

DO ULSTER UNIONISTS HAVE A RIGHT TO SELF-DETERMINATION?

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Abstract: The nationalist case for a united Ireland is sometimes expressed in terms of the concept of self-determination. Nationalists have generally argued that the application of the principle to Ireland points clearly to the legitimacy of a united Ireland. On the other hand, unionists could invoke self-determination as an argument for the continued partition of the island. In terms of the manner in which the concept is interpreted and has been applied internationally, each side has an arguable case. Added complications in the Irish context are the question of whether Northern Ireland can be considered a colonial enclave, and the fact that most of those opposed to a united Ireland are seen by many nationalists as descendants of settlers rather than as indigenous to the island. The paper concludes that the idea of an absolute right to self-determination is chimerical in the case of Northern Ireland.

INTRODUCTION

Advocates of a united Ireland advance their case on a number of grounds. One of these lays heavy stress on the concept of self-determination. It involves the argument that Ulster unionists are entitled to full protection of their rights within a united Ireland, but do not have a right to keep the area where they preponderate outside a united Ireland. Strictly speaking, in fact, this argument invokes not the idea of self-determination but that of *national* self-determination, also known as national determinism. Self-determination implies a degree of choice for each individual, while national self-determination holds that only the nation, acting as a whole, can decide its own future, and that minorities within its territory are bound by its decisions, even if they form a majority within part of the nation's territory.

This paper will evaluate the arguments of a number of representatives of the Irish nationalist tradition to the effect that unionists do not have a right to self-determination, assessing the case in the light of general interpretations of the concept of self-determination.

NATIONALISTS AND SELF-DETERMINATION

Irish nationalists have differed among themselves on many subjects – the reasons why an international border currently runs across the island, the reasons why a united Ireland is something to be aspired to, and the methods which can legitimately be employed to bring it about – but a widespread consensus has existed on the illegitimacy of the separate political existence of Northern Ireland. Indeed, many would say that to accord northern unionists a right to remain outside a 32-county state is incompatible with Irish nationalism, so that anyone prepared to concede them this right is by definition not a nationalist. Only in recent years has there developed a body of opinion that sees itself as part of the Irish nationalist tradition but is prepared to settle for some outcome of the northern conflict that would not necessarily involve a united Ireland, or that advocates a united Ireland on purely pragmatic grounds rather than in terms of a "right" to unity.

For the most part, nationalists have stressed that unionists do not have the right to self-determine themselves out of a united Ireland. The idea that unionists should have the right to a veto on the question of a united Ireland was heretical among nationalists until recently. In the Dáil debates on the Anglo-Irish Treaty, for example, only one TD espoused this position, Alex MacCabe declaring on 4 January 1922 that in his opinion "the land of Ulster belongs to those who are on it and not under it", and warning of the consequences, in Ireland and throughout Europe, of coercing unwilling minorities inside the boundaries of newly independent states (Ireland *nd*: 219-20). Articles 2 and 3 of the 1937 Constitution, *Bunreacht na hÉireann*, amount to a legal claim over the North, as was affirmed by the Supreme Court in its dismissal of the McGimpsey appeal in March 1990. In 1949, when Westminster passed the Ireland Act, which stated that Northern Ireland would not cease to be part of the United Kingdom without the consent of its parliament, nationalists North and South reacted with anger. Eamon de Valera described this formalisation of the unionist veto in such terms as "calamitous, fantastic, outrageous, almost incredible, stupid and mad" (Bowman 1982: 271).

Only since the 1970s has the idea that unionists might be entitled to a veto on the idea of a united Ireland become at all widespread. It appeared to be conceded by the southern government (a Fine Gael-Labour coalition) in the Sunningdale agreement of 1973, though the government's response in the courts to Kevin Boland's challenge to its constitutionality raised some doubts about this. Fianna Fáil denounced any such concession, and an American academic described as "audacious" the notion that a united Ireland could come about only with the consent of a northern majority (Power 1977: 39; for a discussion of the concept of consent see Crick 1986). The principle was codified in the 1985 Anglo-Irish Agreement, in whose first article the Irish government (another Fine Gael-Labour coalition) affirmed that a change in the constitutional status of Northern Ireland could come about

only with the consent of a majority of its people. This proved the most contentious aspect of the Agreement among nationalists. Fianna Fáil criticised it vehemently, its leader Charles Haughey reacting with incredulity to the idea that unionist as well as British assent would be needed for a united Ireland to materialise (Mair 1987: 100). It also arose in a series of discussions held between the North's two nationalist parties, the SDLP and Sinn Féin, during 1988. Sinn Féin maintained that to allow a veto to the unionists on the question of a united Ireland "would be to concede a veto on the exercise of national rights to a national minority, and would flout the basic principles of democracy" (*Irish Times*, 13 September 1988: 8). The SDLP hedged its bets, declaring that since the unionists do in practice possess such a veto by virtue of their numbers, the question of whether they have an abstract right to it is "purely academic" (*Irish Times*, 19 September 1988: 10).

A concise and elegant formulation of the archetypal nationalist position was given by Charles Haughey when the Dáil discussed the Anglo-Irish Agreement: "When we speak of the need to secure the agreement of the Unionist population, that agreement applies to the new arrangements for, but not to the concept of, a united Ireland" (*Dáil debates*, 19 November 1985, 361: 2593). Within the framework of a united Ireland, everything is negotiable; the framework itself is not. Unionists can have every civil right they want, once they renounce their claim to the right of self-determination. Unsurprisingly, Sinn Féin has put the point more forcefully. Gerry Adams argues that "to prescribe self-determination for a national minority as a distinct entity from the rest of the nation is a mutation of the principle of self-determination" (Adams 1988: 41). In Sinn Féin's view, the Irish nation covers all 32 counties of the island, so the issue becomes one of whether a minority within the nation has the right to secede. It has no such right, according to Sinn Féin. In the party's 1988 discussions with the SDLP, it observed that "secession is not the same as self-determination" (*Irish Times*, 13 September 1988: 8). It quoted approvingly Seán MacBride's statement that "Ireland's right to unity" is "inalienable and indefeasible" (*Irish Times*, 7 September 1988: 7), an assertion that this right is of a different order from, and transcends, any "right" claimed by any other group which might come into conflict with it. The SDLP did not commit itself on whether or not self-determination was a right for all the people of the island, acting as one, to exercise; it maintained that "the Irish people are at present deeply divided on the question of how to exercise self-determination" (*Irish Times*, 12 September 1988).

Perhaps it would be unfair to put into the mouths of traditional nationalists the words of Nazi ideologue Alfred Rosenberg, who in his *The myth of the twentieth century* warned that "under the principle of self-determination utterly valueless national elements could ask for freedom" (quoted in Cobban 1969: 96). But mainstream Irish nationalism has in the past seemed to be of the opinion that the right to self-determination can legitimately be invoked only by authentic nations (such as

Ireland) and not by less significant collectivities (such as the Ulster unionists). This point was made explicitly by de Valera in 1920, and he repeated it in a Dáil debate on partition in 1949 (Bowman 1982: 40; *Dáil debates*, 10 May 1948, 115: 812). MacBride, similarly, maintained that only "national units" are entitled to self-determination, and accordingly denied that Ulster unionists have such a right, seemingly on the grounds that the territory where they predominate has no clear boundaries (New Ireland Forum 1983: 2, 3, 10). Anderson (1980: 50) goes further, arguing that even if Ulster unionists were a nation (which he disputes), their nation would not be sufficiently meritorious or authentic to warrant a right to self-determination, as it would be merely "the child of sectarianism, fostered by capital".

INTERPRETATIONS OF SELF-DETERMINATION

The question of whether Ulster unionists have a right to self-determination, under the terms of international laws and norms, is, perhaps predictably, open to debate. A number of United Nations resolutions, in 1960, 1966 and 1970, have pronounced the right of all "peoples" to self-determination, and have stated that the establishment of an independent state, and integration or free association with an existing state, both constitute modes of implementing this right. But in virtually the same breath they insist that this does not confer any right to dismember the territorial unity of any existing state.

What this means in practice in any specific case is whatever a United Nations majority deems it to mean. None of the relevant declarations gives any indication as to which "right" – that of a people to self-determination or that of a state to territorial integrity – should take precedence, either in general or in particular circumstances, or as to which of two mutually incompatible claims to self-determination is a "right" and which is spurious. One of the United Nations' own authorities on the subject acknowledges that the relevant texts avoid defining terms like "nations" or "peoples" (Cristescu 1981: 39-41). Part of the problem is that the 1960 declaration (General Assembly resolution 1514, the Declaration on Colonialism) was made deliberately vague on key issues because it was intended to assert that people living in the colonies of European powers had a right to end their colonial status, while simultaneously wanting to ensure that no right of secession was bestowed on people living in independent states.

Consequently, a search for a precise meaning in the declarations would be a futile exercise. Buchheit (1978: 16) refers to "the extraordinarily vague content" of the concept of self-determination. Verzijl (1968: 324) comments that the right of self-determination has "always been the sport of national or international politics", and has never been recognised as a right of universal and impartial application. Crawford (1979: 85), too, observes that self-determination is essentially a political

principle rather than a precise legal or moral right, and as such the question of who gets to exercise it is in practice decided politically (the same point is made by Casese 1981 and Gross 1975). In 1921, Robert Lansing accurately noted that the concept is "loaded with dynamite" (quoted in Knight 1984: 168).

United Nations practice has been hostile to would-be secessionists from existing states (such as the Katangans and the Biafrans) except when a *fait accompli* has been created, as when Bangladesh was established in 1971. Regarding colonies, too, it has adopted the position that colonial treaties, though invalid in purporting to confer ownership of the land on the colonial power, are valid when it comes to settling the limits of the territory (Sureda 1973: 208-9). Under current decolonisation practice, "administering States would appear not to be at liberty to divide up or dismember self-determination territories in violation of self-determination. Territories formed by such dismemberment are not self-determination units but are subject to the 'territorial integrity' rule" (Crawford 1979: 381-2). As Guelke (1985: 39) puts it, self-determination "has come to be interpreted as the right of the majority to establish an independent state within any area administered as a political entity by a colonial power". Consequently, virtually all former colonies have become independent states within their colonial boundaries, with minorities within these boundaries rarely being offered a say as to whether they want to become part of the new state. Exceptions have occurred in India, Palestine, Ruanda-Urundi and the Gilbert and Ellice Islands, where two new states emerged in each case out of one former territory, and in western Cameroon and British Togoland, where local plebiscites were held to allow the inhabitants to opt for either Cameroon or Nigeria in the first case and for either Togo or Ghana in the second.

Which of the protagonists in Northern Ireland can derive more comfort from international practice in the area of self-determination? Nationalists could point to the principle that attempts to disrupt the territorial integrity of a country are declared (in paragraph 6 of General Assembly resolution 1514) to be incompatible with the UN charter. They could also point out that although Ireland was nominally a fully-integrated part of the United Kingdom during the nineteenth century, in practice it was governed in a quasi-colonial manner, and that English-Irish relations during this time have been analysed within a framework of internal colonialism (Birch 1977: 26-7; Garvin 1981: 3, 209; Hechter 1975). If Ireland was a British colony, then, according to current practice, Britain should have given the whole island independence rather than partition it and retain a section. Adams quotes United Nations resolutions in support of his claim, quoted above, that self-determination is not a right enjoyed by "national minorities".

The argument of those nationalists who put the case in terms of self-determination is not that Northern Ireland should be allowed to secede from the United Kingdom. Rather, because they perceive the fundamental conflict as one between Ireland

and Britain, they see unionists as the true secessionists; the very existence of Northern Ireland represents the *de facto* secession from the Irish nation of an entity which, according to these nationalists, had and has no right to secede from it. Thus, ironically, it is those who want to change an international boundary who are the most vehement denouncers of the right of a minority to secede.

For their part unionists tend to be uneasy with the rhetoric of self-determination, instead preferring instinctively the language appropriate to those defending an entrenched position. Even so, they could turn the material at hand to their own advantage. They could plausibly claim to be a "people" entitled to determine their own future. Moreover, they could invoke United Nations imprecations against secession as an argument against those nationalists who are now trying to split Northern Ireland away from the United Kingdom. As for what happened in 1922, they could argue that if anyone was in the wrong, it was Irish nationalists, who disrupted the territorial integrity of an existing state. In any case, they could say, even if the 26 counties had a right to secede, this did not mean that unionists had to depart along with them. Besides, since the UN resolution declaring that colonies must be given independence as a unit did not come into existence until 1960, it carries very little weight with unionists as an argument about what should have happened 38 years earlier. From this point of view, Irish nationalists perhaps made the mistake of starting their push for independence too early; had they waited another forty years, Britain would have found it more difficult to resist withdrawing from the entire island, whatever the wishes of unionists, given that it had always governed the whole island as one unit (although, of course, had nationalism not made its big push when it did, it might never have achieved any kind of independent Irish state). As it was, the nationalist movement reached fruition at exactly the time, in the aftermath of the first world war, when more obeisance was paid to "self-determination" for minorities as a criterion for drawing state boundaries than ever before or since.

The fact that both unionists and nationalists can quote current norms and interpretations of "self-determination" in support of their case highlights the imprecise nature of the concept, and bears out the judgements cited earlier to the effect that self-determination is a political principle rather than a legal one. There is, though, one further dimension of the right to self-determination which is relevant in this context, and that is the question of whether Northern Ireland can be considered a "colonial enclave". Colonial enclaves are territories claimed by a neighbouring state which argues that its right to territorial integrity overrides any purported right of the inhabitants to self-determination. Characteristically, they share a land border with only one other state and are very small in size. Examples would include Hong Kong, the Panama Canal Zone, Walvis Bay (a South African enclave in Namibia), Mayotte (an island in the Comoros which chose to remain associated with France rather than

join the rest of the Comoros in becoming independent), Belize, the Falkland Islands and Gibraltar.

International opinion is often sympathetic to the claimant state in these cases. When India invaded the Portuguese enclave of Goa in 1961, it defended its action in terms similar to those used since 1920 by many Irish nationalists. It said that the territory had been "wrested from India" when Portugal originally annexed it, and described Goa as "a colonial question, in the sense that part of our country is illegally occupied by right of conquest of the Portuguese". It did not accept that Goa's existence as a distinct entity for 450 years gave it any right to self-determination, observing that India had itself been a colony for most of that time and so had been unable to reclaim it. In response, the Portuguese pointed out that the Indian subcontinent had never been one political unit at any time in history, and that it was ahistorical for the Indian government to speak of "reclaiming" territory which had never, in fact, belonged to any Indian state authority. In the event the case was not taken before the UN General Assembly, where Portugal knew that its poor record on colonialism would guarantee it a hostile reception (this account is based on Sureda 1973: 172-77). In other cases, too, the UN has shown at least some support for the idea of "territorial integrity" and a claimed "reversion" to sovereignty overriding the right to self-determination. It backed Morocco's claim to Ifni (a Spanish enclave taken over by Morocco in 1969), and the General Assembly has consistently supported (Greek) Cypriot claims to the whole island of Cyprus and the Comoros' claim to Mayotte, and has shown some support for Argentine claims to the Falklands/Malvinas and Spanish claims to Gibraltar, the last four remaining disputed territories (Day 1987).

There are very few cases of colonial powers partitioning colonies and seeking to hold on to one of the resulting pieces, which makes the Mayotte case particularly relevant to Northern Ireland, as the parallels are intriguing. Corresponding to Ireland's four provinces, the Comoros consist of four islands, three of which feel that the fourth, Mayotte, is obliged to allow its fate to be determined by the entire population of the Comoros, voting as a unit. The population of Mayotte is religiously distinct from the rest of the population of the Comoros. In Mayotte, as in Northern Ireland, there is a clear majority in favour of remaining a constituent part politically of the former colonial power and against the idea of joining the rest of the former colony in an independent state. Nevertheless, both the United Nations and the Organisation of African Unity (OAU) have been overwhelmingly in favour of the Comoros' claim to Mayotte; the Comoros have received unanimous backing within the OAU, and France's is usually the only vote at the UN against resolutions calling on it to hand Mayotte over to the jurisdiction of the Comoros. Mayotte, it is true, has far fewer people (only about 50,000) than Northern Ireland, and is much further away from the colonial power (though, as a separate island, it is also much more dis-

tinct geographically from the rest of the former colonial territory). Apart from this, there are no obvious reasons why, if a British "decolonialisation" of Ireland had taken place after 1960 rather than in the 1920s, an appeal by Ulster unionists to be allowed to remain within the fold of the United Kingdom should have received any more sympathy from the international community than has that of the people of Mavotte.

Sureda (1973: 219) concludes that the UN General Assembly has been inclined to withhold a right to self-determination from people whose territory was considered an integral part of a larger political unit at the time of the colonial conquest, especially if there is territorial contiguity between the two territories. Shaw (1986: 134-6) observes that once the status of a territory as a colonial enclave is established, the UN "has adopted the doctrine that the country from which the enclave was originally taken should have the right to reacquire the territory". Irish nationalists would cite the conclusions of both authors in support of their case. However, the degree of international support for the claimant varies according to circumstances. Crawford (1979: 384) argues that the inhabitants of colonial enclaves should be entitled to self-determination unless the territories in question are very small, cannot be said to constitute separate territorial units, and are "ethnically and economically parasitic upon or derivative of" the adjacent state which claims them. This approach, he says, would deny Gibraltar, Ifni and Goa a right to self-determination, but East Timor, the Falklands and the Sahrawis could claim such a right.

Certainly, it is true that when a state has claimed jurisdiction over something other than a micro-territory, it has found relatively little support. In 1960, Morocco opposed the admission of Mauritania (which is larger than Morocco, though far less populous) to the United Nations, arguing that Mauritania had historically been a part of Moroccan national territory. The Moroccan delegate told the General Assembly that with the proposal that Mauritania be admitted, "you are being asked to take a decision which ... would injure my country by amputating a part of its national territory" (Sureda 1973: 83). Mauritania was, nonetheless, admitted. The Moroccans pursued the same line in the mid 1970s against the claims of the Sahrawis that the Western Sahara, formerly the Spanish Sahara, should be recognised as a state entity, the Sahrawan Arab Democratic Republic. Again, the Western Sahara was described as "an integral part of our national territory", though few seriously disputed that the Sahrawis did not wish to be incorporated into Morocco. Morocco succeeded in having the case referred to the International Court, but the court's decision did not support Moroccan claims that there had been ties between Morocco and the Western Sahara, a century or more ago, of such a nature that Morocco now had a right to the territory against the wishes of the Sahrawis (Hodges 1983: 201, 185, 210). The outcome has been a protracted war between Morocco and the Polisario Front, and a degree of diplomatic isolation for Morocco. In the case of East Timor, the UN was initially hostile to Indonesia's annexation of this former Portuguese colony, but a

combination of *realpolitik* and the crushing of most Timorese resistance has gradually led to *de facto* acceptance of Indonesia's sovereignty over the territory.

These cases, then, do not bode well for any Irish nationalist claim that historic links between the six counties and the rest of the island give "Ireland" a right to territorial integrity which outweighs the right to self-determination of the people living in Northern Ireland. The sheer size of the population in the north takes it out of the micro-territory category. Larger than many members of the UN, it is clearly no Gibraltar-type dot on the face of a far bigger neighbour.

However, it does not follow that the people of Northern Ireland have an absolute right to self-determination. Two factors would weaken the position of the northern majority: first, the ethnic cleavage within the North, and secondly the question of whether "indigenous" people have rights superior to those of "outsiders".

If Ulster unionists have an absolute right to self-determination, this would imply that they are entitled not only to remain outside an all-Ireland state but also, if they wished, to establish their own independent state. While this might be unexceptionable were the entire population of Northern Ireland to favour it, things would be different if the proposal was backed by the Protestant majority but opposed by the Catholic minority. Admittedly, in terms of the practice of decolonialisation elsewhere in the world, the majority might well have a case, were they to declare that they saw the North as a British colony and now wanted independence. After all, Margaret Thatcher has stated that Britain would honour any wish of the northern majority to establish an independent state, which could be construed as a tacit acceptance that Northern Ireland is in some sense a British colony rather than an integral part of the territory of the British state (Guelke 1985: 37, 44).

But the divided nature of Northern Ireland society would greatly reduce international support for such a demand. Beran suggests that ordinarily a group that has a sense of itself as a distinct entity, is territorially concentrated, and is large enough to be an independent political community (all conditions met by northern unionists) is entitled to self-determination. But he also discusses "moral or practical considerations" which might limit this right, among them the question of whether the group seeking self-determination is likely to oppress a sub-group within itself which, because it is territorially dispersed, cannot opt out (Beran 1988: 28-9). This, it is true, is a philosopher's viewpoint, and in practice, as Guelke (1985: 38, 41-2) observes, the international community has not challenged the legitimacy of regimes in newly independent states which have visited extensive oppression, up to and including genocide, on internal minorities or indeed on majorities. Even so, it is very doubtful whether an independent Northern Ireland coming into existence with the consent of Britain but against the wishes of the northern minority and the government of the Republic of Ireland could secure a significant degree of recognition from other states. Certainly, given the extensive discrimination of which Catholics were the

victims under the Stormont regime from 1920 to 1972 (Whyte 1983), not everyone who accepts Northern Ireland's right to decide to remain outside an independent all-Ireland republic would wish to hand the northern majority a free hand to determine the north's future in any way it wished. This suggests at best a qualified, rather than an absolute, right of northern unionists to self-determination, both morally and in terms of international law.

In any case, many nationalists have argued that unionists do not possess even this qualified right, because of the second factor, to which we now turn: the native-settler dimension, or the question of who was there first.

WHO WAS THERE FIRST?

The belief of the nationalist tradition that it has a right to self-determination which unionists do not derive partly from perceptions of how nationalists and unionists respectively come to be living in Ireland in the first place. The question of "who was there first?", rather than simply "after how many years do settlers become natives?", is always important in conflicts involving different national identities, a point not appreciated by Comerford (1988: 9) in an otherwise perceptive discussion of nationalist myths. It is not unusual for self-perceived "indigenous" groups who are "colonised and forced to accept the entry of ethnic strangers for colonial economic purposes" to come to regard the latter's presence as illegitimate from the start, and it is politically and morally gratifying "to entertain vestigial perceptions of the alienage of another group" (Horowitz 1985: 30, 210). This factor is often underestimated in evaluations of Irish nationalism; it is, in fact, of central importance in sustaining the nationalist conviction that no dissenting minority on the island has the right to stand in the way of a united Ireland. The self-defined Irish have an assured sense of themselves as the timeless possessors of the land, a confidence not disturbed by historians' insistence that the Gaels were themselves originally invaders from Britain and the European continent whose conquest of the island took several centuries. In contrast, northern unionists are, in most cases, indisputably the descendants of immigrants from Scotland and England, who acquired their land through the dispossession of Catholics, a fact that plays a part in both nationalist and unionist views of the relationship between them.

It is for this reason that many nationalists dismiss the objection that compelling Northern Ireland to join a united Ireland against its will would mean overriding the wishes of a majority in Northern Ireland; this objection, they say, "ignores the artificial nature of the Protestant majority" (Rowthorn and Wayne 1988: 168). The same phrase is used by the New Ireland Forum Report (1984: 17) and by innumerable nationalists. They would deny that this is in any way comparable to, say, a Spanish proponent of a single Iberian state waving aside Portuguese objections to incorpor-

ation by claiming that there is merely an "artificial majority" of Portuguese in the south-west of the peninsula, who cannot be allowed to thwart the right to self-determination of the entire Iberian people. The Irish nation, like Portugal, is seen by nationalists as a *natural* entity, one that has been growing and developing organically since the dawn of time.

Ulster unionists' numerical dominance in the north-east of the island is seen by such nationalists as "artificial" in that it is a consequence of self-interested decisions made by British governments over the years since the seventeenth century. While this length of residence gives unionists significant rights in Ireland, it does not give them the type of "inalienable and infeasible" rights the Irish nation possesses. The fact that they came as settlers means that their roots in the land are easily portrayed as more finite than those of the "indigenous" or "native" population. They might, of course, claim the same right to their land as any other group (including the Irish), namely the right of occupation through past conquest (Pickvance 1975: 18), but their conquest, unlike that of the Gaels, occurred within the span of recorded history and so has never been forgotten. It is true that because of the long history of migration across the North Channel in both directions, "some at least of the planters who arrived in Ulster in the early seventeenth century were direct descendants of earlier Ulster invaders of Scotland" (Stewart 1977: 34; Heslinga 1979: 118, 156). This could be used by unionists to sustain a case that they are not planters or colonists: their roots in Ulster are as deep as those of the rest of the people on the island, so they have as much right to self-determination as Irish nationalists. Significantly, though, and for reasons which cannot be elaborated here, unionists do not cite this point in support of a claimed right to self-determination, although a few have toyed with it half-heartedly as the basis for the construction of a specifically "Ulster" identity (Adamson 1982; O'Malley 1983: 346; Belfrage 1987: 112).

Nationalists have generally professed a belief in the "one nation" view of Ireland, so few have been so indiscreet as to undermine this case by publicly branding contemporary unionists as planters or settlers. Even so, there are examples of nationalists stressing the outland origins of unionists, and thereby lending weight to MacDonagh's assertion (1983: 7) that for most Irish people, "no statute of limitations softens the judgement to be made upon past events, however distant. In such a view, no prescriptive rights can be established by the passage of time, however lengthy". Douglas Hyde declared that in north-east Ulster, "the Gaelic race was expelled and the land planted with aliens, whom our dear mother, Erin, assimilative as she is, has hitherto found it difficult to absorb" (quoted in Boyce 1982: 238), while de Valera compared any unionist case for self-determination with that of "the robber coming into another man's house, and claiming a room as his" (Bowman 1982: 34). In 1939 Senator William Magennis, a professor at the National University, criticised unionists' refusal to become "not invaders, not men holding by force of

arms confiscated lands, but brothers and fellow-citizens with the Irish people whose race was there for centuries before their arrival as invaders". He called them "the settlers' brood, the descendants of the invaders", and "Englishmen holding the fort in the North", accusing them of having "annexed" the territory upon which northern Catholics, "our kith and kin", had "always lived" (*Seanad debates*, 26 January 1939, 22: 842-6).

It has been claimed that in rural parts of Ulster, Catholics "can show you the land that was taken off their family three or four hundred years ago and they will name the families that took it" (Adams 1986: 27). It is uncertain how widespread this perception is among northern Catholics, or how accurate such claims to past ownership of land might be when they are made, but Tóibín (1987: 98) cites a case of a Monaghan Protestant being assured that it was remembered that his land had been legitimately bought in 1732 rather than confiscated from Catholics. Certainly, in a 1975 survey, northern Catholics were four times as likely to see northern Protestants as "planters" as to see them as "Irish" (O'Donnell 1977: 187-9). In the 1980s, trade union leader Matt Merrigan stressed the status of unionists as "descendants of the original colonists" as a reason why they could not be considered a nation (Collins 1985: 79). A revealing passage from Charles Haughey's address to the 1983 Fian-na Fáil Ard-Fheis shows the power of this perception, even among nationalists who are far removed from Magennis's way of expressing his thoughts. Haughey said that "the Unionists of the North are deeply attached to this country where they have struck their roots", and recognised that "they and their ancestors have done much to build up the Northern part of our island" (Mansergh 1986: 740). The tone is one of assuring outsiders that they are welcome to stay and thanking them for their contribution; it is impossible to imagine him addressing a section of the "we" group, such as Dubliners or Kerry men, in similar terms.

In addition, it is noticeable that Irish nationalists sympathise more readily with those resisting attempted domination by outsiders than with those claiming territory inhabited by people who do not wish to be "reincorporated". For example, the Chinese claim to Tibet in the face of undisputed Tibetan opposition, justified on the ground that China's supposed "national territorial integrity" overrides any internal minority's desire for self-determination, might seem to resemble the Irish nationalist claim to Northern Ireland. However, the Irish Tibet Support Group sees instead "striking" parallels between the plight of the Tibetans and that of the Irish, arguing that both have suffered "colonial rule by a larger, more powerful neighbour, annexation of provinces [and] plantation of immigrants" (letter to *Irish Times*, 11 October 1989). Similarly, a number of TDs have expressed support for the Sahrawis, while few if any Irish nationalist voices have been raised in agreement with Morocco's territorial claim to the Western Sahara, even though many nationalists, like Morocco (as quoted above), have compared the "loss" of the claimed territory with being

deprived of a bodily organ (for examples, see Bowman 1982: 14, 301; O'Brien 1936: 22). Nationalists tend to identify with the victims of domination rather than with actual or potential dominators, mainly because of a tendency to view the conflict in the north as a continuation of a centuries-old struggle. It is only in recent years that a growing body of nationalist opinion has come to view the fundamental conflict in the North as one between the two communities there rather than one between Irish nationalism and British colonialism.

Insistence that northern unionists are "the settlers' brood" and are obliged to respect Ireland's "inalienable and indefeasible" right to unity raises the question of what happens if unionists refuse to accept the inevitable. If unionists do not have the right to keep the area where they predominate out of a 32-county republic, then their options presumably come down to assimilation or emigration. They must either assimilate (not culturally or religiously, but politically, by renouncing their unionism) or leave the island. If they insist on living under British rule, then they will have to return to Britain to enjoy that privilege.

This rather stark choice is rarely spelled out explicitly by nationalists, mainly because they do not believe it will ever arise (as the unionists will, even if grudgingly, assimilate by accepting a united Ireland once the British withdraw) or, in some cases, because they fear that to do so would damage the generally positive worldwide image of Irish nationalism. The most unequivocal elaboration of what it entails comes from an American journalist, Kevin Kelley, in his sympathetic history of the IRA (Kelley 1982: 353):

Northern Protestants may wish to remain forever "British", ... but it must be simultaneously acknowledged that these one million "Britons" are living in a part of Ireland. If some cannot ultimately bring themselves to accept that part of their identity which is Irish, then let them travel the 20 miles across the water to a land where they can live among people who are allegedly their "own kind". This is far from being an ideal solution, it is true, but it would also not be an especially inhumane one. It is, in any event, time for Six County Protestants to sacrifice their privileged position and to be given a choice: either accede to the wishes of a majority of the country in which they live, and learn to bend a bit, or go off to the place which they claim, occasionally, to be their political and cultural hearth.

Rowthorn and Wayne (1988: 170) spell out the same message: Protestants' ultimate options are "either to accept the *fait accompli* of unity, or to leave Ireland altogether". O'Halloran (1987: 34-7) gives examples of some nationalists positively hoping that unionists would emigrate.

It might be said that most of those just quoted are minor and peripheral figures, but the most significant Irish nationalist of this century held the same view. Although de Valera said very different things about unionists at different times, Bowman concludes that "his deepest belief was that Ulster unionists were only entitled to remain in Ireland on the condition that they renounced their unionism and opted for Irish

citizenship". After 1945, "de Valera repeatedly suggested that the eventual choice for the unionists was either assimilation or emigration with compensation". In 1964, he told an interviewer that the unionist "must decide his priority: land or allegiance. If the former was more important, then he must accept subjugation to the political will of the majority of the island; if being ... British was the more important, then he should return forthwith to the favoured country, ... Britain" (Bowman 1982: 318-19).

Interestingly, in this account de Valera drew explicit parallels between unionists and Turkish Cypriots. In Cyprus, too, the question of "who was there first" is important. Greek Cypriots see Turkish Cypriots as the descendants of Turks who settled in the (Greek) island at around the same time as the Ulster plantations occurred, so that their continued presence is, to the Greeks, "the result, and a reminder, of a barbaric military conquest and occupation, a sad accident of history, an aberration" (Stavrínides 1975: 23-4). Indeed, this line of thought fits well into a world-wide pattern of ethnic conflict; it is quite common for one group to regard itself as indigenous and demand that the other group either acknowledge that it is a "guest" and recognise the first group's primacy by assimilating, or else "go home" (Horowitz 1985: 199-201).

The argument is perhaps not as insubstantial in the Irish context as it might at first appear. It could, it is true, be criticised on the grounds that the planters were merely migrating from one part of a state to another, and that it was the nationalist majority on the island who subsequently drew new international frontiers. Moreover, as unionists and their forebears have been in Ulster for nearly four hundred years, they have by now surely acquired the right to be regarded as natives rather than settlers. If it is realistic to suggest that they go back to where their distant ancestors came from, would it not be equally realistic to suggest that virtually the entire population of the USA return to the lands of its "roots", or that all British people of Irish descent return to Ireland? Defenders of the "assimilate or emigrate" thesis would maintain that these are not valid analogies. They would argue that emigrants from Poland, say, to America did not claim the territory where they predominated as Polish territory and declare that they would not be ruled by a Washington government; they assimilated politically by accepting that they were American citizens and were bound by majority rule. Nor have Irish emigrants to Britain claimed that any of the areas where they predominate has a right to secede from the United Kingdom. The only valid parallels, the argument continues, are with other emigrants who refuse assimilation to the majority ethos, such as the whites in South Africa (cf Kelley 1982: 354), the *pièds noirs* in Algeria, or the Israelis; the very groups, in fact, with whom some Ulster unionists tend to identify (Guelke 1988: 65, 76; Belfrage 1987: 160). (Of course, it could also be argued that the first emigrants to north

America and other parts of the world resisted assimilation to the extent of subjugating and virtually eradicating the native population.)

The general point is made by Cobban (1969: 72-3):

Can a state, it might well ... [be] asked, annex territory inhabited by members of another nationality, remove large numbers of them by open or veiled pressure, or merely by the operation of their desire not to live under an alien government, introduce in their place its own nationals, and then claim the territory on the basis of self-determination?

The context here was the reluctance of the Allies in 1919 to allow a plebiscite to determine the future of Alsace-Lorraine, where between 1871 and 1910 an estimated 500,000 French people had left and 300,000 Germans had entered while the territory was under German rule.

Generally speaking, international opinion would answer Cobban's question in the negative. Article 49 of the fourth Geneva Convention of 1949 states that "the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies", and although some argue that this is directed only against systematic movements of population, it can also be held that the occupier is obliged to preserve the existing situation in the occupied territories, so that even to allow civilian settlement is contrary to the spirit of the Convention (Gerson 1978: 170). Consequently, Israel has been condemned for its policy of creating settlements in the occupied West Bank and Gaza strip, Morocco for encouraging its nationals to settle in the occupied Western Sahara, and Turkey for encouraging settlement from the mainland to the "Turkish Republic of Northern Cyprus". More generally, it is possible to discern an acceptance that mere "settlers" do not have the same rights as "natives". There is considerable world-wide sympathy for the attempts of the Estonians, Latvians and Lithuanians to make their languages the official ones of their republics, and perhaps ultimately to secede from the USSR, and much less for the opposition of the Russians living there who have settled in the Baltic republics since 1940. Similarly, "indigenous" peoples in the South Pacific, such as Fijians or the Kanaks of New Caledonia, have found some support for their case that their wishes for the future of the territories should carry more weight than those of recent settlers from India or France, even if the indigenous people now constitute only a minority of the population. Many regimes discriminate in spheres like land ownership, public sector jobs and university places in favour of those deemed indigenes (examples include India, Malaysia, Nigeria, the Philippines, Fiji and Sri Lanka), and, more generally, arguments have been developed to the effect that "indigenous peoples" have special rights, above those of mere ethnic groups or minorities (Horowitz 1985: 654-6; Knight 1988).

On the other hand, if it were to be accepted that "settlers" have fewer rights than "natives" when it comes to the determination of a territory's future, the problem arises as to how to distinguish the two categories, given that almost every group can

be regarded as immigrants if one goes back far enough into history. It creates the need to decide at which precise point in time the population living in the territory is the valid population for the purposes of self-determination, but clearly any such exercise is fraught with problems. One suggestion is that it is legitimate to withhold the right to self-determination from settlers if they were introduced deliberately in order to tilt the population balance in favour of the colonial power (Sureda 1973: 182-3). By this criterion, Ulster Protestants might find themselves on weak ground, given that the main motive behind the initial plantations was the British desire to vest control of Ireland in "loyal" hands, even though it is true that some Scottish migration preceded the plantation scheme, and that some post-1609 immigration took place outside its framework (Robinson 1982: 24; Heslinga 1979: 165). Unionist claims that their forebears were merely moving from one part of the king's jurisdiction to another would be countered by nationalist arguments that Ireland was at that time a British (or English) colony rather than a legitimate possession of the king.

Of course, there were no international norms against such settlement in 1609, but this hardly affects the moral issue at stake. Nor is it certain that the passage of time, even if it stretches to centuries, alters the situation fundamentally, especially if, as in Northern Ireland, the "settler-native" dichotomy remains as deep as ever, reproduced by a variety of mechanisms of which endogamy is perhaps the most important (Whyte 1986). Macartney, writing between the two world wars about European minorities generally, categorises Ulster Protestants (along with German settlers in central and eastern Europe) as "colonists", and suggests that Britain was "tampering with the laws of nature" when it encouraged them to settle in Ulster in the seventeenth century (Macartney 1934: 67, 153-4, 403; for extensive discussion of parallels see Wright 1987).

But the nationalist case is weakened by the absence of a pre-plantation state covering the whole of the island from which the English could be alleged to have wrested control of the land. Even if, as writers of very different views agree, there was a sense of Irish identity, a common language and a common legal system (Brehon law) across the island before the arrival of Strongbow in 1170, there was undoubtedly no centralised Irish state (Pringle 1985: 66; Cronin 1980: 5). In Rose's words (1971: 75), "there has never been a period of Irish history when a fully legitimate regime ruled all the people of the island". Conflict in Ireland before the late eighteenth century, which later polemicists sought to portray as early manifestations of a "nationalist struggle", are more realistically seen as disputes between rival chieftains, some of whom sometimes found it expedient to ally with external (including English) forces (Canny 1987; Beckett 1979: 14, 16; See 1986: 47). Consequently, it seems that the "reversion to sovereignty" case, resting on the argument that pre-colonial ties can in some circumstances limit the right to self-determination, does not apply to Northern Ireland. That case appears to require first that the ties were

those of state sovereignty, and second that the claimant state is the "same" state as that enjoying pre-colonial sovereignty (Crawford 1979: 383). Clearly, neither of these conditions applies to Ireland.

The idea of a mass emigration of Ulster Protestants may not appear to be within the realm of practical politics. But it should not be forgotten that some of central Europe's most obdurate nationality problems were summarily "solved" after the second world war by the expulsion of the German "colonists", and that large-scale population transfers of Greeks and Turks, and Greeks and Bulgars, took place after the first world war, among other cases (Claude 1955: 93-106, 114-25, 191-4). Thousands of "Indian Tamils", most of whom had never been to India, were "repatriated" from Sri Lanka to India in the 1960s, and there was large-scale population movement in both directions across the Attila line after the Turkish invasion of Cyprus in 1974. In the late 1980s, large numbers of "ethnic Germans" from eastern Europe and the USSR have emigrated to West Germany, and ethnic Turks were harassed in Bulgaria to the extent that many left for Turkey. Moreover, nearly all the *pieds noirs* left Algeria when it became independent, and a substantial proportion of southern Irish Protestants left Ireland after 1922. Of course, the last two groups had shallower roots in society, greater dependence economically on the "natives", and a far greater willingness to consider metropolitan France or the British mainland as their home country than Ulster unionists have. But emigration need not entail a sudden mass departure; it could involve a steady outflow of population over a period of decades. There are signs that this is happening already, and one writer sees increased emigration of the Protestant middle class as one factor which may lead to "a final solution to the 'national question' sometime in the second half of the next century as a sullen and defeated Protestant population learns to live in a 'new Ireland'" (Patterson 1988: 9). The question of whether the nationalist tradition is justified in presenting unionists with a simple choice between assimilating into an independent all-Ireland state or emigrating may not, therefore, be entirely academic.

CONCLUSION

The criterion of self-determination provides considerable scope for argument when applied to the question of the international borders of the Irish state. Nationalists have had far more conviction than unionists that if the rival arguments are judged by the yardstick of self-determination, their case will be enhanced. It is true that current norms of decolonisation would militate against any partition of Ireland today, were Britain still in control of the whole island, but unionists could argue that nationalists "peaked too soon", by achieving independence before these norms were established. In addition, they could point out that the application in 1920 of true "self" determination (coupled with the requirement of territorial contiguity), as op-

posed to the ill-defined notion of "national" self-determination, would undoubtedly have led to a partition of the island, although the resulting northern state would have been smaller than the one that actually emerged (see the map in Kennedy 1986: 23). In any case, although it is nationalists who are more prone to appeal to international norms of self-determination, the state-centric, anti-secessionist standards of the post-second world war era reinforce the existing border, however imperfect it may have been. Northern Ireland appears to be too big and sufficiently distinctive politically from the rest of the island to be regarded as a "colonial enclave"; if this were not so, the South could more plausibly maintain that its people have no right to self-determination.

It might seem ironic that the ideal of self-determination is invoked in their support by those who feel most strongly that Ulster unionists do not have a right to self-determination; that arguments against the right of secession are employed exclusively by those who wish to see a part of the United Kingdom secede; and that one of the most explicit statements by an Irish nationalist to the effect that unionists might ultimately have to "return" to a country many of them have never visited comes from a politician born in America to a Spanish father. But to describe this as a mere irony is to underestimate the conviction imparted to the nationalist case by the instinctive feeling that nationalists are the "indigenous" population of the island and unionists are, for the most part, descended from settlers. This kind of asymmetry of moral certitude is not uncommon when ethnic groups come into conflict, and offers a line of thought which could be elaborated into an arguable if rather legalistic nationalist case, albeit hardly providing the basis for the construction of an identity that could embrace everyone on the island.

Ultimately, though, the prism of self-determination does not seem a very promising one through which to view the Northern Ireland conflict. It can make sense to think in terms of an absolute right to self-determination only when a "self" can determine its own destiny without thereby trampling on someone else's. In Northern Ireland, indeed in Ireland as a whole, the geographical intermingling of the two groups means that neither can exercise determination only for itself. Without the traumatic development of major movements of population, the very idea of an absolute right to self-determination for either nationalists or unionists is a chimera.

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