temporary measure but she failed to secure legal guarantees. For the Eurosceptics in her party this was the main problem with the backstop but for the Democratic Unionist Party (DUP) the crux of the matter was that Northern Ireland would have a special status and be vulnerable to separation at some point from Britain.

For its part Dublin had no faith that London would if it came to the crunch keep the border open between the North and the Republic. Fancy high-tech infrastructure ideas failed to impress and the blunt fact that the UK would be a third state including Northern Ireland whilst the Republic remained an EU member, led ineluctably to the fear that Brexit would mean controls at the border. Dublin received wholehearted backing from the EU determined not to let a “small” country down which would have sent a false message to other EU member states with relatively small populations. For the UK the fact that it was Dublin driving the negotiations was a further complication in the equation. In the fundamentalist oppositional nature of the political culture of Northern Ireland, a win for Dublin would immediately be seen as a loss for Belfast.

As sovereignty and the peculiar nature of the UK legal system was a complex concept difficult to convey the Johnson government labelled the backstop simply as “undemocratic”.

For too long the EU had refused to countenance opening the Withdrawal Agreement fearing it would lead to a Pandora’s box of wishes from other Member States. In the end it managed this with Boris Johnson as Prime Minister with little problem and more flexibility at an earlier stage could have broken the deadlock before the Autumn of 2019.

Although the revised agreement secured between the Johnson government and the EU failed to

result in the UK leaving on time, it did go some way in getting rid of the backstop, the *bête noir* of the Eurosceptics.

The backstop has been replaced with a ‘front-stop’ and ensures that Northern Ireland will leave the EU’s Customs Union along with Great Britain, but the UK should enforce EU Customs provisions on entry into Northern Ireland and will have to follow the EU’s regulatory framework in certain areas, obviating the need for a customs border with the Irish Republic.³

Importantly there is provision for an exit mechanism, with the Northern Ireland Assembly having the right to opt out of the Northern Ireland-specific procedures on the basis of a majority vote (i.e. not a DUP veto).⁴

The non-binding Political Declaration was also changed to shift the emphasis to a free trade agreement rather than a customs union for the future relationship with the EU.⁵

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The DUP were the losers and were confronted with the East West border down the Irish Sea, a frontstop which was just as anathema as the previous agreement. It is not clear how the new proposals would work in practice and there are contradictory and muddled statements that have been issued

3) https://ec.europa.eu/commission/sites/beta-political/files/revised_withdrawal_agreement_including_protocol_on_ireland_and_nothern_ireland.pdf

4) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840232/Unilateral_Declaration_on_Consent.pdf

5) https://ec.europa.eu/commission/sites/beta-political/files/revised_political_declaration.pdf



by governmental ministers. The proposals are complex and bureaucratic and were hurried through by the Johnson government in order to meet the end of October deadline. For the Brexiteers leaving the EU has utmost priority whilst for the DUP this was secondary to the preservation of the status of Northern Ireland within the UK. Many voters in Britain arguably have long lost interest in the latter point and are bemused that the whole exit process has been held up by the Irish Question.

The Role of External Actors in Post-Brexit Era

The Good Friday Agreement of 1998⁶ came about after painstaking negotiations and with constant consultations with civil society in tandem with elites. Furthermore the international community played a decisive role. The United States and Bill Clinton and the European Union helped steer the talks through turbulent waters. With Brexit these external actors fell away. The USA could not aspire to play a similar role and the EU was definitely not a neutral actor that could arbitrate in a deadlock. With the entrance of the Democratic Unionist Party in an alliance with the Tory government after the 2017 parliamentary elections, the balance in Northern Ireland was also skewed in favour of London.

“Should the UK election return a parliament again unable to make up its mind, the EU could take responsibility and grant just one more extension.”

What is needed now is an emotional reset on all sides which will be difficult to achieve until it is clear whether the UK is really to leave or after all remain a recalcitrant member of the EU. In this the EU can also take the initiative.

Should the UK election return a parliament again unable to make up its mind, the EU could take responsibility and grant just one more extension. It would be for the EU to stop kicking the can down the road by taking appropriate action.

Even this would extend membership to four years after the original referendum verdict. The delays brought about by the institutional paralysis in the British system have been tolerated by Brussels for long enough and ultimately has put the EU in a bad light, bumbling along unable to take decisions. Often EU leaders complain that the UK is unable to make up its mind and that they have been waiting for over three years. This is a simplification of a process in which the EU also played a part. But it has the chance to bring it to a close.

“It cannot be in the interest of the EU that economic, political or social instability breaks out on its western flank.”

EU treaties pledge a friendly neighbourhood policy and a desire to promote trade, peace and prosperity in its own backyard. It cannot be in the interest of the EU that economic, political or social instability breaks out on its western flank. A shift in rhetoric can help as well as continued contacts at local and regional levels where understanding and trust can be more easily built.

Extensive programmes on history, culture and values shared between Ireland and Britain as well as the EU could play a part in rebuilding the damaged relationship.

Whether a deal is passed by the new UK parliament or not, it is vital that the cross-border and cross-community peace projects should be funded and continued. These include youth and educational projects for women on both sides of the border to enhance understanding by stressing shared values and

6) https://www.wienerzeitung.at/meinung/gastkommentare/955685-Die-Hand-der-Geschichte.html?em_no_split=1_article in the Wiener Zeitung 30.3. 2018 on the twentieth anniversary of the Good Friday Agreement.



aims. Some valuable work has already taken place under the auspices of the European Parliament.⁷

“With it all Northern Ireland is a divided post-conflict society where segmented political sub-cultures still do not interact much with each other.”

The peace enjoyed over the last twenty years is valued on both sides of the border and only a minority are inclined to return to violence but it is a minority that could endanger security. With it all Northern Ireland is a divided post-conflict society where segmented political sub-cultures still do not interact much with each other. The omnipresent murals depicting violent acts of the past, the walls dividing to this day towns are a constant reminder of this. Politics in Northern Ireland is still largely conducted in the framework of the Unionist/Loyalist versus Republican/Nationalist framework.

[The Organisation for Security and Co-operation in Europe \(OSCE\)](#) could play a role in this being the biggest security cooperation organisation in Europe. To date it has played a minor part in such projects, not wanting to meddle in the internal affairs of EU states. For this reason it fights shy of getting involved in the Catalonia independence question.

However with the UK as a non-member it could consider a new dimension in the interests of conflict-prevention measures. Thus it could replace the absence of external actors which accompanied a conclusion of the Good Friday Talks. Both the EU and the UK have indeed committed to funding peace sustaining projects whatever happens but this needs to be reiterated to reassure those living within proximity of the border.

Soft diplomacy could assist conflict resolution and prevention in

- protecting human rights,
- fundamental freedoms such as the media and journalists,
- combatting smuggling in all its forms.

Strong Political Institutions and Political Parties

As part of devolution in the United Kingdom, Northern Ireland has its own Assembly based in Belfast.⁸

Since the beginning of 2017 it has not met and is a symbol of the divisions and lack of consensus cutting across politics. Since then the civil service has been managing affairs keeping things ticking over but unable to devise major policy. The DUP's high profile involvement in Westminster politics has not helped bridge-building but it has left the people of Northern Ireland without a real say in their own future at a crossroads in their history. In this vacuum good community relations have stagnated.

Consolidated efforts should be made to get the Assembly up and running again but also a programme of legislative and judicial reform is necessary to ensure it can be sustained. Here again the expertise of the OSCE could be of assistance if invited to participate especially in its work on parliamentary scrutiny of law-making, enhancing committee work in parliaments and assessing the work of government ministries.

“International actors that can play a neutral role should keep Northern Ireland on its radar with a view to furthering measures that can promote democracy and stability.”

7) <http://www.europarl.europa.eu/factsheets/en/sheet/102/northern-ireland-peace-programme>

8) <http://www.niassembly.gov.uk/>



There is a definite need for the promotion of political institutions which are currently not robust enough to meet the added challenge which a withdrawal agreement brings.

Conflict prevention measures are less costly than dealing with a problem once it has flared up. For this reason international actors that can play a neutral role should keep Northern Ireland on its radar with a view to furthering measures that can promote democracy and stability.

Rebuilding trust in Northern Ireland will be a delicate process that needs international support and funding. For this to succeed though the political actors in Northern Ireland must have a say in their own destiny and be strong enough to withstand any post-Brexit era.

Further Reading

Siobhán Geets, „Nordirland –kalte Grenze, gespaltenes Land“, Wiener Zeitung

<https://www.wienerzeitung.at/nachrichten/politik/europa/2029184-Nordirland-kalte-Grenze-gespaltenes-Land.html>

Melanie Sully, “Once again the hand of history hovers over Ireland”, Euractiv

<https://www.euractiv.com/section/uk-europe/opinion/once-again-the-hand-of-history-hovers-over-ireland/>



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