



SECTION 4

4.0 Summary

In light of Brexit and the challenges it poses for all sides in Ireland, the words of Attorney General Rory Brady (2002-2007) in the foreword to now High Court Justice Richard Humphreys' book 'Countdown to Unity' have never been more relevant.

"It is now for the political world to address when and how it will embrace those challenges and induce that change"²⁵⁰

"Unity may have been redefined by the new Articles 2 & 3 of the Constitution but it has remained as a constitutional imperative (obligation). The guarantee that violence will not be used to effect constitutional change is merely one commitment. In parallel to that and of equal importance is the duty to give effect to the firm will of the Irish Nation 'to unite all the people who share the territory of the Island of Ireland'²⁵¹

'Countdown to Unity' identifies how the objective of Unity might be put in place through legal and constitutional measures. This report will highlight briefly those legal, legislative and constitutional measures that can be taken to strengthen the case for unity as outlined by Humphreys.

Up until the Brexit vote on 23 June 2016 the concept of a United Ireland as outlined in Articles 2 and 3 of the Constitution for many would seem a distant aspiration. Brexit means that the best future for the citizens of Northern Ireland could well be remaining in the European Union in a reunified Ireland. This option must be explored and examined.

The challenge now is to lay out how to achieve the constitutional obligation of a united Ireland.

As John Bradley in his paper 'Toward an All Island Economy' presented at Queens University Belfast in 2014 pointed out, "the extreme importance of strategic economic planningpolicy errors or policy neglect seldom goes unpunished".²⁵² As this is a truism of economic planning it is also critically important when it comes to the issue of planning for unification. The UN human development

²⁵⁰ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.Xiii.

²⁵¹ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.X

²⁵² John Bradley, 'Towards an All-Island Economy', (2016) < http://www.irish-association.org/papers/john_bradley.asp> accessed 2 February 2017.

index ranks the Republic of Ireland as 8th in the world and ranks Northern Ireland at 44th.

However, aside from the New Ireland Forum, the Oireachtas Library and Research service in Leinster House could not find any current or historic reports produced by a parliamentary committee on how the state should achieve its main aim of a united Ireland.

As is pointed out in ‘Countdown to Unity’ published in 2009, seven years prior to the Brexit vote, Justice Humphreys stated there were a number of reasons why a debate and a policy are appropriate at this time.

In this section we look at High Court Justice Humphreys’ reasons why, other than Brexit, the issue of unification should be looked at.

Firstly, the radically different context for the discussion on unity which exists now compared to any time over the last nine decades since partition. Secondly, the case for unity is now actively being made, with support for a United Ireland by 79 per cent in the South, along with, as Humphreys, states “increasing over all vote for the two nationalist parties in Northern Ireland”,²⁵³ demonstrated by the Assembly results of 3 March 2017. Finally, as Justice Humphreys states himself:

“but in the end perhaps most compelling, reason for an examination of the implications of unity is the fact that the constitution itself, in article 3, inserted pursuant to the Good Friday Agreement, refers to unity as the ‘firm will of the Irish Nation’”.²⁵⁴

Specially commissioned research carried out by the Oireachtas Library and Research Service for this report outlines the positions of all the main political parties on the Island, North and South, on the issue of unification. It is republished within this section in full. Professor Sean D. McGraw of Notre Dame University in his submission for the Joint Committees Report outlines his research of Irish Parliamentarians attitudes towards a united Ireland.

Attorney General Brady states in the Foreword to High Court Justice Humphreys’ book ‘Countdown to Unity’ that “While consent is a fundamental characteristic of change, Dr Humphreys makes it plain that it cannot be an excuse for political inertia”²⁵⁵. High Court Justice Humphreys discusses the issue of political status-quoism due to the concern

²⁵³ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.2.

²⁵⁴ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.X.

²⁵⁵ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.X.

that loyalist paramilitaries could be provoked and attempt to subvert the pursuit of the aim of the Irish people to peacefully achieve a united Ireland as provided for in the Good Friday Agreement. Senator Daly as rapporteur of this report requested White House, National Security Council, Senior Policy Advisor on counter terrorism in President Obama's administration, and the first US diplomat focused on countering violent extremism policy at the State Department Michael R. Ortiz to give a submission on how the threat of future loyalist paramilitary violence attempting to subvert a referendum and unification could be addressed. Anne Cadwallader of the Pat Finucane Center and author of 'Lethal Allies: British Collusion in Ireland' outlines the collusion of the past between the British Security forces and loyalist paramilitaries, and she makes recommendations on how such collusion could be prevented in the future as Ireland pursues unification.

Kevin Meagher, an advisor to the Secretary of State for Northern Ireland Shaun Woodward 2007-09, outlines in a submission to the Committee his view on the position that the British Government should adopt towards the future of Northern Ireland.

Expert in German unification, Professor Christian Tomuschat from Berlin University, made a submission to the Committee report. The United Nations report on the on-going progress in Cyprus reunification is also published in full. Professor Marcus Noland, former Senior Economist at the Council of Economic Advisers in the Executive Office of the President of the United States, is also a specialist on the issue of Korean unification and outlines some of the lessons for Ireland.

High Court Justice Humphreys in his book 'Countdown to Unity' states that "there is no one single pathway to unity – rather there are alternative, but perhaps related roadmaps to reunification"²⁵⁶

In this section the options by Justice Humphreys are outlined. These include Unitary State, Federal/Confederal, United Ireland with continuation of Northern Assembly under the Good Friday Agreement, Joint Authority, Joint Sovereignty, Independent Northern Ireland, Repartition, and Repatriation.

'Irish Man of the 20th Century' T K Whittaker stated in November 1968 in a 'Note on North-South Border Policy' the long-term nature of achieving a United Ireland:

²⁵⁶ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.205.

‘We were, therefore, left with only one choice, a policy of seeking unity in Ireland between Irishmen. Of its nature this is a long-term policy, requiring patience, understanding and forbearance and resolute resistance to emotionalism and opportunism. It is not the less patriotic for that’

T K Whittaker

‘Note on North-South Border Policy’

T. K. Whittaker ‘s transcript memorandum titled “A note on North South Border Policy” November 1968 is in the online appendix in full

4.1 Recommendations:

The establishment of a New Ireland Forum 2 is recommended to set a pathway to achieve the peaceful reunification of Ireland.

Establish an international task force with experts in security so that plans to meet any risks may be devised and implemented.

Fears and concerns of the Unionist community need to be examined, understood and addressed comprehensively by all stakeholders in advance of any referendum.

The legacy issues in society outlined by Senator Frances Black and the inter-generational impact of the troubles in terms of mental health consequences and substance abuse needs to be addressed.

4.2 Uniting Ireland

At the time of publishing, High Court Justice Humphreys outlined a number of reasons as to why his book 'Countdown to Unity' was appropriate.

“The first such ground is the radically different context for the discussion on unity which exists now as compared to much of the period since 1921. Nationalist self- confidence and self-image are difficult concepts to define, let alone measure. What appears to be significant social and cultural momentum for nationalism/ republicanism is driven by a number of factors and sign posted by a number of significant landmark anniversaries”²⁵⁷

At the time of writing Humphreys was referring to the 90th anniversary of the 1916 Rising. However the recent 100th anniversary of the Rising, and more importantly the 100th Anniversary of partition in 2020, and the establishment of the Northern Ireland parliament are more significant anniversaries for the nationalist community.

“Other social and economic developments feed into a growing nationalist self- assurance. Chief among these is the economic growth of the past ten years. Relevant also is Ireland’s increased prestige on the international stage”²⁵⁸ The UN Human Development Index analysis by the Oireachtas Library and Research service ranks the Republic of Ireland as 8th in the world alongside Germany, Canada and the United States. In Northern Ireland’s case, the analysis places it 44th in the world. The full report is in the online appendix of this section.

The next quote by Humphreys was written 7 years prior to the Brexit vote, a referendum in the UK dominated by issues of immigration and at times racism. This quote was written 6 years before the vote in Ireland on the marriage equality referendum.

“Prior to the 1990s discussion about possible Irish Unity was dominated by the economic implications of uniting a part of a prosperous and liberal United Kingdom with an economically and, it was said, socially backward South. Neither of these objections, if they can be so

²⁵⁷ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.2.

²⁵⁸ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.2.

described, have the same automatic force as they may have had prior to the recent years, to put it mildly.”²⁵⁹

Justice Humphreys states “The second major development which justifies a study such as the present one is the fact that the case for Unity is now actively being made”.²⁶⁰

This is also dealt with later in this section regarding political parties’ positions on a united Ireland. Taoiseach Enda Kenny at the McGill Summer School in July 2016 said “The EU needs to prepare for a United Ireland”. Green Party leader, Eamon Ryan TD, on 22 November 2016 in a Dáil debate on the issue of Brexit and Northern Ireland stated that:

“It behoves us to treat that possibility seriously and to be open, honest and clear with each other on the costs and opportunities in moving towards a united Ireland”²⁶¹

Eamon Ryan TD’s comments in relation to the possibility of a united Ireland are just some of many raised in recent debate particularly around Brexit.

Fianna Fáil, Sinn Féin and the SDLP have all issued position papers on the issue of Irish Unity.

In his introduction to his book High Court Justice Humphreys quoted a number of prominent figures including Sir Kenneth Bloomfield to the effect that unity is not unthinkable in principal, which produced a number of interesting responses, including David Adams in the Irish Times:

“The previously unimaginable may not end there.”²⁶²

Justice Humphreys also quoted one of the architects of the Peace Process Dr Martin Mansergh:

“since debate about a united Ireland will continue, it may be useful to set out the principals that would require to be satisfied for any serious negotiations”²⁶³

²⁵⁹ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.2,3.

²⁶⁰ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.3

²⁶¹ Deputy Eamon Ryan, Dáil Éireann (November 22 2016) < <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/Dáil2016112200018?opendocument>> accessed 2 February 2017.

²⁶² David Adams, ‘Irish Unity Cannot Be Ruled Out’ The Irish Times (Dublin, 16 September 2007) Available at. [http:// www.irishtimes.com/opinion/irish-unity-cannot-be-ruled-out-1.961685](http://www.irishtimes.com/opinion/irish-unity-cannot-be-ruled-out-1.961685)

²⁶³ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press,

Mansergh went on to say:

“What are the advantages of a united Ireland? Essentially, to give the people of northern Ireland, a far more direct and influential say in their destiny, visible representation at international level, the benefits of social partnership and full participation in what could be the most dynamic, knowledge based economy in Western Europe. They would have ownership of a richly varied and internationally recognized Irish cultural heritage.”²⁶⁴

Mansergh’s note on “Ireland, and the UK from 1916 to Brexit, the problem of consent” is published in full in the online appendix.

Justice Humphreys outlined the polling results at the time of publication in favour of a united Ireland.

“An opinion poll conducted on behalf of the British Council demonstrated overwhelming support for a united Ireland among the respondents in the South. The survey showed that 68% were in favour with 10% opposed and 22% described as ‘do not know’.”²⁶⁵

RTE/ BBC Northern Ireland commissioned a survey by Behaviour and Attitudes on both sides of the border in October 2015 showing a large majority in the Republic, 79 percent saying yes when asked if they “would like to see a United Ireland in my life time”.²⁶⁶ Only 14 per cent said “No” to the same question. The full RTE/BBC poll section ‘Attitudes to and future status of Northern Ireland’ is included in the online appendix of this section

A Red C Opinion Poll in July 2016 showed similar support for a united Ireland with 69 per cent in favour.²⁶⁷ The full ‘Support for a United Ireland’ section of the poll has been included in the online appendix of this section. In relation to polling in Northern Ireland Mary Holland, writing in the Irish Times in 2001, stated that “It has been pointed out that opinion polls in Northern Ireland have a notoriously poor record”.²⁶⁸

Dublin 2009) p.3.

²⁶⁴ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.3.

²⁶⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.3.

²⁶⁶ Red C Opinion Poll, (July 2016) <http://www.redcresearch.ie/wp-content/uploads/2016/07/Paddy-Power-29th-July-2016-Poll-Report.pdf>.

²⁶⁷ RTE/ BBC Poll, *Attitudes to and future status of Northern Ireland*, October 2015

²⁶⁸ Mary Holland, *Irish Times*, 2001.

The Northern Ireland Census has shown that less than 50 per cent of the population have described themselves as British. A new and growing third identification worthy of further exploration is for a people in Northern Ireland to identify themselves as 'Northern Irish'. 'Northern Ireland Assembly: Understanding the Northern Irish Identity' is included in the online appendix of this section. Humphreys continues by pointing out:

“The political context is a gradually but steadily increasing over all vote for the two nationalist parties in Northern Ireland. The fact that Sinn Féin has overtaken the SDLP in terms of the share of the vote perhaps illustrates an increasing radicalisation of the Northern Irish nationalist electorate.”²⁶⁹

The Northern Ireland Assembly elections results of 3 March 2017, where after 100 years since the establishment of the Northern State the amount of declared Nationalist members of the Assembly elected nearly equaled the number of Unionist members, demonstrates the trend outlined by High Court Justice Humphreys.

While Brexit is now one of the most compelling economic reasons for the Government to look a fresh at the issue of unification, High Court Justice Humphreys at his time of writing made the compelling constitutional case.

“The Final, but in the end perhaps most compelling, reason for an examination of the implication of unity is the fact that the constitution itself, in article 3, inserted pursuant to the Good Friday Agreement, refers to unity as the ‘firm will of the Irish Nation’.”

In the light of such a declaration, it is reasonable Humphreys states

“to ask what measures Ireland is or could be taking to progress that firm will. Insofar as the article (Article 3 of the Constitution) refers to the spirit of harmony and friendship and to the diversity of identities and traditions, it is reasonable to ask what legal measures might be envisaged now as to make those objectives into living realities as opposed to ceremonial aspirations.”²⁷⁰

“It is as well to bear in mind this major limitation of the value of any individual legal or constitutional measure in terms of the politics of Northern Ireland. While individual, legal and constitutional changes can seek to accommodate the rights, interests and concerns of different

²⁶⁹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.3.

²⁷⁰ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.4,5.

sections of the community, the fundamental constitutional objectives of each tradition can only be realised in an absolute sense within one state or the other.”²⁷¹ (i.e a United Ireland or a United Kingdom.)

‘Countdown to Unity’ identifies how the objective of unity might be put in place through legal and constitutional measures. This report will highlight briefly those legal, legislative and constitutional measures that can be taken to strengthen the case for unity as outlined by Humphreys

“Dr Humphreys has wisely recognised the need to engage in a timely audit of the change necessary to bring about a unification that achieves an island united in all the diversity of its identities and traditions.”²⁷²

High Court Justice Humphreys also in his book ‘Countdown to Unity’ examines if “the Good Friday Agreement can be contended to be a permanent feature of the Institutional landscape, and to represent a clear road map towards the implementation of a united Ireland, and in particular to set out the conditions under which that scenario might be achieved.”²⁷³

With protections for the equality of respect for both communities, we can look to arguments for unity that have the capacity to persuade as well as to protect the people of Northern Ireland”²⁷⁴.

4.3 Unionist view of United Ireland same as nationalist view of United Kingdom

It might further be said that this state can make all the amendments to its law and constitution that it wishes but at the end of the day the unionist objection will still be there. That is undeniably the case for some if not most unionists, but that is an irremovable feature of the nature of the conflict in Northern Ireland. It is a precise mirror image of the situation under the current dispensation, whereby the United Kingdom can make all of the changes to its own law and that of Northern Ireland that it sees fit, including human rights for all and sundry, as well as further changes to the policing service and any other items on the nationalist/republican wish list, but at the end of the day the nationalist and republican objection to the United Kingdom will still be there.²⁷⁵

²⁷¹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.5.

²⁷² Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.Xii,Xiii.

²⁷³ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.6.

²⁷⁴ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.205.

²⁷⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press,

4.4 Political parties positions on the island of Ireland on unification

This section deals with the political parties' positions on the issue of unification, including those of parties in the South - Fianna Fáil, Fine Gael and Labour - and those in the North - SDPL, Democratic Unionist Party, Ulster Unionist Party, Traditional Unionist Party and Alliance Party- and those in both - Sinn Fein, Greens and PBP - as is stated in their parties' aims and objectives.

Fianna Fail- "We reaffirm our traditional commitment to...seeking the unification of Ireland and her people through consent."

Fine Gael- Proposed as a principle 'unity by consent' in North-South relations – something now standard across parties but condemned at the time by all other parties.

Sinn Féin- Continue to campaign for an island-wide referendum on Irish unity - allow the people to have their say.

Ulster Unionist Party- With five years to go, we can confidently plan to celebrate Northern Ireland's centenary and do so within the context of its continuing membership of the United Kingdom.

Democratic Unionist Party- Our vision is to maintain and enhance Northern Ireland's constitutional position within the United Kingdom, achieving long-term political stability to deliver a peaceful and prosperous future for our people.

Traditional Unionist Party- Northern Ireland is and must remain an integral part of the United Kingdom, which needs to salvage its independence by exiting the EU:that is the TUV view.

Social Democratic and Labour Party- Ireland's political re-unification remains the biggest and the best idea around. It needs huge preparation. Big ideas deserve better than being reduced to a numbers game.

Alliance- Favour further devolution with a move towards a Federal UK.

Labour- “Yet I remain of the view that the long-term future of the people of this island would be better faced together.”

Greens- “The British-Irish Agreement, and the joint referenda which gave it effect, provided for the balanced constitutional change which the Greens have campaigned for since its foundation. We remain wholeheartedly in support of it. Human rights are for all.”

People Before Profit- “PBP is neither Orange nor Green. We are socialist.”

The principal of consent in relation to a united Ireland is a well established principal of the Good Friday Agreement to which the main political parties in the Republic subscribe, as do the main parties in Northern Ireland.

“The EU needs to prepare for a United Ireland” Taoiseach Enda
Kenny July 2016

Niall O’Connor, the political correspondent of the Irish Independent, reporting from the McGill Summer school in July 2016 stated that:

“In a significant move, Mr Kenny called on the European Union to prepare for the prospect of Northern Ireland Seeking to join the Republic. The Fine Gael leader said a future border poll was now possible in light of the decision by Britain to leave the EU. And Mr Kenny even likened it to West Germany and East Germany after the fall of the Berlin Wall.

"The discussion and negotiations that take place over the next period should take into account the possibility, however far out it might be, that the clause in the Good Friday Agreement might be triggered," he said, "in that if there is a clear evidence of a majority of people wishing to leave the UK and join the Republic, that should be catered for in the discussions.

"Because if that possibility were to happen, you would have Northern Ireland wishing to leave the United Kingdom, not being a member of the European Union and joining the Republic, which will be a member of the EU."

The Taoiseach made the remarks to reporters following his speech at the McGill Summer School in Glenties, Donegal.

"The discussion and negotiations that take place over the next period should take into account the possibility, however far out it might be, that the clause in the Good Friday Agreement might be triggered," he said, "in that if there is a clear evidence of a majority of people wishing to leave the UK and join the Republic, that should be catered for in the discussions.

"Because if that possibility were to happen, you would have Northern Ireland wishing to leave the United Kingdom, not being a member of the European Union and joining the Republic, which will be a member of the EU."

Taoiseach insists on united Ireland clause in any Brexit deal with UK.

Irish Times 23 February 2017 **THE IRISH TIMES**

Enda Kenny calls for Brexit deal to include united Ireland provision

Enda Kenny has insisted Ireland's Brexit negotiating position will not be undermined by his looming departure as leader in the coming weeks.

And the Taoiseach said any Brexit deal should include language that would allow Northern Ireland to easily return to the EU in the event of an united Ireland.

Mr Kenny said the provisions that allowed East Germany to join West Germany and the EU "in a seamless fashion" after the fall of the Berlin wall offered a precedent.

He said that "in such future time, whenever that might be, were it (reunification) to occur, that the north of Ireland would have ease of access to join as a member of the European Union again . . . we want that language inserted into the negotiated treaty, the negotiated outcome, whenever that might occur."

Irish Independent 23 February 2017 **Irish Independent** 

The Taoiseach has insisted on a clause in the Brexit deal to allow Northern Ireland rejoin the European Union as part of a united Ireland.

After a summit with European Commission President Jean Claude Juncker, the Taoiseach said the Good Friday Agreement must be stitched into the outcome of talks on Britain leaving the bloc.

Referring to the fall of the Berlin Wall, he said the EU divorce deal must allow for Northern Ireland to "seamlessly" reunite with the Republic of Ireland if a majority votes for it.

"We want that to remain in such a position that the language of what is contained in the Good Friday Agreement will also be contained in the negotiations outcome," he said at a press conference in Brussels.

Taoiseach Enda Kenny, speaking in Brussels on the 2nd of March 2017 said,

“the Good Friday Agreement contains the opportunity to put in these negotiations language that has already been agreed in internationally binding agreement, that at some future time were that position to arise, that if the people by consent were to form a united Ireland that that could be a seamless transfer as happened in the case of East Germany and West Germany when the Berlin Wall came down.”

Green Party leader, Eamon Ryan TD on the 22 November 2016 in a Dáil debate on the issue of Brexit and Northern Ireland stated that:

“We need to look forward by a year and consider various different scenarios in terms of how things will unfold. However, when I do that, I see nothing but the worst possible news for the North, in particular. In terms of the effect of Brexit and the process, the North will be worst affected because its percentage of trade across the Border is far higher than anywhere else. It will be affected if any border is imposed. It will lose out if, as the UK Prime Minister said yesterday, the corporation tax is reduced to 15%. Any comparative advantage it thought it might have in a low-tax system to try to attract investment will be gone.” I see nothing in the negotiating process other than a very long five to ten year mess in terms of talk around trade agreements. One of our concerns is how a Northern economy will find it very difficult in that environment. “We need the Department of the Taoiseach and the Government to start doing scenario planning around what Brexit might mean and considering the possibility that it would lead to a change in constitutional arrangements. We might have to consider very seriously an all-island constitutional approach and a more united Ireland.” In order for us to have an informed debate on that issue, I ask the Department of the Taoiseach to start working out the cost implications and opportunities that will be available for the State. I know we are at the end of the constitutional process. It would first of all require a series of opinion polls to show that the people of the North are interested in such a process. The Secretary of State would have to sign up to the holding of a Northern referendum before we could have any referendum. It behoves us to treat that possibility seriously and to be open, honest and clear with each other on the costs and opportunities in moving towards a united Ireland. The alternative for the North under Brexit is looking increasingly grave.”²⁷⁶

²⁷⁶ Deputy Eamon Ryan, Dáil Éireann (November 22 2016) < <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/Dáil2016112200018?opendocument>> accessed 2 February 2017.

FIANNA FÁIL

Fianna Fáil was the party in Government that introduced the 1937 Constitution with the original Article 2 and 3, and Fianna Fáil was the party in Government that introduced the referendum that amended these two articles which was endorsed by 94 per cent in a referendum. Fianna Fáil's Policy Paper on Foreign Affairs published in 2014 as part of the submission to the Governments review on Foreign Policy and External Relations states that the party "believe in the stable, peaceful and prosperous reunification of Ireland and its people".²⁷⁷

The submission also went on to state that

"Fianna Fáil supports the comprehensive engagement between all Parties and people in the north regarding the economic, social and political conditions necessary to create the correct circumstances under which the reunification of Ireland can be obtained."

Working through the Good Friday Agreement and the St Andrews Agreement with Britain as the co-guarantor of those agreements, Fianna Fáil believes it is imperative that there is active engagement with Britain as well as with our EU partners and the United States on working towards achieving the reunification of Ireland.²⁷⁸

The Issue of Constitutional Imperative as described by former Attorney General Rory Brady has also being raised by Fianna Fáil as a "duty to give effect to the firm will of the Irish nation"²⁷⁹ as stated in Article 2 and 3 of the Constitution. Fianna Fáil has stated that "the Unity of the people of this Island in one state remains the aspiration of the majority of the Irish People and its is the duty of our government to work for it with real commitment".²⁸⁰

A research paper by the Oireachtas Library and Research Service in Leinster House November 2015 was commissioned with the Title of 'Political Parties position on

²⁷⁷ Fianna Fáil, Foreign Affairs Policy Paper (2015)
<<https://www.scribd.com/document/262347124/Fianna-Fail-Foreign-Affairs-Policy-Paper#?>
accessed 2 February 2017.

²⁷⁸ Fianna Fáil, Foreign Affairs Policy Paper (2015)
<<https://www.scribd.com/document/262347124/Fianna-Fail-Foreign-Affairs-Policy-Paper#?>
accessed 2 February 2017.

²⁷⁹ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.Xii.

²⁸⁰ Fianna Fáil, Foreign Affairs Policy Paper (2015)
<<https://www.scribd.com/document/262347124/Fianna-Fail-Foreign-Affairs-Policy-Paper#?>
accessed 2 February 2017.

unification with Northern Ireland'. An updated version of this research paper which included an analysis of the positions of all the political parties on the island was published in February 2017 after the launch of all the political parties' manifestoes in the Assembly Elections in Northern Ireland. This paper is reproduced here in full.



4.4.1 Political parties' position on unification with Northern Ireland

Research Paper for Senator Mark Daly

This paper outlines the position of seven Republic of Ireland political parties regarding the constitutional status of Northern Ireland, as described in a previous paper (enquiry number 2015/2017 of November 2015) and updates developments in an Addendum.

This paper also addresses the position of eight Northern Ireland parties' position on this subject, in a new section.

Date: Friday, 17 February 2017

Enquiry Number: 2017/45

Library & Research Service central enquiry desks: Tel – 618 4701

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1. Introduction

This paper looks at the policies of seven Republic of Ireland registered political parties—those of Fianna Fáil, Fine Gael, Labour, Sinn Féin, Green Party, Anti-Austerity Alliance-People before Profit and Renua Ireland.

It also looks at the policies of eight Northern Ireland parties represented in the Northern Ireland Assembly before its dissolution in January 2017—those of Alliance Party, Democratic Unionist Party, Green Party NI, People Before Profit Alliance, Sinn Féin, Social Democratic and Labour Party, Traditional Unionist Voice and Ulster Unionist Party.

The policies of the established Republic of Ireland parties (FF, FG, Labour, SF, Green) regarding unification with Northern Ireland could be summarised as variations on a theme of “unity by consent”.

The positions of new party Renua Ireland and new political grouping Anti-Austerity Alliance-People before Profit (AAA-PBP) are harder to ascertain. As Renua Ireland is recently formed it seems not to have yet decided on the position on the constitutional status of Northern Ireland.

AAA-PBP does not have a joint website and no clear statement could be identified, although some of the constituent groups have been critical of the operation of the current peace process.

The positions of some of the eight parties represented in the Northern Ireland Assembly until its dissolution in January 2017 are more polarised.

Three parties state in their published documents that they favour union with Great Britain (DUP, TUV, UUP). Two parties state that they favour a united Ireland (Sinn Féin, SDLP).

The remaining three parties occupy different places on the spectrum. The Green Party in Northern Ireland subscribes to unity by consent and to the Belfast/Good Friday Agreement. Alliance states that it favours devolution, with a move to a federal UK, and the development of the North-South Ministerial Council. The People Before Profit Alliance states that it is “neither Orange nor Green”.

Unity by consent

Unity by consent is a central concept of the Northern Ireland Peace Agreement, also known as the Belfast or Good Friday Agreement, to which the parties subscribe. However, there are nuances in how each party approaches this policy, which are elaborated here.

Box 1. Extract from The Northern Ireland Peace Agreement

The Agreement reached in the multi-party negotiations 10 April 1998

1. The participants endorse the commitment made by the British and Irish Governments that, in a new British-Irish Agreement replacing the Anglo-Irish Agreement, they will:

(i) recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland;

(ii) recognise that it is for the people of the island of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish, accepting that this right must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland;

(iii) acknowledge that while a substantial section of the people in Northern Ireland share the legitimate wish of a majority of the people of the island of Ireland for a united Ireland, the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union and, accordingly, that Northern Ireland's status as part of the United Kingdom reflects and relies upon that wish; and that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;

(iv) affirm that if, in the future, the people of the island of Ireland exercise their right of self-determination on the basis set out in sections (i) and (ii) above to bring about a

united Ireland, it will be a binding obligation on both Governments to introduce and support in their respective Parliaments legislation to give effect to that wish;.....

.....

Accessed

at:http://www.taoiseach.gov.ie/attached_files/Pdf%20files/NIPeaceAgreement.pdf

2. Republic of Ireland parties

Fine Gael

Among the party's achievements listed on the FG website is that of proposing the principle of "unity by consent".¹

"The party's achievements

Proposed as a principle 'unity by consent' in North-South relations – something now standard across parties but condemned at the time by all other parties.

1969-Fine Gael adopts a policy of Irish "unity by consent". The first party to do so, and highly controversial, it would later become the policy of all parties."

Fianna Fáil

In April 2015, Fianna Fáil published a foreign affairs policy paper outlining their key positions in the area of international affairs. This paper summarised the party's position on unification:

"We reaffirm our traditional commitment to...seeking the unification of Ireland and her people through consent."²

¹ Accessed at <http://www.finegael.ie/history-of-fg/>

² Fianna Fáil Foreign Affairs Policy Paper, 19 April 2015. (authored by Brendan Smith TD, Spokesperson on Foreign Affairs and Border Region Development).

The policy is described thus:

“North/South and British-Irish Relations

Our Position:

Fianna Fáil continues to seek to secure in peace and agreement the unity of Ireland and its people.

The Good Friday Agreement, which was overwhelmingly endorsed by the people on the island of Ireland, allows for the unity of Ireland with the consent of a majority of the people in both parts of this island. This is a goal Fianna Fáil will continue to pursue.

- Direct Involvement by Governments:

We believe that both the British and Irish Governments must continue their direct involvement in consolidating and building on the peace secured in Northern Ireland. The need to implement meaningful proposals to deal with the past and the outstanding elements of the Good Friday Agreement and subsequent agreements, the continuous threat from dissidents, and the challenges of inequality and poverty necessitate direct involvement from the national governments of both states.

- All-Ireland Economy:

The potential of the Good Friday Agreement can be enhanced further to maximise the opportunities presented through the development of the all-Ireland economy which would increase prosperity for citizens on both sides of the border. Cross-border infrastructure projects such as the N2/A5, the Narrow Water Bridge Project, the restoration of the Ulster Canal and Dublin-Belfast Railway upgrade are vital in this regard and should be pursued.

- Implement Fully the Good Friday Agreement:

All elements of the Good Friday Agreement must be implemented in full. As an internationally binding agreement both Governments and the Northern Executive must commit to passing a Bill of Rights for Northern Ireland and introducing Acht na Gaeilge.

- North/South Bodies:

Fianna Fáil supports increasing the number of North-South competencies in areas where it is mutually beneficial to do so. Further co-operation in areas such as job creation, trade, educational services in Further and Higher Education, health service provision and policing should be examined.

- Fianna Fáil believes it is time to establish a Border Development Zone as a North-South body which would work to integrate infrastructure and public services in certain spheres such as health, broadband and other utilities.

- North-South Institute

Fianna Fáil calls for further co-operation in the area of education and research through a formal North/South research institute. Our Party will examine the idea of establishing a specific Institute/Department in a third level institution to deal exclusively with North/South developments. This 'Institute' would deal solely with driving the North/South agenda and produce research on the potential for further development in North-South cooperation.”

Labour Party

“Protecting & enhancing peace in Northern Ireland” was identified in July 2014 as one of seven key priorities of the Labour Party in its Statement of Government Priorities 2014 – 2016³.

This document stated:

"We remain fully committed to the full implementation of all aspects of the Good Friday Agreement. We will work closely with the British Government to support the efforts of the political parties in Northern Ireland to reach agreement on the issues of parades, flags and dealing with the issues of the past.....

We will continue to develop the North-South institutions, with a particular emphasis on infrastructural development in the border region. We will also develop further proposals on North-South co-operation in health, tourism, and economic development."

The Labour leader set out Labour Party thinking on this issue in a speech by Joan Burton TD on 3 November 2015 in which she stated⁴:

“It is over 30 years since the New Ireland Forum met. We have come a long way since then.

The principle of consent remains paramount.

Yet I remain of the view that the long-term future of the people of this island would be better faced together.

And were that possible, it would not be on the basis of the domination of the one tradition over the other.

It would involve us nationalists recognising the essential British identity of unionists, and unionists perhaps embracing a greater sense of their own Irishness.

So, in the context of the 1916 commemorations, we should set ourselves the challenge of convening a new forum or body.

One that is separate to, but supportive of, the institutions of the Good Friday Agreement, specifically to discuss the island’s future⁵.

³ Labour Statement of Government Priorities 2014 – 2016, 11 July 2014. Accessed at <http://www.labour.ie/policy/listing/14050994781694430.html>.

⁴ Time for a discussion about building a new, agreed Ireland, 3 November 2015 at <http://www.labour.ie/press/2015/11/03/time-for-a-discussion-about-building-a-new-agreed/>

⁵ This speech was delivered in the Dáil. Accessed at: <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2015110300033?opendocument>

Sinn Féin

According to its website, Sinn Féin is dedicated to the reunification of Ireland and an end to British jurisdiction in the north of Ireland. Sinn Féin states that it is seeking a new, agreed and united Ireland⁶.

Sinn Féin states that they would:

- “•Continue to campaign for an island-wide referendum on Irish unity - allow the people to have their say.

- Build upon the work of the all-Ireland Ministerial Council.

- Campaign for Northern representation in the Dáil – northern MPs should be automatically accorded membership of the Dáil with consultative and speaking rights.

- Extend voting rights for Presidential elections to people in the North and the Irish Diaspora.

- Develop the all-Ireland economy, including having a planned approach to economic development across the island of Ireland, one tax system and currency, integrating infrastructural development and creating a Border Economic Development Zone to harmonise trade and maximise returns for border businesses.

- Campaign for a Bill of Rights for all Citizens and an all-Ireland charter of fundamental rights.

- Promote the Irish language and culture.

- Equality proof legislation before it is produced.

⁶ <http://www.sinnfein.ie/a-republic-for-all-policy>

- Continue to advance a process of reconciliation.”

Green Party

The Green Party has two Dáil deputies and a senator in the Oireachtas at present. It has councillors on the island of Ireland at local government level and one MLA (Member of the Legislative Assembly) in Northern Ireland, Steven Agnew MLA, leader of the Greens in Northern Ireland.

A reference to Northern Ireland could not be found in the list of policies of the Green Party in the Republic.⁷

However, the **Green Party in Northern Ireland** subscribes to unity by consent and to the Belfast/Good Friday Agreement⁸.

“The British-Irish Agreement, and the joint referenda which gave it effect, provided for the balanced constitutional change which the Greens have campaigned for since its foundation.

We remain wholeheartedly in support of it. Human rights are for all.”

In May 2011 Steven Agnew MLA, the leader of the Green Party in Northern Ireland, was reported as having affirmed support for the principle of unity by consent and for the Belfast/Good Friday Agreement⁹.

‘Mr Agnew said that the constitutional question was not one which divided the party.

"We have people in the Green Party who are unionists, we have people who are nationalists, we see no contradiction there," he said.

"It shouldn't divide our politics because it is a single issue and it certainly shouldn't decide our society.

"We need to move forward into a shared future, the issue of the constitutional question is enshrined in the Good Friday Agreement. The status of Northern Ireland will remain until the people of Northern Ireland decide otherwise." ‘

⁷ Green Party Political Reform Policy, October 2015. Accessed at <https://greenparty.ie/wp-content/uploads/2015/11/Green-Party-Political-Reform-Policy-20151.pdf>

⁸ Green Party of Northern Ireland manifesto for the Westminster elections 2010. Accessed at: <http://www.greenpartyni.org/www/wp-content/uploads/2014/02/Westminster2010.pdf>

⁹ 4 May 2011 BBC News section [Northern Ireland](http://www.bbc.com/news/uk-northern-ireland-13277156). Green Party leader Steven Agnew reacts to leader debate. Accessed at: <http://www.bbc.com/news/uk-northern-ireland-13277156>

Anti-Austerity Alliance-People before Profit

This new political grouping was launched in October 2015. The AAA and the PbP each have their own website.

In advance of the General Election of 2016 Anti-Austerity Alliance – People Before Profit published a joint document *COMMON PRINCIPLES: Radical Alternatives & Real Equality, General Election 2016*¹⁰. However, no reference could be found therein to a policy on the constitutional status of Northern Ireland.

A joint website or a joint published policy on Northern Ireland could not be found. However, it may be the case that these joint policies have not yet been formulated.

In terms of the two constituent organisations making up the AAA-PbP, as noted each has its website, and each is composed of a number of constituent groups.

There are references to Northern Ireland, and/or the Good Friday agreement, on the websites of these various constituent groups (e.g. AAA, Socialist Party). Some of these references indicate opposition to the Good Friday agreement in the past, or are critical of the operation of the current peace process.¹¹

However, as these reflect the position of the constituent organisations, and it is not known whether they reflect the current AAA-PbP position, these have not been outlined here.

¹⁰ Anti-Austerity Alliance – People Before Profit. *COMMON PRINCIPLES: Radical Alternatives & Real Equality, General Election 2016*. Accessed at http://www.peoplebeforeprofit.ie/mwg-internal/de5fs23hu73ds/progress?id=QHHnddx713ZwNL8XV4zOrTZKxTWaaQ7wHN11_EKQqto,

¹¹ See for example: references to the Good Friday agreement on the AAA website in the context of its views on the Right2change.: Does the AAA support the Right2Change policy principles? Accessed at: <http://antiausterityalliance.ie/2015/10/aaa-response-to-sinn-fein-and-right2change/>. See also Socialist Party policy on Northern Ireland, accessed at <http://socialistparty.ie/about-us/> and <http://socialistpartyni.net/about-us/#.VktP0k8nx88>

No direct reference could be found on the People Before Profit Alliance website in Northern Ireland relating to the constitutional status of Northern Ireland. However, indirect references included:

“PBP is neither Orange nor Green. We are socialist.”¹²

Renua Ireland

This new political party was launched in March 2015. Currently it has no members represented in the Oireachtas.

While a number of policies have been published on its website, a policy on Northern Ireland could not be found.

The party on its website has stated that policy formation will take time¹³:

“Those expecting to see fully fleshed-out policies will have to wait for six months or a year. The party has published 16 policies but says that it’s a dynamic process.

“We are not going to make a policy on the back of the envelope,” McCarthy says. “We are not setting out to get salacious headlines. Far too often we have settled for a position where the short road is taken when we have known only the long road can do.”

3. Northern Ireland parties

Eight parties were represented in the Northern Ireland Assembly before its dissolution on 26 January 2017-- Alliance Party, Democratic Unionist Party (DUP), Green Party,

¹² PBP. People Before Profit To Stand In East Derry, February 9th, 2017. Accessed at <http://www.peoplebeforeprofit.ie/2017/02/people-before-profit-to-stand-in-east-derry/>

¹³ <http://www.renuaireland.com/category/news/>

People Before Profit Alliance, Sinn Féin, Social Democratic and Labour Party (SDLP), Traditional Unionist Voice (TUV) and Ulster Unionist Party (UUP)¹⁴.

Of these, three parties state in their published documents that they favour union with Great Britain (DUP, TUV, UUP). Two parties state that they favour a united Ireland (Sinn Féin, SDLP). The Green Party in Northern Ireland subscribes to unity by consent and to the Belfast/Good Friday Agreement¹⁵.

The remaining two parties adopt different approaches to the question of the constitutional status of Northern Ireland. Broadly, Alliance states that it favours devolution, with a move to a federal UK, and the development of the North-South Ministerial Council. The People Before Profit Alliance states that it is “neither Orange nor Green”.

Alliance	Devolution and federal UK Develop North-South Ministerial Council
DUP	Union with UK
Green Party in NI	Unity by consent. Campaigning for NI to remain within EU
People before Profit Alliance	“neither Orange nor Green”
Sinn Féin	United Ireland

¹⁴ NIA. Accessed at <http://www.niassembly.gov.uk/about-the-assembly/corporate-information/publications/party-political-contacts/>

¹⁵ Green Party of Northern Ireland manifesto for the Westminster elections 2010. Accessed at: <http://www.greenpartyni.org/www/wp-content/uploads/2014/02/Westminster2010.pdf>

SDLP	United Ireland
TUV	Union with UK
UUP	Union with UK

Alliance Party

Alliance favours further devolution with a move towards a federal UK.

.....As part of the process of [UK] constitutional change, Alliance believes there is the opportunity to move to a more durable constitutional settlement which supports devolution.¹⁶

We support a move towards a federal UK, retaining strong links with our European neighbours.

In order to achieve this change across the UK we would:

- Support additional powers being conferred on the devolved administrations. There must be an assumption that the devolved administrations should take on these powers when they are capable and willing to do so¹⁷.

Also:

- Support the UK remaining part of the European Union(EU)¹⁸.

¹⁶ Alliance Manifesto for 2015 Westminster Election

¹⁷ Alliance Manifesto for the Westminster election 2015. Accessed at: <https://www.allianceparty.org/document/manifesto/alliance-2015-westminster-manifesto#document>

¹⁸ Manifesto 2016: An agenda to increase the speed of change in Northern Ireland. Op.cit.

While no specific reference could be found in the Alliance's recent manifestos to relations with the Republic of Ireland, indirect references included:

- Further develop the North-South Ministerial Council, including creating a work plan that is informed by a Programme for Government in each jurisdiction¹⁹.

Democratic Unionist Party

The DUP favours retaining the union with Great Britain, as stated on their website.

Our vision is to maintain and enhance Northern Ireland's constitutional position within the United Kingdom, achieving long-term political stability to deliver a peaceful and prosperous future for our people²⁰.

This is re-stated in their DUP Manifesto for the 2016 Northern Ireland Assembly Election.

Arlene's Vision for Northern Ireland

I want to see a strong, safe and stable Northern Ireland..... where we play a full part in the United Kingdom...²¹

This position had been asserted as one of their five priorities in the DUP Westminster Manifesto 2015²².

Our priorities

5 Strengthen the United Kingdom and protect and enhance our British identity

¹⁹ Manifesto 2016: An agenda to increase the speed of change in Northern Ireland. Accessed at: <https://www.allianceparty.org/document/manifesto#document>

²⁰ <http://www.mydup.com/about-us/our-vision>

²¹ Accessed at http://dev.mydup.com/images/uploads/publications/DUP_Manifesto_2016_v8_LR.pdf

²² Accessed at http://dev.mydup.com/images/uploads/publications/DUP_Manifesto_2015_LR.pdf

Support for Northern Ireland's constitutional position within the United Kingdom has never been higher. The number of people who want to see a united Ireland in either the short or the medium term is at an all time low. The constitutional future of Northern Ireland has been settled for generations to come.

This has been achieved by agreeing political structures in Northern Ireland that can command cross-community support and by ensuring everyone can play a full part in our society and community.

While we should never be complacent about what has been achieved, the focus must now move to strengthen the United Kingdom as a whole and to enhance our British identity in Northern Ireland.....

From Westminster we want:

- A fair deal for all four parts of the United Kingdom to strengthen the Union;
- Protection in law for the official display of the Union Flag and the symbols of our nation;
- No partisan political deals which would weaken the United Kingdom;

Green Party in Northern Ireland

The Green Party in Northern Ireland stated in its manifesto for the Westminster elections 2010 that it subscribes to unity by consent and to the Belfast/Good Friday Agreement²³. (This page is no longer available on the website).

Additionally, in the context of the Brexit referendum, the Green Party manifesto for the Northern Ireland Assembly Election 2016 stated that the Green Party would:

Oppose withdrawal from the European Convention on Human Rights, and will campaign for the UK to remain within the European Union²⁴.

²³ Green Party of Northern Ireland manifesto for the Westminster elections 2010. Accessed at: <http://www.greenpartyni.org/www/wp-content/uploads/2014/02/Westminster2010.pdf>

²⁴ Green Party manifesto for the Northern Ireland Assembly Election 2016. Accessed at: http://www.greenpartyni.org/wp-content/uploads/2016/04/GreenParty_Manifesto_2016-for-email.pdf

According to a statement on the website dated 27 January 2017²⁵:

Steven Agnew is one of a number of plaintiffs named yesterday in the “Dublin case” which seeks clarity on the irrevocability of Article 50.

The Green Party leader is joined by [3 other plaintiffs] as litigants in the case. The proceedings seek a referral to the Court of Justice of the European Union on the question of whether Article 50, once triggered, can be unilaterally revoked by the UK government without requiring consent from all other 27 EU Member States.

The Green Party campaigned for Remain in the EU referendum and Agnew is clear that his involvement in the case is about getting the best deal possible for the people of Northern Ireland.

The Green Party leader said:

.....”Any deal on the Irish border will have massive implications across the island and it is vital that the people of Northern Ireland have a say on the final proposal.

“For that to be meaningful the option to Remain must still be on the table...”

People Before Profit Alliance

No reference could be found on the People Before Profit Alliance website relating to the constitutional status of Northern Ireland.

However, indirect references included:

“PBP is neither Orange nor Green. We are socialist.”²⁶

²⁵ Accessed at: <http://www.greenpartyni.org/green-party-leader-steven-agnew-in-fresh-brexite-legal-case/>

Also:

It is the ambition of the Alliance to operate on a 32-county basis and to offer a radical vision for our country.²⁷

This position was reiterated on 26 January 2017 during the NIA election campaign.

People Before Profit offers a different vision... We want to unite Catholic and Protestant workers in a fight against austerity. ..We do not want to create a northern tax haven to partner with the one in south. We want a socialist Ireland which arises out a radical challenge to both states in Ireland.²⁸

Sinn Féin

On the home page of the Sinn Féin website under the heading Latest Assembly election [2017] news, it is stated²⁹:

United Ireland

Sinn Féin is working for a new, agreed and united Ireland where the rights of all citizens are respected and which delivers prosperity. We want to see:

- An island wide referendum on Irish unity.
- A new Ireland, an agreed Ireland.
- Presidential voting rights for citizens in the North.

²⁶ People Before Profit To Stand In East Derry, February 9th, 2017.

<http://www.peoplebeforeprofit.ie/2017/02/people-before-profit-to-stand-in-east-derry/>

²⁷ About People Before Profit. Accessed at:<http://www.peoplebeforeprofit.ie/2015/08/about-pbpa/>

²⁸ People Before Profit Mount Big Challenge In North Elections, January 26th, 2017. Accessed at: <http://www.peoplebeforeprofit.ie/2017/01/people-before-profit-mount-big-challenge-in-north-elections/>

²⁹ Latest Assembly election [2017] news. Accessed at: <http://www.sinnfein.ie>

- Greater development of the all Ireland economy.

Social Democratic and Labour Party

The SDLP asserts that their vision is a reconciled people living in a united, just and prosperous new Ireland³⁰.

They outline a concept which they term “progressive nationalism”³¹.

It is time for a new type of nationalism. The SDLP’s new vision of Progressive Nationalism will move the ground upon which the constitutional debate on this island rests....

Ireland’s political re-unification remains the biggest and the best idea around. It needs huge preparation. Big ideas deserve better than being reduced to a numbers game.

We believe that it is now time to set out a political roadmap to unity. That’s why we’re establishing a Commission for a New Ireland. It will have two main tasks.

The first task is to conduct a political audit on the current state of North-South affairs, the workings of the North-South institutions, an all Ireland consultation, as well as civic and business co-operation.

The second task will put flesh on the bones of what a reunified Ireland will look like, providing an analysis and recommendations on what kind of institutional structure, what kind of public service and private sector structure and what kind of civic structure a new, united Ireland will comprise.

³⁰ <http://www.sdlp.ie/about/our-vision/>

³¹ Accessed at: <http://www.sdlp.ie/issues/progressive-nationalism/>

Scotland's plan for independence contained 670 pages of work. It scoped out and modelled what a new Scotland would look like. Irish nationalism must match that level of practicality. We must do the same.

The Commission for a New Ireland will attempt to escape from merely talking about unity by actually putting in the hard yards of research which will see it delivered.

Irish Unity is not an idea that we in the SDLP simply commemorate, instead it is something that we continue to aspire to. This Commission will form the basis of our plan to deliver it.

These ideas are further discussed in a document, titled Colum Eastwood's Crossmaglen speech on Progressive Nationalism³².

Traditional Unionist Voice

The TUV is unequivocal in its support for the union with the United Kingdom, as outlined in their TUV Assembly Election Manifesto 2016³³:

Northern Ireland in its national and international setting

Northern Ireland is and must remain an integral part of the United Kingdom, which needs to salvage its independence by exiting the EU:that is the TUV view.

Maintaining the union between Northern Ireland and Great Britain is the only union which matters.

³² Accessed

at:http://www.sdlp.ie/site/assets/files/43036/colum_eastwood_outlines_progressive_nationalism.pdf

³³ Accessed at <http://tuv.org.uk/>

Ulster Unionist Party

The UUP expressed support for the union with Great Britain in their Northern Ireland Assembly Manifesto 2016³⁴:

With five years to go, we can confidently plan to celebrate Northern Ireland's centenary and do so within the context of its continuing membership of the United Kingdom.... but also recognising that we wish to continue to build better political, economic, social and cultural relations with our friends and neighbours in the Republic of Ireland.

Also they outline Our Vision for you--the Voter:

The 1998 Agreement stated two distinct facts: first, it is your right to describe your identity as you see fit..... The second fact relates to sovereignty; Northern Ireland is part of the United Kingdom.

The 1998 Agreement enshrined the principle of consent. It was accepted there could be no constitutional change in the status of Northern Ireland as a part of the United Kingdom without the consent of the majority of the electorate in Northern Ireland.....

The Ulster Unionist Party wants to move politics on....but to do so in an environment where we all respect both Northern Ireland's constitutional status and the individual identity of our citizens.....

Constitutional Change

There is absolutely no evidence that a significant proportion of voters support change, never mind the majority required to make it happen. This is important,

³⁴ Accessed at <https://uup.org/assets/policies/ulster%20unionist%20vision%20document.pdf>

because we ensured the law demands proof that there is an appetite for change.....

While ever-vigilant to the shifting nature of the threats to the Union, the Ulster Unionist Party's vision of good government sees a clear focus on the problems that affect us all on a daily basis.

Addendum

Republic of Ireland parties: developments since November 2015.

AAA-PBP

In advance of the General Election of 2016, Anti-Austerity Alliance – People Before Profit published a joint document *COMMON PRINCIPLES: Radical Alternatives & Real Equality, General Election 2016*³⁵. No reference could be found therein to a policy on the constitutional status of Northern Ireland. No direct reference could be found on the People Before Profit Alliance website in Northern Ireland relating to the constitutional status of Northern Ireland. However, indirect references included:

“PBP is neither Orange nor Green. We are socialist.”³⁶

³⁵ Anti-Austerity Alliance – People Before Profit. *COMMON PRINCIPLES: Radical Alternatives & Real Equality, General Election 2016*. Accessed at http://www.peoplebeforeprofit.ie/mwg-internal/de5fs23hu73ds/progress?id=QHHnddx7I3ZwNL8XV4zOrTZKxTWaaQ7wHN1l_EKQqto,

³⁶ PBP. *People Before Profit To Stand In East Derry*, February 9th, 2017. Accessed at <http://www.peoplebeforeprofit.ie/2017/02/people-before-profit-to-stand-in-east-derry/>

Labour Party

The position of the Labour Party was further elaborated in the Labour Party Manifesto 2016:

Labour is committed to a strong all island economy and society. As we enter into a decade of commemoration in 2016, Labour wants to commence a national conversation about the future of our island and within it our many diverse communities.

This new national conversation must explore the potential for greater co-operation in developing our common languages, our many sporting and artistic organisations, increased interaction at local authority level and between state agencies.

Labour continue to support the Good Friday Agreement and the institutions created under it and we will press for the full implementation of the Stormont House Agreement to deal with outstanding issues and for securing agreement on key issues among the parties in Northern Ireland.³⁷

³⁷ Labour Manifesto 2016. Accessed at: https://www.labour.ie/download/pdf/labour_manifesto_2016.pdf

4.5 Political status quo-ism

“While Consent is a fundamental characteristic of change, Dr Humphreys makes it plain that it cannot be an excuse for political inertia.”

Attorney General Brady (2002-2007)

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In this respect the political establishment in the Dáil and Seanad have a key role to play. The advice of John Bradley when speaking in Queens University Belfast in 2014

“policy neglect seldom goes unpunished”²⁸²

should be listened to. Strategies developed and implemented now could mitigate the potential for those who would wish to prevent the fulfilment of Articles 2 and 3 of the Constitution and the constitutional obligation as outlined by Attorney General Brady.

High Court Justice Humphreys stated “faced with such a prospect, {of illegal activity} it may be that sections of opinion within the island may be dissuaded from voting for unity and indeed the response of at least some sections of the political classes” particularly in the 26 counties will undoubtedly be that progressing towards the objective of Irish unity is not worth kicking the sleeping dog of unionist / loyalist paramilitary violence.²⁸³

Such an approach by Southern politicians would be contrary to the constitutional obligation of Article 3 of the Constitution as outlined previously by former Attorney General Brady.

High Court Justice Humphreys stated:

“The lassie faire approach which might commend itself to some elements of the political establishment might, however be accused of ignoring the regrettable but scarcely avoidable fact that it would be hard to contain the prospects for inter-community hostilities in the event that the historic rights of self- determination of the Irish people was to be

²⁸¹ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.X.

²⁸² John Bradley, ‘Towards an All-Island Economy’, (2016) < http://www.irish-association.org/papers/john_bradley.asp> accessed 2 February 2017.

²⁸³ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.153.

thwarted at the instance of what would be in this hypothesis a unionist / loyalist minority.”²⁸⁴

Justice Humphreys goes on to explain “It would be a short-sighted view indeed to maintain that the status quo must be continued at all costs in order to avoid any outbreak of violence” .²⁸⁵

Professor Sean McGraw and Meadow J. Jackson of Notre Dame University in his research of the members of Dáil Éireann after the 2007, 2011 and 2016 elections used the term ‘status quo’:

Support for unity ‘in principle’, though, is quite different from taking the concrete steps necessary to alter constitutional and legal arrangements in Ireland, Northern Ireland and the United Kingdom to fulfil such aspirations. The need for citizens to approve unification via referendum in both the North and South ensures that actual unity will only occur once popular will demands it. However, the complexity and long-term nature of the solution, the need for widespread support North and South, and the fact that little separates parties on this issue suggests that little will happen to alter the status quo.

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Professor Sean McGraw and MJ Jackson’s entire submission to the Joint Committee for the Implementation of the Good Friday Agreement is included in the online appendix of this section.

High Court Justice Humphreys argues that the greatest threat to Irish unity is a loss of nerve by politicians in the Republic.²⁸⁷

“A massive loss of nerve by the political leadership of the twenty-six counties is probably the greatest threat to the achievement of Irish Unity.”

²⁸⁴ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.153.

²⁸⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.153.

²⁸⁶ Fr Sean McGraw, ‘Political Status Quoism ‘ (2017) Submission for this report.

²⁸⁷ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.153.

The only guarantee that the Good Friday Agreement will be complied with is for the two Governments to retain firm joint stewardship of the process throughout. Contemplating this scenario does highlight one perhaps melancholy feature of the Good Friday Agreement, or any other possible agreement that might be envisaged relating to Northern Ireland – namely that the constitutional aspirations of all simply cannot fully be reconciled with in any given institutional structure. While one cannot aim for absolute accommodation of all positions, one can legitimately aim for reasonable coexistence, an objective towards which the Good Friday Agreement provides the best practical means. At the same time, one must keep to the forefront the fact that if any constitutional or institutional framework is to survive, it must be defended against the efforts of those who would seek to undermine it, whether by lawful or unlawful means.²⁸⁸

It is an axiomatic in the agreement that political violence is to be consigned to history, that weapons of war are to be decommissioned and the democratic dialogue and the will of the majority combined with safeguards for the majority is to be the way forward.²⁸⁹

The Good Friday Agreement again provides a clear road map towards overcoming the challenges that would be posed by unconstitutional unionist violence.²⁹⁰

²⁸⁸ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.152,153

²⁸⁹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.154.

²⁹⁰ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.155.

4.6 Countering the threat of illegal activity

According to Justice Humphreys:

“The real challenge of unity will be to affect it in a way that minimises unconstitutional opposition from those who may perceive themselves to be at the losing end of the bargain. The measures that suggest themselves in this respect are a firm commitment to maintain the Good Friday structures following unity, continued east-west links, and a rethink of the law on both sides of the Irish Sea to recognize both identities and to build confidence.”²⁹¹

*“History says don’t hope
On this side of the grave.
But then, once in a lifetime
The longed for tidal wave
Of Justice can rise up
And hope and history Rhyme”
Seamus Heaney ‘Cure for Troy’*

“On the other hand Karl Marx’s dictum that history repeats itself as tragedy first then as farce, might suggest that the armed section of unionism/loyalism will not go quietly into a united Ireland, but rather will seek to thwart the democratic will by means of unlawful terrorist violence, possibly coupled with a political dimension seeking repartition. The will and resolve of the two governments to crush such terrorist violence is in many respects the key question on which the future of unity depends. The track record of appeasement of previous unlawful violence by a unionism/loyalism may have created an expectation in elements of that section of the community that the same technique may work again. It will take a firm stance by the two governments to dispel the particular proposition, and to some extent such a stance is prefigured by the language of the agreement, which confirms that the giving effect to the majority position is a solemn international obligation.

²⁹¹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.155,156.

Any weakening by the two governments could only prove to be enormously destabilising in itself.”²⁹²

“Given that such techniques found ready success in the past’. ‘One can readily but regrettably predict that the instincts to engage in civil disobedience, disorder, and strikes, if not full scale sectarian murder, bombing campaigns, and other forms of violence’”“One must keep to the forefront the fact that if any constitutional or institutional framework is to survive, it must be defended against the efforts of those who would seek to undermine it, whether by lawful or unlawful means.”²⁹³

The threat of unconstitutional unionist violence directed against a democratically mandated All-Ireland political unit was underlined by the Forum:

“During the Home Rule for Ireland debates in the British Parliament in 1912, many arguments were advanced by British political leaders in favour of maintaining the unity of Ireland. The British Government had introduced a Bill that proposed to give Ireland a separate parliament with jurisdiction over her internal affairs while reserving power over key issue. However, faced with the Unionist threat to resist this Bill by unlawful force the British Government and Parliament backed down and when the Government of Ireland Act of 1914 was placed on the statute book in Westminster, there was a provision that it would not come into operation until after Parliament had an opportunity of making provision for Ulster by special amending legislation. The message- which was not lost on Unionist- was that a threat by them to use violence would succeed. To the nationalists, the conclusion was that the democratic constitutional process was not to be allowed to be effective. This legacy continued to plague British-Irish relations today. The warning sounding in this passage is by no means of historical interest only, and would continue to be to the forefront in the event that a democratic majority in Northern Ireland in favour of a United Ireland were to begin to materialize.”

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²⁹² Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.204.

²⁹³ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.153

²⁹⁴ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.153

“Particularly on the part of the two Governments to the principals contained in the Good Friday Agreement that a wish for a united Ireland will be implemented, combined with a brisk pace for such implementation to avoid the creation of any dangerous vacuum.”²⁹⁵
It is the fear of all that the dark days of the ‘Troubles’ would return with extreme unionist and loyalist elements engaging in the full range of tactic from lawful to illegal.

However prior to looking at the issue of violence, the submission from Dr James Wilson outlines the fears of the Unionist Community after a referendum for unification and these concerns need to be addressed.

²⁹⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.48,49.

4.6.1(A) SUBMISSION TO JOINT COMMITTEE ON THE IMPLEMENTATION OF GOOD FRIDAY AGREEMENT. BREXIT & THE FUTURE OF IRELAND: UNITING IRELAND & ITS PEOPLE IN PEACE AND PROSPERITY. (2017). DR JAMES WILSON

Economic arguments aside, much of northern Protestant resistance to Irish unity has been based on fear. Fear cannot be ‘perceived’ – it is a real and powerful emotion. This fear can be broken down into three discreet but related roots: Fear of dispossession, fear of retribution, and fear of assimilation into an alien Gaelic culture that eliminates their ethno cultural diversity as British/Ulster Scots.

First the fear of dispossession. In the original Plantation of Ulster, it was first assumed that the Gaelic lords would assume responsibility of raising tax for the Crown. After the flight of the Earls, new undertakers had to be found. Many were second rank Ulster Gaelic nobility. The incoming “Planters” became tenant farmers – not owning the land, but paying rents. Most Catholic gentry lost their lands after the 1641 Rebellion and Williamite wars.¹ There was a sectarian competition for tenure which fostered the rise of agrarian solidarity groups:- Defenders, Oakboys, Hearts of Steel, Peep of Day Boys, Orange Boys, Ribbonmen, Fenians. It is a matter of record that – particularly in the nineteenth century -many Catholics lost their tenancy to Protestants, as landlords perceived Protestants as loyal to the Crown.²

In 1870, Gladstone’s Liberal government passed the Land Act gave tenants the right to purchase, and many Catholics saw their ancient rich tribal lands now “legally owned” by Protestants, whilst they had to settle for ‘less favoured areas’. This resentment has festered for over 100 years and resurfaced during the Troubles.³ There is an expectation amongst some Catholics west of the Bann, that Irish unity- the mythical Aisling aspiration - will bring with it a restoration of land to them and eviction of the Protestants. ⁴

Fear of retribution. In the 30 years of the Troubles, it was common for neighbours to threaten, abuse and kill each other on a sectarian basis. One reason why the former members of the Security Forces are a ‘hard to reach group’ in terms of peace and reconciliation is that they fear revenge and retribution for having served in the Crown forces. The IRA did not take any Protestants prisoner. Thus Tíocfaidh ar la was to backfire on the Republican movement as it stiffened Protestant resolve never to surrender. The belief of post Unity retribution still lingers amongst former soldiers, policemen and prison officers, even though the vast majority never went to bed plotting to kill anyone.⁵

¹ M.Pervical-Maxwell, *The Scottish migration to Ulster in the Reign of James I*, (Belfast, 1973),pp. 19-138.

²This collective memory not unique to Catholics. There is tradition in my Presbyterian family that we lost our tenure to land in Ballymoney to loyal Catholics for being “out” in 1798.

³There is strangely no such claims in the Glens of Antrim, where the Scots invaded in 1560 and expelled the native Irish McQuillian clan. Could it be because these Scots were Catholic?

⁴Kevin Toolis, *Rebel hearts; Journey’s within the IRA’s soul*,(London, 1995), pp.40-41, Focus group with non-establishment Republicans (Cohannon Inn, 24/11/2016).

⁵I can recall the eviction and murder of white farmers in Zimbabwe in the 1990s, and a neighbour (ex-RUC) confided his fear that “that’s what will happen here in a United Ireland”.

It must also be noted that the bombing attacks on Protestant towns and commercial property during the Troubles was not merely destruction of commercial targets [sic], but perceived as part of an IRA agenda to force Protestants out. (James Wilson, Protestant alienation in Newry, Newry & Mourne Partnership Report 1998).

Fear of assimilation. There is consensus amongst historians that 19th Century Irish nationalism failed miserably to capture the Protestant demographic in the north east of the Island. Rosary beads, Gaelic cultural, blood and soil held little appeal. Secondly, the mantra of “beer and biscuits” protectionism did nothing to protect the Belfast industries of ship building and linen which were competitive in a world export market. Unionism was built on these twin pillars. Irishness became associated with the a southern Catholic theocracy, Gaelic sport, language, and the celebration of militant republicanism- which in N Ireland meant the ongoing armed struggle. Some effort must be made to educate southerners to complex conditionality of identity in the north and the deep well springs of emotion that feed it. One unfortunate (and unforeseen) corollary of the GFA was that it was manipulated to transform the religious divide into an ethno-political dichotomy. In 2007 the OFMDFM wilfully jettisoned civic reconciliation – from then on it was a “shared future” – or sectarian carve up ? Protestants were encouraged to shun all things Irish, and find expression in their own culture.

Protestant attitudes to a united Ireland. The 2010 N Ireland Life and Times Survey (NILTS) surveyed 1,200 members of the PUL community about a united Ireland. 90% of Protestants affirmed the traditional tribal response and a mere 4% opted for a united Ireland. However when the same demographic was asked their response if ‘ a majority of the people voted for it in a GFA style referendum’ , only 18% stated that they would find this destiny hard to accept, (potentially a fight or flight response) , 23% happy to accept the wishes of the democracy, and 57% grudgingly accepting that “they would live with it if they had to”.

This survey was (i) pre-Brexit Referendum and (ii) raises more questions than it answers. Which social demographics make up the 18%? Is it predominate amongst the educational underachievers? Is there a generational divide ? Is it impacted by personal experience in the Troubles? How much driven by economic fears – how much by other factors? And ...has the ground shifted with Brexit?

Dr James Wilson is a freelance consultant, lecturer and historian, specialising in conflict issues. He served in the security forces during the Troubles, and later in corporate counsel in London. In 1998 he facilitated the historic accommodation between the Apprentice Boys and Bogside Residents. His doctorate was on the origins of Orangeism and the evolution of Ulster loyalism. His most recent work was a case study of the 2012/13 loyalist flags protest, and current research via QUB is on the dangers of inherent militarism in British /Irish cultures transmitting a glorification of violence to new generations. James is a founder member of Veterans for Peace UK Belfast Chapter and facilitates a number of reconciliation projects between former adversaries in the Troubles.

Having served in the Crown forces. The IRA did not take any Protestants prisoner. Thus Tíocfaidh ar la was to backfire on the Republican movement as it stiffened Protestant resolve never to surrender. The belief of post Unity retribution still lingers amongst former soldiers, policemen and prison officers, even though the vast majority never went to bed plotting to kill anyone.

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4.6.1 (B) Submission by Pat Finucane Centre on collusion by british security forces - Anne Cadwallade

The Pat Finucane Centre compiled a submission for the Joint Committee on the Implementation of the Good Friday Agreement, part of which is here in the main body of the Committee report, with the full submission, including supporting original documents, located in the online appendix of this section.

Their submission addresses the collusion between the loyalist paramilitary organisations and the British Security forces. The Irish State needs to learn lessons from this past and ensure the democratic will of the Irish people is not denied by those who would use violence against them and their aims for peaceful unification by consent as provided for in the Good Friday Agreement.

Among the the Pat Finucane Centre's main conclusions are:

With modern methods of surveillance, any group intent on violence, relative to the 1970s and 1980s, would find it far harder to pursue a sustained campaign, especially within the small population and geographical boundaries of Northern Ireland.

If politicians in Dublin and elsewhere are to begin planning for a unitary state, then they need to consider London's past record on failing to focus on the potential for loyalist violence and persuade the authorities that an entirely different focus is needed. – Submission compiled for this Oireachtas report

²⁹⁶ Dr James Wilson, *Submission to Joint Committee on the Implementation of Good Friday Agreement. Brexit & the future of Ireland: uniting Ireland & its people in peace and prosperity* (2017) Submission for this report.

INTRODUCTION:

The PFC is confident that the loyalist capacity for violence was enhanced by the encouragement or direct support afforded by various branches of British of military intelligence and RUC Special Branch throughout the conflict from its start to its conclusion.

Aside from the obviously needless and tragic deaths of individuals north (and south) of the border, London's focus on republican violence and its encouragement of loyalist violence (including attacks across the border) led to a primary, political imperative in Dublin to prevent loyalist violence spreading south.

Loyalist attacks, and fear of more, led to a virtual panic in the south that any moves towards a unitary state, however tentative, would inevitably result in a fierce loyalist backlash in the Republic.

In Britain, fear of loyalist violence led to a belief in the "bloodbath theory", ie the inevitability that loyalists would wage outright civil war against the Catholic minority in the event of Britain declaring an intention to withdraw, however worthy that strategic aim might appear.

We claim these policy outcomes were intentional on the part of elements within the British political and security establishment - but we do not say it lightly. These conclusions are the result of 15 years work and are based in hard factual evidence which we invite you and your colleagues to assess.

MAIN POINTS:

- + The Ulster Defence Regiment, the largest regiment at the time in the British Army, was established with prior knowledge it would be infiltrated by loyalist paramilitaries
- + This resulted in the training and arming of one section of the community in NI
- + London also knew that intelligence would pass, and did pass, from the UDR to loyalist paramilitaries
- + London took no effective action to vet UDR recruits to prevent known or suspected loyalists from joining the regiment and thus gaining access to training, arms and intelligence
- + London knew there was widespread and systemic collusion between members of the UDR and RUC with loyalist paramilitaries
- + Despite this, London expanded the numerical strength of the UDR, its geographical deployment into particularly sensitive areas and its role into intelligence-gathering
- + London tolerated the existence of the Ulster Defence Association throughout the conflict, until 1992, when it was banned, knowing it was directly involved in violent actions against the nationalist community and that the organisation styling itself the “Ulster Freedom Fighters” did not exist
- + London covertly held talks with both the UDA and Ulster Volunteer Force throughout the conflict, even in the teeth of the Dublin/Monaghan bombings, the single largest loss of life during the conflict
- + Had the same focus and resources been directed at loyalist violence as was directed against the IRA, the capacity of the UDA, UVF etc would have been greatly reduced.

FURTHER ISSUES:

(1) Legally-held weapons:

The PFC would also be concerned at the relatively high level of legal gun ownership in NI (taking into account personal protection weapons, the outstanding Ulster Resistance arsenal from the South African arms importation of 1986, other loyalist weapons which were never decommissioned, weapons held by the RUC and others in the hands of farmers, gun club members etc).

(2) London's continuing denial of collusion:

The British government has not begun to engage with the realities of collusion or its implications for the future.

Our evidence for this comes, firstly, in a letter from the then Minister of State at the Ministry of Defence, Anna Soubry to Mark Durkan, SDLP MP, in November 2013 when she refused to contemplate the possibility that the authorities had not tackled collusion within the UDR (we will attach a copy with our presentation).

Evidence that London has not begun to consider the future security implications for loyalist violence comes in a letter from Andrew Murrison, MP, then parliamentary under-secretary of state for NI dated 24 March 2015 where he says he does not "see any evidence that such subversive or collusive behaviour was led or permitted by the [British] Government. Indeed ... I believe that the evidence suggests the contrary."

We will also attach a copy of this letter with our presentation.

CONCLUSION:

With modern methods of surveillance, any group intent on violence, relative to the 1970s and 1980s, would find it far harder to pursue a sustained campaign, especially within the small population and geographical boundaries of Northern Ireland.

Loyalists have always attacked a soft target – the Catholic civilian population. They do not need huge amounts of high-quality modern weaponry to do so. The potential remains, unless tackled, for major loss of life should loyalists be “spooked” without prior long-term political and security preparations.

If politicians in Dublin and elsewhere are to begin planning for a unitary state, then they need to consider London’s past record on failing to focus on the potential for loyalist violence and persuade the authorities that an entirely different focus is needed.

The PFC is firmly of the view, however, that whatever steps may be considered to counter the potential capacity for future loyalist violence, they must fall within international human rights laws and principles.

This would rule out “shoot to kill”, the illegal use of lethal force such as plastic bullets, torture, internment without trial, impunity for informers and agents, collusion and other failed British undercover counter-insurgency tactics that proved so counter-productive in the war against republican violence from 1969 to 1996.

4.6.2 Preventing violent extremism and terrorism in Northern Ireland and around the world

Michael R. Ortiz was appointed by Secretary of State John Kerry to serve as the first US diplomat focused on countering violent extremism (CVE) policy at the Department of State. As Deputy Counterterrorism Coordinator, Ortiz led diplomatic efforts to persuade foreign governments and the UN to implement CVE policies and programmes. Previously, he served as Senior Advisor to the National Security Advisor at the White House, was the Director for Legislative Affairs at the National Security Council, and worked in the White House Office of Legislative Affairs. Earlier in his career, he worked in the offices of Senators Obama and Reid.

Preventing violent extremism and terrorism in Northern Ireland and around the world

For 8 years, I served in the Obama Administration at the White House, National Security Council and Department of State. For most of my tenure, I worked on some of the most critical foreign policy and national security challenges facing the United States, including the battle against ISIL, the opening to Cuba, the Iran nuclear deal and counterterrorism. Most recently, I served as the first senior U.S. counterterrorism diplomat focused on a relatively new component of counterterrorism policy: countering violent extremism (CVE). During my time as a diplomat, I was charged with developing and executing our CVE policy, and learning as much as I could about what triggers and spreads violent extremism. This was no easy task: the radicalization process is complex, and experts around the world are working to better understand it. International research cites many potential factors that lead to radicalization, including segregation, a lack of career and educational opportunities, discrimination, government decisions, among others — all of which are exploited by recruiters from terrorist organizations. As we know all too well, recruiters also exploit the Internet and social media platforms to convince young people to join terrorist organizations in order to leave behind perceived wrongs in their home societies or to fight these wrongs at home. I saw these same scenarios play out across Europe, Africa and

the Middle East, and I think some of the lessons I learned from my experience could be useful in the context of a united Ireland.

U.S. Approach to CVE

Since 2015, the United States has made it a priority to figuring out what it takes to prevent individuals around the world from becoming terrorists in the first place. In fact, when I was at the National Security Council, President Obama launched this policy effort by hosting a White House Summit on CVE. We needed to better understand the factors leading people to violent extremism – no two neighborhoods or individuals are the same — through enhanced research efforts.

After identifying these unique local factors, we needed to develop programs that could help communities, including parents, teachers, local leaders, law enforcement and civil society groups, prevent radicalization in the first instance or intervene if an individual was already going down that terrible path.

Of course, these programs were different in each location. In Kenya, I visited a program run by a civil society organization that helped young men and women who had begun the radicalization process, but wanted to reintegrate into society before it was too late. This organization provided counseling services for jobs and education. In exchange for this assistance, the individuals were required to renounce violence and be accountable to officials.

In Germany, a country with a long history of right-wing violent extremism, a civil society organization established a counseling hotline for families to contact if they suspected a loved one was being radicalized and needed help. This gave families an alternative to immediately notifying law enforcement, which they were often reluctant to contact since it could result in arrest even if a crime had not been committed.

In a number of European cities, local police improved their relationships with the communities they served by better understanding cultural norms and building trust with the citizens. In a German city, which had a particularly high number of individuals traveling to Iraq and Syria, one young man formed a partnership with

police, so his community could better understand the police and the police could better understand them. The entire purpose of this young man's effort was to build trust. In each case, collaboration between government, civil society and citizens was critical – a whole-of-community approach to rooting out radicalization to violence. Violent extremism is a unique foreign policy challenge because it often begins as a community-level problem and cannot be addressed easily through traditional diplomatic channels. As a result, a significant component of the U.S. CVE diplomatic strategy has been to convince other national governments and the UN to prioritize this threat internally. In 2016, UN Secretary General Ban Ki-moon presented his Plan of Action to Prevent Violent Extremism. Later that year, the General Assembly blessed the plan and, with U.S. leadership, countries are now focused on developing national action plans for preventing violent extremism.

Additionally, the U.S. has helped establish and support initiatives that foster partnerships between state and local governments and civil society organizations in order to share best practices and better understand violent extremism. Some of these initiatives include: the Strong Cities Network, the Global Community Engagement and Resilience Fund, and the Global Counterterrorism Forum's (GCTF) Initiative to Address the Life Cycle of Radicalization to Violence. The GCTF's initiative also includes a unique toolkit, which provides communities with the resources they might need to tackle these challenges. The United States has also supported the Hedayah Center of Excellence for CVE in Abu Dhabi and the Intergovernmental Authority on Development (IGAD) CVE Center of Excellence and Counter-Messaging Hub in Djibouti. Given the local nature of CVE, we need diverse international partners more than ever.

Way Forward

Ireland and Northern Ireland have long struggled with terrorism, but have made tremendous progress in security in recent years. As leaders across the island grapple with the concept of a united Ireland, it is important to consider the ways in which future violence could be prevented, including by strengthening counterterrorism and law enforcement efforts, supporting civil society organizations, and religious and educational institutions, and providing citizens with the tools they need to intervene during the radicalization process.

I would recommend the following steps:

First, the government should launch a national-level task force or coordinating mechanism with national and local officials, law enforcement, civil society and other local leaders to examine potential threats, better understand the drivers of violent extremism (even if politically sensitive) and evaluate current resources. This would help everyone have a baseline understanding of what the challenge is and what needs to be done.

Second, this task force or coordinating mechanism should develop a national strategy for CVE. I would recommend following the guidance on the development of national action plans in the UN's Plan of Action. It is absolutely critical that a wide range of voices, including government officials, law enforcement, civil society and educators, among others, be involved in the creation of this strategy.

Third, identify an individual or body to execute the strategy. Some countries designate a CVE coordinator and others create or designate a government agency with a CVE mandate. There must also be clear metrics for progress in strategy execution and communications mechanisms to regularly engage with local communities. In most cases, these are very local issues that must be resolved at the local level.

Unfortunately, there is not an easy fix to violent extremism. However, given U.S. leadership and international efforts on this issue for a number of years, there is now a global support architecture, which can help countries think through their approaches to this challenge. If Ireland is able to launch a transparent, open and inclusive process with strong communications mechanisms, sufficient programmatic resources and creative proposals for strengthening community resilience, I believe this will go a long way in working to prevent terrorism before it starts.

4.6.3 Mental health & substance misuse post conflict Northern Ireland

While Anne Cadwallader addresses issues surrounding historical violence in Northern Ireland and Michael Ortiz outlines what needs to be done to prevent future outbreaks of violence, Senator Frances Black outlines some of the challenges that face society and policy makers regarding the legacy of violence on the generation who lived through the trouble and those born after.

Mental Health & Substance Misuse post conflict North of Ireland

Senator Frances Black – 30 May 2017

While the North of Ireland is emerging from a protracted period of political violence, research suggests that ongoing social, political and economic issues are impacting on the lives of its children and young people. A recent survey found that 28% of 16 year old respondents had serious mental health, emotional or personal problems in the past year, yet only a third received professional help. Young people still appear to be reluctant to access mental health services due to stigma.

Potentially 60% of the population (up to 127,800 adults) with mental health problems directly related to the Conflict have not received treatment. There are serious risks of these cycles contributing to new episodes of organised violence when, for example, there is a critical mass of people within the community who have unresolved loss and trauma related psychological difficulties.

Many of those who have been adversely affected by traumatic events in the north use alcohol and other drugs, leading to high rates of comorbid mental and substance use disorders. A disproportionate number of people who were exposed to the violence also experience economic deprivation.

The children of those affected by the years of violence in the North of Ireland are at increased risk of experiencing co-occurring early childhood adversities which may result in the accumulation of toxic stress. Children who experience toxic stress are, therefore, at increased risk of adverse general health outcomes in adulthood. These include cardiovascular disorders, cancers, asthma and autoimmune diseases as well as mental disorders. Conflict-related mental ill-health and substance disorders increase the risk of suicidal thoughts and behaviour.

Alcohol and drug misuse is evident within the toxicology profiles of individuals who have died by suicide. In many cases these substances will have been used as a means of coping with conflict-related psychological distress;

The consequences of the Troubles impact daily upon the lives of many people, their children and their children's children. Those at highest risk of having mental health difficulties and suicidal behaviour related to the conflict also endure multiple stressors, particularly economic deprivation.

In addition, it is recognised that policies in relation to alcohol, drugs and other legislation will impact upon the mental well-being on those affected by the conflict so these merit particular scrutiny. Research into ways of supporting families in communicating about the Troubles to future generations is required. In particular we need to examine ways of communicating about conflict-related bereavement, mental illness and physical injury.

Any public expenditure cuts will impact existing high levels of debt unemployment, poor mental health and suicide. It is essential that the work of supporting and empowering victims and survivors of the conflict continues to grow as individuals begin to address unresolved trauma.

Despite the formal end of the conflict in the north a substantial proportion of the adult population continue to suffer the adverse mental health effects of chronic trauma exposure. It is likely that the legacy of mental ill health associated with the conflict, if not adequately addressed , will endure for many years.

Policy makers should adopt a strategic, two-generation approach to interventions addressing the conflict's trans-generational legacy on mental health and well-being. There needs to be investment in parents in order to promote the well-being of children and young people; and

- Governmental policies should be examined to determine their relevance to addressing mental health priorities and amending where necessary. Further research on treatments for mental disorders and service evaluations are central to inform the evidence base and ensure the effective use of resources;
- Further research should also be undertaken into the trans-generational effects of social policies, the pathways of trauma transmission and the impact of policies aimed to halt trans-generational transmission;
- As policies and services develop to address the traumatic and trans-generational impact of the years of violence, health and social care and other governmental targets should promote and reflect the shift in focus in commissioning and service delivery towards the aims of addressing the long term trans-generational risks to individuals, families and communities.

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²⁹⁷ Senator Frances Black, '*Mental Health & Substance Misuse post conflict North of Ireland*' (2017) Submission for this report.

4.7 British approach to unity

This contribution is from Kevin Meagher, an advisor to the Secretary of State for Northern Ireland Shaun Woodward 2007-09, and author of 'A United Ireland: Why Unification is Inevitable and How it Will Come About' published by Biteback (2016). In it he outlines his view on the position that the British Government should adopt towards the future of Northern Ireland.

4.7.1 'The end of the beginning': Reflections on Brexit, devolution and the prospects of Irish reunification

This short paper offers a personal account of British policy towards Northern Ireland and a series of reflections on some of the key current policy issues and drivers, including Brexit and the prospects of Irish reunification.

The British dilemma

This can be summarised thus: Shape the future or simply wait for it to become the present. In other words, the British state needs to come to a view about the long-term future of Northern Ireland. Does it accelerate the trends towards Irish unity or roll-back developments of the past two decades and copper-fasten its place in the Union? The logic of the Good Friday Agreement is that it eventually leads to Irish reunification. The imposition of a hard border arrangement would pull things in the opposite direction, potentially eroding the carefully constructed architecture of the Agreement and destabilising the peace process it is built upon. British ministers know this and have given repeated assurances that a hard border is not in prospect. Time will tell. (It is hard to overestimate the amount of confusion in British politics post-Brexit). British policy has long been to keep Northern Ireland in a holding pattern. The assumed public backlash of making the case for Irish unity overtly prohibits making the rational next move. The impacts of Brexit, however, are now forcing the pace.

As noted above, creating a single Irish state now represents an evidence-based choice. Northern Ireland is an economic basket-case, with a budget deficit of £10 billion per annum and an under-developed private sector. Already, plans are in place (pushed by former Democratic Unionist First Minister, Peter Robinson), to harmonise corporate tax rates with the Irish Republic in 2018 to make Northern Ireland more competitive in attracting foreign direct investment (FDI). This approach should be encouraged. Economic convergence and reducing the productivity gap between the two jurisdictions should be an explicit cornerstone of the Executive's economic and financial policy. This would serve two purposes. First, by 'shadowing' the southern economy, Northern Ireland would become more dynamic, creating more jobs and a stronger private sector. It would help to reduce the dependency on Westminster (welcome in and of itself). Secondly, it would start the necessary process of integrating the economies of both jurisdictions. This is an essential precondition for any a successful change in constitutional position.

Bluntly, Northern Ireland, with a population of just 1.8 million people, is of no strategic economic importance to Britain, representing just two per cent of the UK's GDP. Northern Ireland's best bet, economically, is to join with the South and align its economy to benefit from the Republic's strong record of attracting foreign direct investment. Theoretically, the benefits are clear: the Border is an artificial division and the respective populations are small enough and complementary enough to make uniting their economic efforts a common-sense solution. At present, Northern Ireland and the Republic are the only dinner guests positioned at opposite ends of a banqueting table.

We are clearly in a period of 'post-Union, pre-unity.' There is no intellectual defence of Northern Ireland's place in the UK, except for the current consent of a majority of its inhabitants to remain British. All the rational arguments now belong to those favouring Irish reunification. It makes no sense for two small states to exist on the island of Ireland, with a combined population of just 6.4 million. However, there is a deep reticence among British and Irish political

elites to fully engage with this issue and its long-term resolution. Yet as co-guarantors of the Good Friday Agreement, Britain and Ireland are signatories to a treaty that contains an explicit commitment to a referendum on a change of constitutional status. In the interests of their own political and financial risk management, it should be incumbent on both governments to plan for the eventual likelihood of that happening. More generally, there is a need for a more intensive public discussion on Irish reunification and to hear from a broader range of voices - across politics, business and civic life. Is this the beginning of the end for Northern Ireland? Not quite. But, to paraphrase Churchill, we are certainly at the end of the beginning, as the debate about Irish unity proceeds at an ever-faster rate.

4.8 British politicians approach to Brexit and Good Friday Agreement

The House of Commons on 8 February 2017 voted on an amendment to the European Union (Notification of Withdrawal) Bill. Amendment 86 was designed to protect the free movement of people, goods and services on the island of Ireland; Citizens rights; Strand 2 and 3 of the Good Friday Agreement; Human Rights and Equality; principal of consent; and the status of the Irish Language. The Members of Parliament voted against inserting amendment 86 into the European Union (Notification of Withdrawal) Bill by a margin of 340 to 33.

“Amendment 86, page 1, line 5, at end insert

with the exception of the Northern Ireland Act 1998 and section 2 of the Ireland Act 1949, and subject to—

- (a) the United Kingdom’s obligations under the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland of 10 April 1998, and
- (b) preserving acquired rights in Northern Ireland under European Union law.”

This amendment requires the power to notify withdrawal to be exercised with regard to the constitutional, institutional and rights provisions of the Belfast Agreement.

New clause 109—Provisions of the Good Friday Agreement—

“Before exercising the power under section 1, the Prime Minister shall commit to maintaining the provisions of the Good Friday Agreement and subsequent Agreements agreed between the United Kingdom and Ireland since 1998, including—

- (a) the free movement of people, goods and services on the island of Ireland;
- (b) citizenship rights;
- (c) the preservation of institutions set up relating to strands 2 and 3 of the Good Friday Agreement;
- (d) human rights and equality;
- (e) the principle of consent; and
- (f) the status of the Irish language.”

“Division 156, 8 February 2017 6.44 pm The Committee divided:

Ayes: 33 Noes: 340

Question accordingly negative.”²⁹⁸

²⁹⁸ House of Commons Debate

4.9 German reunification: lesson learned

Professor Emeritus of the Humboldt University in Berlin Christian Tomuschat has written this submission for the Joint Committee for the Implementation of the Good Friday Agreement in relation to the issues of German reunification 1989-1990.

4.9.1 German reunification in 1989/90

Summary Overview of the Key Elements

I. Basic Data

- 1) In the Federal Republic of Germany (FRG) (“West Germany”), the German Democratic Republic (GDR) (“East Germany”) had consistently been considered a part of Germany under the roof of the still continuing “German Reich”. Under international law there were two States, the FRG and the GDR: both had been admitted separately to the United Nations in 1973. Internally, however, the situation was different: the GDR was not deemed to be a foreign State. In this regard, the Government of the FRG and the Federal Constitutional Court were in full agreement. Accordingly, it was assumed that a common German nationality still existed although the citizens of the GDR had a special status.
- 2) After the fall of the communist regime in the GDR as a consequence of the peaceful revolution in November 1989, it became clear very soon that the citizens in both parts of Germany were eager to attain reunification. In order to attain unchallengeable democratic support for that process, the first free elections ever were held in the GDR on 18 March 1990. Democratic parties (Christian Democratic Union and Social Democratic party) reached an overwhelming majority of more than 62%. That was a clear endorsement of German reunification.

II. Procedure

- 1) The Basic Law of the FRG (BL) provided in Article 23 that “other parts of Germany” could unilaterally accede to the FRG, not requiring therefor any authorization or approval. The Peoples’s Chamber of the GDR decided in fact on 23 August 1990 to accede to the FRG (294 from 363 deputies voting “Yes”, 62 voting “No”). The accession was completed on 3 October 1990 after the Four Allied Powers had given their consent.
- 2) Obviously, many details remained to be settled in a specific manner. Two treaties were concluded between the two Germanys: First the Treaty on Monetary, Economic and Social Union (of 18 May 1990), which laid the concrete foundations for the unification process (entered into force on 1 July 1990). The great adventure for East Germans was the introduction of the German Mark West on 1 July 1990.
- 3) The second treaty contained comprehensive regulations primarily on domestic matters that required clarification (of 31 August 1990, entry into force 3 October 1990). The Länder (States) of the GDR became Länder of the United Germany within their existing boundaries.
- 4) In preparation for the finalization of the reunification process, the two Germanies concluded with the four Allied Powers, victors of World War II, the Treaty on the Final Settlement with Respect to Germany (12 September 1990). This treaty put an end to all the open issues (in particular: reparations for war damages).
- 5) As far as the European Economic Community (EEC) EEC Treaty was concerned, the Government of the United Germany took the view that no special treaty of accession was required. The identity of Germany had not changed. Changes in territorial size did not matter (principle of moving treaty frontiers). According to Article 227 of the EEC Treaty, that Treaty applied to the whole of the larger Germany. This viewpoint was shared by the European Commission against the opposition of some member States who held that the addition of the GDR to the FRG was such a dramatic event that some renegotiation of the EEC Treaty was

required. Such renegotiation could have been fatal for German unity, in particular because of Soviet reticence.

- 6) Obviously, some details had to be modified. In the long run at least, the number of seats in the European Parliament allocated to Germany could not remain the same since Germany as from 3 October 1990 was the most populous member State of the EEC.
- 7) In order to legitimize once again reunification, All-German elections were held in the united Germany on 2 December 1990. Again, the democratic parties (originally from the West) obtained an overwhelming majority (CDU: 38.3 %; Social Democratic Party: 35.2 %). This was the final democratic seal for the reunification process.

III. No problems

- 1) The fact that the citizens from the former GDR could all of a sudden assert their rights as full-fledged German citizens caused no problems.
- 2) For those “new” citizens reunifications meant a tremendous gain of freedom. All of a sudden they had the right to travel to almost any country in the world while for decades they had been kept imprisoned in the GDR.
- 3) What would the legal system of the united Germany look like? The fact that the reunification process had been triggered by recourse to Article 23 BL meant that the constitution of the FRG was to be the constitution of the united country, with only minor modifications to take account of the changed circumstances. No review process took place. That perspective, provided for in Article 146 BL, was deliberately rejected, essentially out of fear that any delay might jeopardize the process. In particular, no additional “socialist” human rights were added to the catalogue established under the Basic Law, composed solely of traditional civil rights.
- 4) As far as ordinary laws were concerned, the decision was taken to extend the FRG legislation to the territories of the former GDR. This decision has been lamented many times. On the whole, however, it has proven useful to unify the

legal order of the united Germany according to the standards set in the west of the country.

IV. Problems

- 1) The major economic problem was the exchange rate between the German Mark West and the German Mark East. On the international markets, the German Mark East had almost no value. The exchange rate was set at 1 to 1 – certainly much too high, which put the East German industries into huge difficulties. This rate was also set for wages, salaries and pensions.
- 2) The fact that relations with the neighbouring socialist countries had to be re-ordered led to a loss of markets since the prices of produce of the GDR, invoiced in West German marks, became generally too high for the former eastern markets. Many manufacturing undertakings collapsed. Joblessness rose steeply.
- 3) The second large problem was the transformation of the East German industries. They were mainly State-owned. A process of privatization had to be launched. It lasted for many years and has not yet been totally completed. Many errors were committed. A great deal of the industrial assets were sold at excessively low prices to speculators who had no interest in continuing the production processes, closing down instead the factories as soon as possible and selling the attendant real estate values.
- 4) In this connection the question arose as to whether the confiscations effected in the former GDR should be reversed by restitution to the former owners. In this regard, the Government of the united Germany took an extremely cautious position, supported by the jurisprudence of the Federal Constitutional Court.
- 5) Another one of the major problems was the scope of NATO membership. Would the NATO Treaty also extend to the new territories in the former GDR? The Treaty on the Final Settlement with Respect to Germany of 12 September 1990 established that the whole of Germany will fall under the protection of the NATO Treaty but that no nuclear weapons would be deployed there and that no foreign troops would be stationed there (Article 5).

V. Planning for Reunification

1) For many decades, the FRG ran an All-German Ministry that undertook research work on the situation of the GDR. However, when in 1989 the GDR collapsed, a plan for how to proceed was lacking. The major determinations had to be made ad hoc, without the assistance of available blueprints. Very few pundits had predicted the end of the GDR. The opinion had prevailed in Western European circles that communism in Eastern Europe was there to stay.

Berlin, 2 March 2017

Christian Tomuschat

Professor Em., Humboldt University Berlin, Faculty of Law

President of the OSCE Court of Conciliation and Arbitration

4.10 Report of the Secretary-General on the United Nations operation in Cyprus



United Nations

S/2017/20

Security Council

Distr.: General
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Original: English

I. Introduction

1. The present report on the United Nations Peacekeeping Force in Cyprus (UNFICYP) covers developments from 25 June 2016 to 15 December 2016 and brings up to date, since the issuance of my report dated 8 July 2016 ([S/2016/598](#)), the record of activities carried out by UNFICYP pursuant to Security Council resolution [186 \(1964\)](#) and subsequent Council resolutions, most recently resolution [2300 \(2016\)](#).
2. As at 15 December 2016, the strength of the military component stood at 883 (56 women) for all ranks, and the strength of the police component stood at 67 (17 women) (see annex).

II. Significant political developments

3. During the reporting period, negotiations between the Greek Cypriot leader, Nicos Anastasiades, and the Turkish Cypriot leader, Mustafa Akıncı, continued in a sustained and results-oriented manner. The leaders maintained a regular and often intense schedule of meetings, while negotiators and experts also continued to meet regularly.
4. Through their intensive work in this leader-led process, Mr. Akıncı and Mr. Anastasiades succeeded in taking the talks further than they have ever been since 2008, achieving major progress in four of the six negotiation chapters: governance and power-sharing; property; the economy; and matters relating to the European Union. They also, for the first time, conducted negotiations on the issue of territory, held in Mont Pèlerin, Switzerland, which I opened on 7 November 2016.
5. Following two rounds of meetings in those negotiations, the leaders announced in a statement issued by the United Nations on 1 December that they would meet in Geneva from 9 to 11 January 2017. They also announced that a conference on Cyprus would be convened on 12 January in Geneva with the added participation of the guarantor Powers — Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland. They further stated that other relevant parties would be invited as needed.



the period up to 30 September 2016, in accordance with the quarterly payment schedule.

VIII. Observations

39. Unprecedented progress has been made in the leader-led negotiation process over the past 19 months. I commend Mr. Akıncı and Mr. Anastasiades for their efforts. Through their vision, courage and leadership, they have advanced the talks in a definitive manner. At the same time, a number of delicate and important issues remain. The process has now reached a critical juncture, and I encourage the leaders to build on the momentum as they embark on the most crucial and perhaps most demanding part of their common journey. I also encourage all Cypriots to support the leaders as they move into the decisive weeks ahead, in pursuit of the common goal of reaching a comprehensive settlement as soon as possible. As the talks enter a pivotal stage, it is more important than ever that the guarantor Powers, Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland, and other relevant actors remain committed to supporting the ongoing and determined efforts of the leaders.

40. The growing efforts demonstrated by citizens' groups in Cyprus to build support for the settlement talks and reunification are also to be commended. As the leaders progress in their negotiations, I encourage them to fully engage civil society throughout Cyprus with a view to fostering broad grass-roots support for a solution. Women's groups have been an important part of civil society's efforts to support the talks, including their call for incorporating a gender dimension into the peace process in accordance with Security Council resolution 1325 (2000). I encourage the leaders to redouble their efforts to fully reflect the principles and aims of resolution 1325 on women and peace and security in their continuing deliberations.

41. The United Nations remains committed to supporting the vital humanitarian work being carried out on behalf of the families of victims through the Committee on Missing Persons. In the light of the advanced age of both relatives and witnesses, it is critical that the Committee be given the means and the information required to accelerate its work. In that respect, I am heartened to see that the resources of the Committee have been enhanced during this reporting period. This additional capacity is a particularly important effort in the light of the advanced age of many of the witnesses and relatives. The Committee's efforts to heal the wounds of the past not only are critical for those families directly affected by the tragedy of the missing, but also support the broader process of reconciliation between communities.

42. Progress relating to confidence-building measures will remain important in the period ahead. The opening of the two crossing points, in particular, will lead to major improvements in the lives of affected communities. While the progress made towards the safety of Cypriots via the clearance of five minefields in the north is welcome, much more remains to be done. The lack of action on the clearance of the minefield adjacent to the ceasefire line near Mammari, for example, continues to pose unnecessary risks. Minefields on the island have little military value, but pose a serious threat to life. I urge both sides to take advantage of the dedicated UNMAS demining capacity within UNFICYP in the coming months to rid Cyprus of

minefields across the island. Such clearance would greatly reduce the risk to civilians and allow increased freedom of movement in and around the buffer zone.

43. No serious incidents of violence between Greek Cypriots and Turkish Cypriots were reported during the November 2016 demonstrations. At the same time, I note the continued lack of information regarding the judicial processes pertaining to the events of November 2015. A clear resolution of those cases will serve to build confidence between the communities and signal that such acts will not be tolerated in Cyprus.

44. As a fundamental human right, there can be no doubt that freedom of worship across the island is important in and of itself. At the same time, it can also provide a context for enhanced interaction between the communities. I call for all restrictions on freedom of worship, including restrictions on access to religious sites, to be lifted.

45. I note joint efforts by the religious leaders continue to lend much-needed and broad-based support for freedom of worship and the peace. Sustained open dialogue combined with a commitment to freedom of worship by both sides can only serve to open doors for greater understanding and trust.

46. I continue to call upon both communities to exert efforts to create a climate conducive to achieving greater economic and social parity between the two sides and to widen and deepen economic, social, cultural, sporting or similar ties and contacts, including with a view to encouraging trade. Such contacts promote trust between the communities and help to address the Turkish Cypriots' concerns regarding isolation. I urge both leaders to persist in addressing those issues.

47. UNFICYP continues to play an important role in maintaining a calm and secure environment and helping to rebuild trust between the communities. Its ability to do so rests in large part on the commitment of the two sides to refrain from challenging the Force's authority. I urge the sides to formally accept the aide-memoire of 1989, without which there is repeated contestation of the United Nations delineation of the ceasefire lines. In the same vein, I call on both sides to support the Force's role in pre-empting and responding to civilian, law and order and military-related issues and in encouraging intercommunal activities to rebuild trust and cooperation.

48. UNFICYP is devoting increasing resources to deterring unauthorized civilian incursions into the buffer zone. Continued reports of aggression by hunters in the buffer zone against UNFICYP personnel are also of concern. The news that charges have been filed against those involved in the recent firing of weapons in the direction of UNFICYP personnel is welcome. I urge the authorities to ensure legal redress against the perpetrators.

49. As argued in previous reports, closed-circuit television cameras can confer a military advantage and constitute a violation of the status quo if unaccompanied by a reduction in military personnel. At the same time, closed-circuit television can help to monitor illegal activity in the buffer zone and thus contribute to improved security in the area. I therefore encourage steps towards a permanent reduction in the military presence and posture along the ceasefire line, starting in those positions

that have been enhanced with closed-circuit television cameras, particularly in the militarized area, within the Venetian walls of the old town of Nicosia.

50. I welcome the initial steps taken by the sides to engage with UNFICYP and my good offices mission on transition planning, pursuant to Security Council resolution [2300 \(2016\)](#). The establishment of a dedicated working group under the auspices of UNFICYP to enhance this work, together with inputs from the sides, is timely. Such planning will depend on further progress in the negotiations and on the deliberations of the sides regarding a United Nations support role in a reunified Cyprus. I underline the importance of UNFICYP, and any follow-on mission, being ready to respond to challenges both in the lead-up to and following the referendums. I hope to report back to the Council in due course on further developments on this matter.

51. I recommend that the mandate of the mission be extended for a period of six months, until 31 July 2017. I once again express my gratitude to the 36 countries that have contributed, since 1964, either troops, police or both to the mission. I pay tribute to the 186 peacekeepers who lost their lives over that period in support of peace in Cyprus. It is incumbent upon all parties to work in a determined manner towards a comprehensive settlement, to which all Cypriots aspire and which would obviate, in due course, the continuing need for a United Nations presence.

52. I would like to express my appreciation to Elizabeth Spehar, who began her assignment with UNFICYP on 10 June, for her service as my Special Representative in Cyprus and Head of Mission. As Deputy Special Adviser, Ms. Spehar has been directly supporting the talks in addition to leading the Force's support to my good offices mission during this crucial period.

53. I welcome UNFICYP Force Commander, Major General Mohammad Humayun Kabir of Bangladesh, who succeeded Major General Kristin Lund in November.

54. I would also like to express my deep appreciation to my Special Adviser, Espen Barth Eide, for his determined efforts to facilitate the talks between the sides.

55. Finally, I extend my thanks to all the men and women serving in UNFICYP for the efficiency and commitment with which they are discharging the responsibilities entrusted to them by the Security Council.

This full UN Report is included in the online appendix of the section.

4.11 German reunification: lesson learned

The Washington Post newspaper in 2014 published an article on the four simple lessons learned from German Unification. They were:

1.A divided country needs a joint mission

2.It only takes one generation to change attitudes and prejudices

3. Integrating foreigners is important (and eastern Germany would be better off if it had)

4.11.1 4 simple lessons the world could learn from German reunification

The Washington Post

One day after the fall of the Berlin Wall, on Nov. 9, 1989, former West German chancellor Willy Brandt said: "Now what belongs together will grow together." With the opening of the border, communism in East Germany was doomed. But has Germany grown together, as Brandt predicted? Last week, WorldViews explained how eastern and western Germany are still divided in some ways. But there are also lessons to be learned from Germany unification. Here are four -- proposed by Germans from both sides of the now-destroyed Berlin Wall.

A divided country needs a joint mission

The environment has always been a crucial issue in German politics. When the Ukrainian nuclear power plant Chernobyl caused fear and panic throughout Europe after its meltdown in 1986, the Berlin Wall was still standing. Soon after, a united Germany evolved as a world leader both in climate politics as well as in the development of technological solutions.

After the 2011 nuclear disaster in Fukushima, Japan, German Chancellor Angela Merkel -- who grew up in the east -- reversed her previous stance and announced a surprising and possibly groundbreaking goal: Germany would strive to become the first industrialized country to abolish both coal and nuclear power as energy sources. Renewable energy sources are to fill the void. Succeeding would likely be impossible if reunification had not happened. The east -- highly dependent on coal in communist times -- now produces 30 percent of its electricity using renewable energy, one-third more than western Germany does.

Wolfgang Gründinger, born in Germany's southern state of Bavaria, is the spokesperson for the Foundation for the Rights of Future Generations. This year, Germany for the first time generated more energy from renewables than any other source, including coal and nuclear power plants. The project is expensive, which has increased electricity prices, particularly in the east. Despite that, Gründinger considers the rise of renewable energy projects the country's first successful joint east-west project:

No matter whether one is east or west German, the overwhelming majority of us share the opinion that we need to transform our energy supplies from fossil and nuclear to renewable and sustainable sources to stop climate change and prevent a nuclear catastrophe.

In East Germany, renewable energies not only created jobs and economic perspectives in otherwise underdeveloped regions, but – and probably more important – restored the tarnished self-confidence of the east Germans.

It only takes one generation to change attitudes and prejudices

Some argue that Germany's success in renewable energy is tightly connected to a new generation that does not care about the east-west prejudices of their parents anymore. Mike Goller was 16 years old when the Berlin Wall came down -- and before, he had never really thought about East Germany. The neighboring country seemed too distant. One month after the wall fell, he crossed the border to the GDR (the official abbreviation for East Germany) for the first time.

I do not ask myself whether German reunification was a success. It had to happen, and opening the borders of an imprisoned society is a success in itself.

Furthermore, we should not always ask the question: What went wrong? German reunification could have gone so much worse. Traditional and economic changes are slow, but if you look at the new generation you will see much less of a divide. Some differences prevail, but they matter much less to those who grew up in a united Germany.

Goller recently worked on a multimedia project called "Germany 25" that features 25 young Germans and what they think about their country. The majority of them consider the country's north and south to be further apart than east and west, according to another, more representative study. Their parents, however, are much less progressive: Many of them would not agree with their children, according to sociologist Andreas Zick, who has studied the different attitudes for years.

Integrating foreigners is important (and eastern Germany would be better off if it had)

Karamba Diaby is worried about another aspect: the conversation around the 25th anniversary of the fall of the Berlin Wall. He arrived in then-East Germany in 1985 as an immigrant from Senegal. Back then, he knew little about the communist country that would cease to exist only four years later.

Today, he represents his home state, Saxony Anhalt, as a member of Germany's national parliament. When he was elected last year, his success made national headlines: Diaby is the country's first black member of parliament ever.

One aspect has been largely ignored in Germany: the lives of immigrants in the east. Many people came here from other communist countries such as Angola, Algeria, Cuba -- but their fate has largely been forgotten. Some of them returned; others stayed here. Their immigration, however, still needs to be facilitated. Many rural eastern German areas would hugely benefit economically if more foreigners lived there.

To Diaby, there can only be one solution: "Bring people in touch with each other," he says. This might seem an obvious idea, but it's not to many eastern Germans. Only 36 percent of eastern Germans said in a recent survey that they were interacting with foreigners in their daily lives, compared to 75 percent in western Germany.

Unification can lead to prosperity

Manouchehr Shamsrizi, a 26-year-old Yale Global Justice Fellow, is among the most publicly prominent voices of Germany's younger generation as an adviser to the World Economic Forum's Global Shapers Community. According to him, German reunification bears many similarities with the emergence of the European Union.

Those of my friends who traveled a lot and visited other parts of the world really believe that a united Germany must logically aim for becoming part of the "United States of Europe" -- something one can be proud of as a progressive and value-based democratic union, rather than an estranged technocratic government somewhere in Brussels. Europe and other parts of the world could learn a lot from Germany.

East Germany is still lagging behind, but there has been lots of progress -- not only economically -- if you consider that in some German cities, about 96 percent of industrial jobs disappeared within only half a year after Germany unified. The cost of unification was high in the short run, but even if you solely look at it economically, the benefits will largely outweigh the disadvantages in the future. Already today, many cities in east Germany, like Leipzig or Berlin, are seen as international hotspots for entrepreneurship.

Could the reunification of Germany be a role model for Europe, economically as well as politically? Yes, I think so.

4.12 South Korea: unification process

Dr Marcus Noland is considered the expert on the issue of Korean Unification, he has written the authoritative book on the topic entitled 'Avoiding the Apocalypse: The Future of the Two Koreas' (2000). The future of the peninsula is explored in his book under three alternative scenarios: successful reform in North Korea, collapse and absorption (as happened in Germany), and "muddling through", in which North Korea, supported by foreign powers, makes ad hoc, regime-preserving reforms that fall short of fundamental transformation. Dr Noland was previously a Senior Economist at the Council of Economic Advisers in the Executive Office of the President of the United States.

Dr Noland's contribution to the Committee's report is available in full in the online appendix of this section, the entire conclusion of his submission is reprinted here. In it he outlines what the South Korean government has done to attempt to achieve its aim of unification. Professor Nolan noted:

4.12.1 Marcus Noland of the Peterson Institute for International Economics, Author of the Future of the 2 Koreas Korean Preparation for National Unification

'From the standpoint of Ireland, the two cases appear radically different, and it is questionable how much from the Korean experience is applicable. Nevertheless, some Korean approaches may be worth examining'

The last ten years have seen an increase in inter-Korean military tensions and a marked decrease in cooperation. There are also no clear signs that the North Korean government is on the brink of collapse despite regular speculation along these lines. Formal unification activities in South Korea have clearly shifted from engagement to preparation for more abrupt unification scenarios.

More changes could be on the horizon. The South Korean president, Park Geun-hye, is in the process of being impeached and may not serve her full term in

office. Regardless, the country will hold elections within a year, and the leading declared candidates all lean towards less conditional, less reciprocal engagement policies toward the North. The pendulum could well swing back toward the more pro-engagement policies of the Kim Dae-jung/Roh Moo-hyun era. But a simple turning back of the clock is unlikely: North Korea has pursued nuclear weapons and long-range missile programs at an accelerating rate, is subject to tighter and more pervasive international economic sanctions under the auspices of the United Nations; and the issue of human rights has risen in prominence—all in distinction to the Sunshine years.

From the standpoint of Ireland, the two cases appear radically different, and it is questionable how much from the Korean experience is applicable. Nevertheless, some Korean approaches may be worth examining. They mainly involve actions that a country's political leadership can undertake autonomously to promote national reconciliation having regard to the eventual possibility that a majority of the population in Northern Ireland might someday favor unification.

First, with the creation of the Ministry of Unification, the South Koreans established a cabinet-level department tasked with a multiplicity of unification-related responsibilities. The ministry acts as a diplomatic interlocutor; administers a variety of programs relating to unification, including the Inter-Korean Cooperation Fund and refugee intake; and maintains a think tank that focuses on unification-related research. The latter function could be relevant to the Irish case insofar as the prospect of Brexit may significantly change economic conditions in Northern Ireland, as well as the Republic of Ireland's economic relations with the United Kingdom as a whole. In South Korea, the sorts of economic modeling that one would want to conduct in anticipation of these developments, as well as public discussion and dissemination, are supported by government-affiliated think tanks as well as bodies such as PCUP. The specifics obviously differ enormously—North Korea lacks the basic institutions of a market economy, and the cross-border flow of goods, capital, and people is highly restricted—all in contrast to the Irish case. Nevertheless, cross-border exchange across Northern Ireland and the Republic is subject to currency

risk, and with Brexit, EU transfers to Northern Ireland will disappear, and additional distortions are likely to be introduced. It is not hard to see the desirability of doing analysis similar or parallel to what the South Koreans conduct today.

Second, under the governments of Lee Myung-bak and Park Geun-hye, there has been a renewed emphasis on educating the South Korean public, which is frankly unprepared for what could transpire in the medium to long run. These efforts have involved not only Lee and Park using the “bully pulpit” of the presidency to shine light on the unification issue but also a revitalization of the NUAC and the formation of the PCUP. Again, contemplating Brexit, one can grasp the desirability of public bodies in Ireland convening similar groups of experts and politically active citizens to enhance both the analytical quality and public awareness of contingency planning.

In sum, the Korean and Irish cases differ enormously. But that is not to say that there is nothing to be learned from South Korean preparations for eventual national unification. Some of the approaches, suitably altered and adapted, could make a positive contribution as Ireland contemplates its future.

4.13 Future for Northern Ireland: where to from here

In this section the report looks at the various road maps for the future of Northern Ireland outlined by High Court Justice Humphreys which would be compatible with the mechanism of the Good Friday Agreement. Others which Humphreys outlines would be clearly a breach of this international agreement.

High Court Justice Humphrey in his book 'Countdown to Unity' states that

“There is no one single pathway to unity – rather there are alternative, but perhaps related roadmaps to reunification. Examination and analysis of these roadmaps is in the view of this author, a timely exercise in determining future actions towards achieving the majority aspiration to reunification.”²⁹⁹

“The project of unity will pose a considerable challenge to the partitionist mentality that pervades much of the southern political landscape. The examination of possible roadmaps to reunification presents a striking opportunity not simply to vindicate the right of self determination of the Irish people but also a unique opportunity to address the causes of conflict on the island and to promote lasting reconciliation between the different strands that constitute the national identities of the peoples that share these islands.”³⁰⁰

The roadmap outlined by Humphreys in his analysis of the future of this island are compiled in the remainder of this section.

Unitary State

Federal/ Confederal State

United Ireland with continuation of Northern Assembly under the Good Friday Agreement

Joint Authority

Joint Sovereignty

Independent Northern Ireland

Repartition

Repatriation

²⁹⁹ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.205.

³⁰⁰ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.206

4.13.1 Unitary state- united Ireland

“A unitary state would embrace the island of Ireland governed as a single unit under one government and one parliament elected by all the people of the island. It would seek to unite in agreement the two major identities and traditions in Ireland.”

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“The particular form of unity which the Forum [New Ireland Forum] would wish to see established was a unitary state, a perhaps surprisingly hard-line preference and one which was to fade in the intervening decades, to the extent that the SDLP at least is now committed to a policy of two jurisdictions within a united Ireland”³⁰² Sinn Féin in its discussion document ‘Towards a United Ireland’ has also state ‘all of us who wish to see a united Ireland need to be open to considering transitional arrangements’. Included among these Continued devolution to Stormont and a power-sharing executive in the north within an all-Ireland structure, A federal or confederal arrangement, A Unitary State, Other Arrangements.³⁰³

“The Forum [New Ireland Forum] stated that a unitary state would require a new, non-denominational constitution, to be formulated at an all-round constitutional conference convened not only by the Irish Government but also, perhaps surprisingly, by the British Government

“The European Convention on Human Rights and fundamental freedoms would be incorporated in the constitution and there would be built in protections for the unionist minority, for example the need for a weighted majority in parliament on certain issues, or a blocking power for the Seanad.

“As regards citizenship, the Forum envisaged that unionists would automatically acquire Irish Citizenship, but without prejudice to that, those who at present held British citizenship would continue to enjoy it

³⁰¹ New Ireland Forum, Reports and Studies and Reports on Specific Matters, Vol 1. P.31

³⁰² Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.52.

³⁰³ Sinn Fein Discussion Document “Towards a United Ireland, 2016. P.8

and could pass it on to their children.

“Further recognition of the unionist identity would come through an Irish-British council with both intergovernmental and inter-parliamentary structure, which would acknowledge the unique relationship between Ireland and Britain and provide expression of the long established connection which unionist have with Britain.”³⁰⁴

³⁰⁴ Richard Humphreys, Countdown to Unity: Debating Irish Reunification (Irish Academic Press, Dublin 2009) p.52

4.13.2 Federal/ confederal state

The concept of a Federal or Confederal State was outlined by the New Ireland Forum in its final report, as High Court Justice Humphreys outlines in 'Countdown to Unity':

"The Forum also discussed a second option of a federal or confederal state. This option would have involved an elaborate institutional structure; separate parliaments and executives north and south, a federal parliament (possibly bicameral), a federal government and head of state and a federal or confederal supreme court to interpret the constitution and adjudicate on any conflicts of jurisdiction between the federal and state governments.

"The advantages of this system were extra protections for unionist and 'the retention within the North and South of many laws and practices reflecting the developments of both areas over the past 60 years'.

"The particular arrangements discussed by the Forum might be thought to be extremely elaborate, involving not one but three parliaments and governments in a united Ireland.

"The 'two parliament' solution does not seem to have been considered and in a way that is somewhat surprising given that it is the approach signalled by the 1937 constitution provision for devolved parliaments, as well as the fact that the two parliament approach is that which is currently in existence in Northern Ireland, albeit that the second parliament is in Westminster rather than Dublin."³⁰⁵

"Since the union with Scotland in 1707 there has been not parliament of England nor is there any need or demand for one and on the same basis there would be little demand for a 26 county parliament following a united Ireland. The new Ireland Forum as well as outlining the make-up of the structure of federal or confederal state set out many innovative proposals included the election of head of state. The functions of Head of State could be carried out by a President, the office alternating between persons representative of the Northern and Southern states."

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³⁰⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.35.

³⁰⁶ New Ireland Forum, <http://cain.ulst.ac.uk/issues/politics/nifr.htm>

4.13.3 United Ireland with continuation of the Northern Assembly under the Good Friday Agreement

The SDLP has published a set of proposals in relation to unity which pin their colours firmly to the mast of the Good Friday Agreement. This document, 'A United Ireland and the Agreement', was published on 21 March 2005, although an earlier version had appeared in November 2003. The key message of the document is that:

“In the United Ireland to which we are committed all the agreements principals and protections would endure.”

The SDLP have proposed that the Stormont Assembly would continue

“as a regional parliament of a united Ireland”.³⁰⁷

The Executive would also continue, as would the Agreement's equality and Human Rights guarantees, and the right to identify oneself as British or Irish or both, and to hold passports accordingly. Going somewhat beyond the letter of the Agreement, however, the SDLP proposed corresponding protections for unionism to those currently in existence for nationalism.

East-West Cooperation would continue. In particular, just as the Irish Government has a say in the North, now the British Government would have a say in the North in a United Ireland.

Just as there is Northern representation in the Seanad at present, those in the North who want it should have representation in the House of Lords in a united Ireland.

The arguments in favour of such protections were trenchantly made: “unity must not be about the entrapment of a new minority ...in a united Ireland we will still need to find a way of sharing our society as equals every bit as much as we do today”.³⁰⁸

There was a pragmatic argument for maintaining the Good Friday Agreement institutions – it would provide certainty and stability and thereby assist in making the case for a united Ireland.

³⁰⁷ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.117.

³⁰⁸ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.117.

4.13.4 Joint authority

The third option considered by the New Ireland Forum was joint authority between the London and Dublin governments, subject to the devolution of major powers to a locally elected assembly and executive. Such an approach would also involve joint citizenship to be imposed automatically on all persons in Northern Ireland as well as a comprehensive Bill of Rights³⁰⁹

The report of The New Ireland Forum did not touch on all the nuances of the joint authority approach, in particular the question of whether a role for the Irish Government might be akin to joint authority without compromising the ultimate sovereignty of the United Kingdom parliament over Northern Ireland ie joint authority predicated on a continuation of Northern Ireland's formal position as part of the United Kingdom.³¹⁰

Chapter 8 of the New Ireland Forum outlines what Joint Authority would be its opening paragraph states:

“Under joint authority, the London and Dublin governments would have equal responsibility for all aspects of the government of Northern Ireland. This arrangement would accord equal validity to the two traditions in Northern Ireland and would reflect the current reality that the people of the North are divided in their allegiances. The two governments, building on existing links and in consultation with nationalist and unionist opinion, would establish joint authority designed to ensure a stable and secure system of government.”

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³⁰⁹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.53.

³¹⁰ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.54

³¹¹ New Ireland Forum, <http://cain.ulst.ac.uk/issues/politics/nifr.htm>

On the Anglo Irish Agreement of 1985, former Taoiseach Garrett Fitzgerald comments that:

“From a nationalist point of view a balanced solution to this medium-term problem would have been joint government by Britain and Ireland within the context of continuing British sovereignty, until such time as a majority in Northern Ireland sought a transfer of sovereignty over Northern Ireland to a new all-Ireland State. But the concept of a forum of joint authority that would leave British sovereignty unaffected was an exercise in subtlety which the British Government was not prepared to contemplate and such a system, it was also argued, would have a propensity for deadlock which could be highly dangerous.”³¹²

New Ireland Forum was credited as being the first of many steps on the road to the Anglo Irish Agreement and eventually the Good Friday Agreement.

The issue of Joint Authority was raised a recently as January 2017 when SDLP Leader Colum Eastwood said:

“If post election an executive cannot be formed, the only acceptable position for the nationalist community is joint authority between the Irish and British governments. We cannot allow a DUP-run government to be solely replaced by British direct rule ministers.”

4.13.5 British government response to joint authority

British Prime Minister Thatcher in her ‘Out. Out, Out’ speech made after a British-Irish summit dismissed the proposal of the Irish Government of ‘Joint Authority’ saying it would be a “derogation from sovereignty”.

At the press conference in Downing Street after the British-Irish summit, Prime Minister Margaret Thatcher also dismissed all of the New Ireland Fourm’s proposals:

“I have made it quite clear ... that a unified Ireland was one solution that is out. A second solution was confederation of two states. That is out. A

³¹² Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.55,56.

third solution was joint authority. That is out. That is a derogation from sovereignty. We made that quite clear when the Report was published. Northern Ireland is part of the United Kingdom. She is part of the United Kingdom because that is the wish of the majority of her citizens. The majority wish to stay part of the United Kingdom.”

The Unionist response to the New Ireland Forum was ‘The Way Forward’. Lord Kilbrandon produced an unofficial report attempting to reconcile elements of the New Ireland Forum report and ‘The Way Forward’. This report informed the British government's view leading up to the Anglo-Irish Agreement of 1985.

4.13.6 Joint sovereignty

Examples of current arrangements of Joint Sovereignty internationally are rare.

Justice Humphreys points out the distinction between Joint Sovereignty and Joint Authority as proposed by the New Ireland Forum.

“Joint Sovereignty should be distinguished from joint authority in the sense that joint authority could involve both governments taking responsibility for non-devolved issues, without infringing the status of Northern Ireland as part of the UK. Joint Sovereignty would only exist if Northern Ireland were part of both states, or administered by both but part of neither. Bearing such a distinction in mind, while joint authority could form a transitional stage between the current position and ultimate unity, the main and possibly fatal disadvantage of joint sovereignty, by contrast, considered in terms of a transitional mechanism to unity, is that there is no natural exit point from it where upon sovereignty would shift exclusively to the Irish side. If sovereignty does not shift on the basis of 50 per cent + 1 support for unity, why should it shift on the basis of 52.5 per cent or 55 per cent support? In the final analysis the 50 percent + 1 rule is the only mechanism for determining sovereignty which is based on a logical principal, and in any event is legally enshrined in the agreement, but rather than provided for 100 per cent transfer of control of Northern Ireland to the Irish side on the basis of a 50 per cent + 1 vote, a lengthy transitional period of joint authority – initially within the UK and subsequently with in Irish jurisdiction – might provide a simpler and , in the end, more flexible

transitional mechanism to avoid the abrupt discontinuities of the 50 per cent + 1 approach of the Good Friday Agreement.”³¹³

In terms of joint sovereignty, an interesting feature of proposals for such a form of government internationally, is that they are awfully thin on the ground. Joint Sovereignty has been suggested in relation to highly contentious areas such as Gibraltar, Jerusalem and Kashmir. But actual examples of joint sovereignty working satisfactorily or at all are hard to find.³¹⁴ An Oireachtas Library and Research paper on Joint Sovereignty has been included in full in the online appendix of this section.

³¹³ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.109.

³¹⁴ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.113

4.13.7 Independent Northern Ireland, repatriation & repartition would be a breach of Good Friday Agreement

High Court Justice Humphreys discusses how it would be a breach of the Good Friday Agreement if there was any move for an Independent Northern Ireland or any attempt to repartition the island:

The Good Friday Agreement at its most fundamental level rule out exotic alternative 'solutions' to the problem of the constitutional status of Northern Ireland such as joint sovereignty, independence, repartition or any other alternative including in particular the idea of joint consent ie that a majority of both communities would have to consent before a united Ireland could come into existence. That notion is wholly without legal or logical basis. The clear and unambiguous language of the Good Friday Agreement firmly rejects all of these alternative proposals which would have the effect of undermining the will of the majority of the people of Northern Ireland as expressed in a referendum. The only legally permissible way in which any such alternative solution could be advanced would be by way of further international agreement between the two sovereign governments, a project which holds little attraction.

Repartition would be wholly unjust and unequal outcome given that nationalist have been asked to live with in the six counties entity on the basis of a particular test – the majority wish of the entity- so it would be historically absurd and inherently unjust to change the test just as the answer is moving in a direction that does not suit the unionist position. In any event repartition would be a breach of international law, in the absence of any agreement by the Irish government to such a course. Such agreement seems to be extremely unlikely in present circumstances.

The importance of the status of the Good Friday Agreement as an indefinite feature of the institutional landscape, premised on the principal that a majority will decide on a united Ireland versus a United Kingdom, combined with a protection for the minority of participation in a power sharing executive, rest in the likelihood that as a majority for a united Ireland draws closer, efforts will be made to unravel the guarantees contained in the Good Friday Agreement that a united Ireland will be given effect to should a majority wish. It seems likely that all of the exotic alternatives to the simple right of self-determination referred to

in the agreement will be trotted out in the years to come as the prospect of a nationalist majority in Northern Ireland becomes more likely. For the present purposes, it is sufficient to note that not only have the Northern Ireland parties solemnly committed themselves to give effect to the wish of a majority for a united Ireland, should that be the case, but the two governments have solemnly committed themselves to the same principal as a matter of binding international law.

4.13.8 Independent Northern Ireland

It is stated by Justice Humphreys that:

“One could envisage that in the dying days of a Unionist majority, if all unionist parties threw their weight behind a campaign for independence, a bare majority might be forthcoming for such a proposition within the six counties as a last means of staving off unification.

“In this scenario from a unionist point of view an independent Northern Ireland with a continuing, albeit diminishing, Unionist majority would be free in practice to abolish the Good Friday Institutions and restore old fashioned Stormont majority rule, with all of the prospects and possibility for oppression of the nationalists/republican section of the community that would be left behind by the British Government within an independent Northern Ireland, whether of six counties or of some smaller number. Under this system, mechanism would be devised to put off the evil day of a nationalist/ republican majority. Such mechanisms could include creating Nationalists Bantustans within the six counties, being notionally self-governing but in fact under Stormont rule or expelling overwhelming nationalist areas from the six counties altogether, leaving them no practical alternative but to be governed from Dublin, while a dismembered Northern Ireland thereby would bolster its Unionist majority- through “Unionism” in the context of an Independent Northern Ireland would take on a somewhat theological character. No doubt such an old style Stormont could devise ways in which unionist identity and affinity with Britain could be maintained not with standing the formal separation in terms of sovereignty. For instance, assuming that her majesty was

prepared to agree, there would be nothing stopping an independent Northern Ireland from retaining the queen as head of state, thereby providing a basis for contending that the union was still a reality at some level. The likely economic instability if not outright bankruptcy ('at current level of spending') of an independent Northern Ireland might not be sufficient to dissuade a bare unionist majority from trying such a last throw of the dice. The Good Friday Agreement firmly rules out the possibility of an Independent Northern Ireland quite deliberately, the only two constitutional options proffered in the agreement are a continued United Kingdom of Great Britain and Northern Ireland and a united Ireland."³¹⁵

"Even if a majority in the six counties expressed a desire for independence, the British government would be obliged as a matter of international law by the Good Friday Agreement to decline to give effect to such a wish – even though formally a request so expressed would be a wish by a majority in Northern Ireland for a change in the constitutional status of Northern Ireland."³¹⁶

4.13.9 Repartition

Humphreys argues that "the most logical strategy of constitutional opposition to an emerging majority in Northern Ireland in favour of a united Ireland would be to seek repartition."³¹⁷ It is here again that the ill-fated boundary commission of 1924-25, which at the time was considered a success for unionism in that it formulated the border and the status quo, now comes back on the horizon.

One of the ironies of the failure of the Boundary commission is that, had it 'succeeded' in transferring the predominantly nationalist part of Northern Ireland into the new dominion south of the border, the effect might really have been to rule out Irish unification by consent in perpetuity.³¹⁸

Logically Humphreys states that it was only because the 6 county 'statelet' remained at that size that there is a possibility of a majority emerging in favour of Irish unity

³¹⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.151,152.

³¹⁶ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.151,152.

³¹⁷ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.148.

³¹⁸ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.148.

exists.

It would be surprising indeed if some attempt were not made to propose such a scheme as the two sections of the community draw closer in numerical strength

For unionists the prospect of an impending majority in favour of unity would certainly conjure up a scenario where repartition was seen as the last throw of the dice to preserve the union, at least for that part of Northern Ireland east of the Bann.³¹⁹

As Humphreys states, it is however a central and fundamental feature of the Good Friday Agreement that the two governments and all of the subscribing parties, including the unionist parties participating in the Stormont talks, as well as majorities North and South, accepted the principal that the right to self-determination of the Irish Nation is to be exercised by reference to the political jurisdictions of the island of Ireland as they currently exist and not as they might artificially be gerrymandered at some future point.

The Good Friday Agreement is clearly and unambiguously predicated on the premise that any decision on a possible united Ireland is to be taken by the people of the twenty six counties and the people of the six counties acting jointly and that majorities in favour of unity are to be assessed on a twenty-six-county and a six-county-basis only, and not on the basis of any other calculation or division of the Irish people.

In simple terms Humphreys argues the option of repartition would simple not be lawful in terms of the Good Friday Agreement as a matter of international law.³²⁰

4.13.10 Repatriation

In his book 'A United Ireland: Why Unification is Inevitable and How it Will Come About' Kevin Meagher, an advisor to the Secretary of State for Northern Ireland Shaun Woodward 2007-09, quoted a story from the Belfast Telegraph of 2013.

“During a late night conversation in 1995 at Chequers the British Prime Minister suggested to Sir David Goodall who was a senior diplomat negotiating the land mark Anglo Irish Agreement that Catholics living in Northern Ireland could be moved to live in Southern Ireland instead.
She said ‘If the northern [Catholic] population want to be in the south,

³¹⁹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.148.

³²⁰ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.148.

well why don't they move there? After all, there was a big movement of population in Ireland, wasn't there?'

Nobody could think what it was. So finally I said, 'Are you talking about Cromwell, Prime Minister?' She said, 'That's right, Cromwell.'³²¹

The evidence of Sir David Goodall regarding the Repatriation concept espoused by former Prime Minister Margaret Thatcher is needless to state disturbing.

4.14 Road map: New Ireland Forum 2

In his book 'Countdown to Unity' High Court Justice Humphreys states:

"over all what emerges from this study is that there is no one single pathway to unity – rather there are alternative, but perhaps related roadmaps to reunification. Examination and analysis of these roadmaps is, in the view of this author, a timely exercise in determining future actions towards achieving the majority aspiration to reunification."³²²

It does no favours to those of a unionist persuasion to pretend that the nationalist aspiration does not exist, and it seems better and more open to acknowledge its existence clearly in a spirit of fraternity.³²³ The Good Friday Agreement again provides a clear road map towards overcoming the challenge that would be posed by unconstitutional unionist violence.³²⁴ The project of unity will pose a considerable challenge to the partitionist mentality that pervades much of the southern political landscape. The examination of possible roadmaps to reunification presents a striking opportunity not simply to vindicate the right of self determination of the Irish people but also a unique opportunity to address the causes of conflict on the island and to promote lasting reconciliation between the different strands that constitute the national identities of the peoples that share these islands.³²⁵ The

³²¹ Kevin Meagher, 'The end of the beginning': Reflections on Brexit, devolution and the prospects of Irish reunification, (2016)

³²² Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p. 205.

³²³ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.206.205.

³²⁴ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.155..

³²⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.206.

New Ireland Forum of 1984 was seen as a way forward.

As Justice Humphreys in his book 'Countdown to Unity' says Garrett Fitzgerald suggested, a united nationalist analysis is the only real mechanism for political progress, as unionism is frozen by its own 'historical dilemma'.³²⁶

Justice Humphreys in his final analysis gives rise to the idea of a body like the New Ireland Forum

“Developing a broad consensus on the way forward and proposing measures to promote both inclusion of the British Identity and nationalist goals in parallel could be a task to be teased out by the Forum for Peace and Reconciliation or some other appropriate body.”³²⁷

The Anglo-Irish Agreement signed in November 1985 by the Taoiseach Garrett Fitzgerald and the British Prime Minister Margaret Thatcher, in the words of Justice Humphreys:

“drew heavily on the analysis contained in the (New Ireland) forum report and to that extent the report’s urging on the British Government to drastically change its approach and to address the fundamentals of the causes of the conflict was outstandingly successful”.³²⁸

Humphreys goes on to point out that:

“Overall, however, the Forum report was vital in breaking the political log jam in Northern Ireland and set the scene for the negotiation and conclusion of the Anglo- Irish Agreement”³²⁹ There would be a great deal of merit in nationalist Ireland negotiating and agreeing, so far as possible, the kind of unity that would be put to the people in such a referendum. Even if unionism did not take up an invitation to participate in such a negotiation, an agreed or consensus position, or even a majority position from the nationalist side, would add a great deal of clarity and reassurance to what would otherwise be a fraught and

³²⁶ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.206.

³²⁷ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.206.

³²⁸ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.54.

³²⁹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009), p.54.

The road map to achieve the constitutional aspiration of the peaceful reunification of Ireland and its peoples under the Good Friday Agreement could begin in the same way as the original New Ireland Forum. We recommend the establishment of A New Ireland Forum 2 which would be the mechanism whereby the status quo logjam and long term consequence of Brexit for the people of this Island could be addressed.

³³⁰ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.112.

