

A NOTE ON BORDER POLLS

Andy Pollak

Andy Pollak was an Irish Times Belfast reporter and editor of Fortnight magazine (1981-1985); coordinator, Opsahl Commission on ways forward for Northern Ireland (1992-1993); founding director, Centre for Cross Border Studies (1999-2013); and co-author, 'Seamus Mallon: A Shared Home Place' (2019).

1. I should make clear from the outset that I am not a fan of **binary referendums** or border polls to resolve complex, existential, zero-sum questions to do with separatism, national identity or constitutional formation in polarised societies. The deep divisions in the UK caused by the 2016 'in-out' Brexit referendum offer a salutary lesson. "All the wars in the former Yugoslavia started with a referendum" (*Oslobodjenje* 1999) - although a recent study showed that only one in eight (13%) of referendums on such issues led to wars (*Qvortrup*, 2014). I suggest that the chances of a Border Poll with a narrow victory for Irish unity leading to renewed conflict in Northern Ireland would be greater than 8-1 (space does not allow for elaboration of the reasons here).
2. There is also the danger of significant groups of people **boycotting** referendums. Northern nationalists, led by the SDLP, boycotted the last Border Poll on unity in 1973. What is to stop unionists doing the same in a future such poll?
3. Much of the rest of this short contribution will be taken from *A Shared Home Place*, the 2019 book I co-authored with the late Seamus Mallon, former Northern Ireland Deputy First Minister and SDLP deputy leader. Mallon said: "I have come increasingly to the view that the Good Friday Agreement of **50 per cent plus one for unity** will not give us the kind of agreed Ireland we seek. Put simply, we have to find some more inclusive and generous way to quantify consent so that it reflects true parity of esteem between the unionist and nationalist communities" (pp.151-152).
4. Mallon went on to outline the concept of "**parallel consent**", modelled on a clause in the Good Friday Agreement which required that key decisions of the Northern Ireland Assembly "would require the support of parties representing *both* traditions" (pp.167-170). He went on to ask whether this could be "extended across into the constitutional space and thus be used to protect unionists if a future Border Poll were to result in a narrow overall majority for a united Ireland, but without the consent of both traditions in the North." I believe parallel consent in an Irish unity Border Poll is unrealisable, since the majority of unionists will *never* vote for unity. However it does serve to open the debate about whether some kind of **super-majority** will be needed to ensure that a significant minority of unionists give their consent to unity in order to make that unity workable. As Mallon said: "A narrow and unworkable majority in favour of Irish unity...will only lead to a captured unionist minority inside a state from which they are completely alienated" (p.165). He pointed out that this is exactly what happened to the nationalists in Northern Ireland in 1920 with malign consequences that are well-known.
5. In his book, Mallon called for a **three-stage process of public deliberation, inter-governmental decision-making and (last of all) public voting** about the island's constitutional future in the coming years. The **first of these stages** would be "**a civic dialogue** to enable a wide range of people in Ireland, north and south, and Britain, to contribute their ideas about the future shape of the island" (p.174). This, he said, should be modelled on the 1992-1993 Opsahl Commission (of which I was the coordinator), set up by a 200-strong citizens' group in Northern Ireland which, under the chairmanship of an

eminent Norwegian human rights lawyer, Torkel Opsahl, canvassed public opinion for ways out of Northern Ireland's violent deadlock and published an influential report (also published as a best-selling book) containing ideas from around 3,000 people. The *Opsahl Report* has been widely recognised as one of the seeds out of which the Northern Ireland peace process grew.

6. Mallon stressed the importance of a new **Opsahl-type initiative** as a precursor to moves towards any Border Poll. Unlike a Citizens Assembly (which would be convened and funded by the Irish government), this new initiative would be completely independent of governments or political parties and funded (as Opsahl was) by charitable foundations in Britain, the USA and elsewhere. This would allow it to engender public confidence among all sections of both communities on the island. Indeed, to persuade the notoriously suspicious unionist community to take part, it should be organised as *two, separate but parallel* processes, one in Northern Ireland and one in the Republic. It would aim to provide an inclusive, non-party political, grass-roots 'citizens inquiry' in an open and safe atmosphere, and thus would play a key role in informing the governments about public opinion on the highly sensitive and potentially dangerous issues surrounding a Border Poll and its outcome. It should take place well before and therefore feed into the formal inter-governmental review of the Good Friday Agreement (as laid down in paragraph 7 of that agreement), which Mallon proposes as the **second stage** of his process. Only after these first two stages are complete, should the British government (in consultation with the Irish government) consider a Border Poll on unity (the **third stage**).
7. The remit of this initiative should be wide-ranging and open-ended. It would include constitutional proposals, which should not rule out any option: a power-sharing model for Northern Ireland within the UK (as at present), a federal or confederal solution (within Britain or Ireland or both), joint authority, or a unitary Irish state. However the new commission would have **an unconfined agenda**, also inviting proposals on business and the economy; the law, justice and security; and culture, religion, education and identity. The Commission's strengths would be its independence and openness, as well as the eminence and impartiality of its members, who should include distinguished practitioners of government, university research, business and the law from abroad.
8. I would add two elements to the Commission's remit. It should commission a '**preferendum**' asking a wide and representative group of people, north and south, to vote on a range of future constitutional options open to Northern Ireland and Ireland (for example, the five options listed in point 7). It should also commission a study on the suitability of various voting systems for an Irish Border Poll. These could include a two-round referendum (as in the 1992 New Zealand referendum on electoral reform), Single Transferable Vote, Condorcet and de Borda (whose main champion is Belfast man Peter Emerson).
9. All this would take **a considerable amount of time**, which would be all to the good (remember that the Northern Ireland peace process effectively lasted 22 years: from the start of the Hume-Adams talks in 1988 to the return of justice and policing powers to Stormont in 2010). A 20-25 year process would begin to get fearful unionists used to the idea of thinking about the method of finding some consensus around a future constitutional configuration as the demographics turn against them (not the outcome, only the method). At the moment it is entirely rational for unionists to refuse even to open discussions on this (as UUP leader Steve Aiken said to an Irish senator: "You are asking me to give up my country – would you give up your country?"). It would also begin to educate an almost entirely ignorant and 'switched off' Southern public about the risks and costs of unity.
10. **Above all, we must avoid this process resulting in a return to violent conflict in Northern Ireland (and Ireland).**