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**THESIS**

**AN END TO THE TROUBLES: UNIONISM,  
NATIONALISM, AND THE PATH TO PEACE**

by

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December 2006

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**AN END TO THE TROUBLES: UNIONISM, NATIONALISM, AND THE PATH  
TO PEACE**

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Submitted in partial fulfillment of the  
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## **ABSTRACT**

Understanding the roles played by the constituents to the Northern Ireland conflict is important and relevant for three reasons. First, an analysis of the factors contributing to a cessation of hostilities in Northern Ireland provides vital insights into the manner in which armed insurrections can be brought to an end. Secondly, the Northern Ireland experience provides a roadmap for the US and others finding themselves involved in the quagmire of sectarian conflict. The Ulster Troubles can provide valuable lessons learned in the process of forming governments representative of all major elements of indigenous proportions in places like Afghanistan and Iraq. As such, a study of past attempts by a liberal democratic government to create a representative power-sharing government which crossed the sectarian divide is particularly apt. Finally, the success of the Good Friday Agreement (GFA) seems predicated on the acceptance of democratic principles by the IRA via its political wing, Sinn Fein and the acquiescence of the Unionist population to a power-sharing arrangement which includes representation from the Republican constituency. Neither position appears to have been sufficiently present in previous attempts at power-sharing. While the long-term viability of power-sharing in the province remains in question, a return to violence has not occurred. Ascription to democratic principles by erstwhile terrorists and acquiescence to power-sharing by the majority may be critical elements in bridging the sectarian divide not only within the context of Northern Ireland, but when resolving terrorist/insurgent campaigns throughout the world.

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## I. INTRODUCTION

The path to a lasting peace in Northern Ireland is littered with the wreckage of various agreements, initiatives, conventions, proposals, and talks. The parties within the province have steadfastly and repeatedly put forth their own manifestos for a resolution to the violence that has wrecked havoc on the lives of peoples from both sides of the sectarian divide. Politicians, terrorists, and reformed terrorists have made their case for resolution through the constitutional political process and through acts of violence; some often doing so simultaneously. Beyond the pale of the Northern Irish statelet, the British and Irish governments have actively engaged in efforts to restore normalcy to the lives of those living within the province. Along the way, the European Union and the United States have lent support through economic, social, legal and direct mediation intervention in the hope of finding a way out of the cycle of violence. What all have learned and continue to learn is that resolving the province's problems is an arduous task requiring not only patience but an understanding of the deep sense of history and fear that all parties to the conflict bring to the negotiating table and how personal identity often transcends rationality in the search for an equitable peace.

### A. BACKGROUND

The history of the Troubles in Northern Ireland dates back to the civil rights marches organized by the Northern Ireland Civil Rights Association (NICRA) in 1968. However, to truly understand the origins of the conflict and the deeply entrenched psychological dispositions of the belligerent communities' party to the strife, it is necessary to travel further back in history to the partition of the island of Ireland by the Government of Ireland Act of 1920.<sup>1</sup> The act was Britain's best attempt to resolve the Irish issue which had percolated since the mainly Catholic Irish Nationalists demanded Home Rule during the latter part of the 19th century. While Nationalists overwhelmingly supported the notion of home rule for Ireland, their Protestant counterparts, who overwhelmingly resided in the six northeastern counties of the island, just as vigorously rejected the notion and instead advocated for continuation of the Union with Great

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<sup>1</sup> The Government of Ireland Act of 1920 partitioned Ireland into Southern Ireland with a devolved parliament in Dublin, and Northern Ireland with a devolved parliament in Belfast. The BBC. Available online at [http://www.bbc.co.uk/history/timelines/ni/gov\\_ireland\\_act.shtml](http://www.bbc.co.uk/history/timelines/ni/gov_ireland_act.shtml) Current as of: 15 July 2006.

Britain. These divergent positions demanded attention and, in the wake of the 1916 Dublin uprising and faced with the threat of armed Unionist resistance to any form of home rule, the post-World War I British government moved to resolve the Irish problem once and for all. The solution was to partition the island into two statelets: a predominantly Protestant one in the northeast and an overwhelmingly Catholic one to the south. The northern statelet, Northern Ireland, received its own parliament under the terms of the Government of Ireland Act of 1920 and was operational before a final treaty on partition had been negotiated with the South. A treaty validating de-facto partition was accepted by the southern Irish people in 1921. Despite an ensuing civil war waged between those who supported an independent Free State and those, led by the Irish Republican Army (IRA), who unsuccessfully opposed the treaty and the abandonment of the six northeastern counties, partition became an accepted reality of Irish Nationalists south of the newly created border.

The situation for Northern Ireland's Catholics was less than optimal. Unlike their southern brethren, they were now a sizeable minority within the new artificial statelet created from six counties out of the historic nine that made up the province of Ulster. The gerrymandering that facilitated partition ensured that the newly created Northern Ireland would have a Protestant population which outnumbered Catholics by approximately two-to-one. Certain aspects of the Act of 1920 which would have protected the rights of Catholics were ignored by the Protestant majority. Among them, proposals to establish an upper house of Parliament with weighted representation and an initiative to establish a system of electoral proportional representation to protect minority voting rights.<sup>2</sup> Also ignored in the ensuing years was the Council of Ireland provision designed to reconcile the two parts of Ireland and eventually facilitate reunification.<sup>3</sup> Instead, Britain, via partition, had succeeded in getting the Irish question off the agenda. For their part, the Irish government was subsumed with the task of standing up a newly independent nation. The result was that, for the most part, the Unionists of Northern Ireland were left to their own devices and permitted to strengthen their hold on power.

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<sup>2</sup> Tim Pat Coogan, *The Troubles: Ireland's Ordeal and the Search for Peace* (New York: Palgrave, 2002), 29.

<sup>3</sup> Caroline Kennedy-Pipe, *The Origins of the Present Troubles in Northern Ireland* (Essex: Addison Wesley Longman Limited, 1997), 18.

Facing a perceived threat of a majority Nationalist neighbor and a large Nationalistic internal minority, many Unionists developed a siege mentality. To allay these fears, Unionists went about the task of securing their position by strengthening their control over the levers of power. Partition was vigorously enforced in the areas of housing, employment, education, law enforcement, and voting rights. Subtle and no-so subtle discrimination practices such as a first-past-the-post electoral system; the gerrymandering of electoral districts to ensure a Protestant majority; and the limitation of Catholic participation in local government due to the allocation of additional voting rights for property owners ensured a sustained Protestant ascendancy. As Unionist control manifest itself in all aspects of Northern Irish life, the siege mentality partially abated and gave way to one of superiority and privilege. In contrast, Nationalists became disenfranchised. Their sense of self which once engendered them as a part of the overwhelming majority on the island of Ireland was replaced with an artificial minority status which fostered a siege mentality within the Nationalist community not unlike that felt by their counterparts across the sectarian divide. Dispossessed of the right to participate and apparently abandoned by their southern co-religionists, northern Nationalists continually turned in on themselves and failed to effectively influence change in their new reality. From a political standpoint, their perpetual minority status and ineffectiveness as a robust opposition led the major Catholic political movement, the Nationalist Party, to abstain from participating in the overwhelmingly Unionist Stormont government.

Against a backdrop of recognized discrimination and sporadic outbreaks of communal violence, the province, for the most part, was left in Unionist hands for the better part of fifty years. During that time, the southern Irish government adopted a constitution in 1937, maintained independence during the Second World War, and declared a Republic in 1948. Such actions did little to endear the southern government to Britain and greatly increased the level of anxiety felt among northern Unionists. Of most concern north of the border was the claim to Irish sovereignty over the entire island of Ireland contained in Articles 2 and 3 of the 1937 constitution.<sup>4</sup> Unionist fears were placated in 1949 when the British government, under the umbrella of the UK Ireland Act,

<sup>4</sup> Constitution of Ireland. Available on-line at: <http://www.taoiseach.gov.ie/upload/publications/297.htm> Current as-of: 7 June 2006.

provided that there would be no change in the status of Northern Ireland without the concurrence of the province's government at Stormont.<sup>5</sup> This provision was of vital importance because it effectively handed Unionists a legislated veto over any proposal to change the status of Northern Ireland without their concurrence. Despite the polarization between the governments north and south, cooperation did occur during the IRA's border campaign of the late 1950s. At the time, both constituencies introduced internment to eliminate the threat posed by terrorism.

The rules of the game dramatically changed during the 1960s. Attempts at top-down reform within Ulster unionism were greeted with vehement opposition within the predominant Ulster Unionist Party (UUP) and within the Protestant community as a whole. Inspired by the U.S. civil rights movement, Northern Ireland's Catholics mobilized under the umbrella of NICRA to demand an end to discrimination in housing and employment; an end to repression under the Special Powers Act; the disbandment of the B-Specials paramilitary police; and an end to gerrymandering of political districts. In an exercise of their civil liberties, NICRA took their protest demands to the streets. In September 1968, NICRA organized a march in Derry, Northern Ireland's second largest city. The march was banned and, when NICRA attempted to defy the ban, they were set upon by members of the Royal Ulster Constabulary (RUC) who inflicted many injuries on the marchers. Television images of the mayhem led to rioting in Derry. The pattern of civil unrest which dogged the province for the better part of the following year was set. In the ensuing months, marches were greeted with open hostility from the province's Unionist population. The province reached a boiling point on 12 August 1969 when clashes broke out between the Catholic residents of the Bogside neighborhood of Derry and Loyalist marchers. The riots spread throughout the major towns and cities of Northern Ireland as those in the Nationalist community demonstrated their solidarity with their co-religionists in Derry. Loyalists, often in collusion with the RUC, attacked Catholic neighborhoods. As the situation continued to deteriorate and local law enforcement demonstrated its inability to restore order, the British government took action. On the 14th of August 1969, British troops were deployed to the province to restore the rule of law and separate the warring communities.

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<sup>5</sup> Stormont served and continues to serve as the seat of devolved government in Northern Ireland.

The troop deployment was significant for two reasons. First, the soldiers were initially welcomed by the Nationalist community who viewed their presence as a welcome relief from a police force that persistently enforced the law in a biased manner. Secondly, the deployment, coupled with the IRA's inability to defend their community against Loyalist, RUC, and B-Special incursions, spurred the rebirth of Republican resistance in the form of the Provisional Irish Republican Army (PIRA).

This IRA inability to protect Nationalist communities stemmed from the fact that the organization's Dublin leadership refused to provide weapons to their northern counterparts for fear of exposing them before they had attained sufficient support within the Catholic community to further the goal of a leftist uprising. They had hoped their plan would ultimately lead to a united Ireland under a Marxist IRA leadership. This issue greatly contributed to the January 1970 split of the PIRA from the Dublin leadership which assumed the moniker of the Official IRA. The unencumbered PIRA were free to pursue tactics directly aimed at ending British rule in Northern Ireland and those tactics combined with the misapplication of British military force against Catholics led to the establishment of the PIRA as a terrorist organization.

Deployed British troops greeted as saviors and plied with a continuous supply of tea and sandwiches were to find their popularity short lived. While initially successful in winning the hearts and minds of the Catholic community, their efforts were undercut by a policy change which forced them into indiscriminate security operations against the minority population. Part of the problem as it existed for the army was that they had become the de facto police force within the Catholic enclaves. The RUC with heavy-handed tactics and discriminatory enforcement had long since lost their credibility and ability to police Nationalist neighborhoods. A change in administration in Westminster coupled with IRA agitation and Protestant calls for action led to curfews, search and seizures, intimidation, and imprisonment of Catholics at the hands of the British army. A sea change in minority attitudes had happened in a relatively short period of time. The army, once viewed as saviors, soon became an army of occupation no longer intent on defending Catholics from attacks or injustice. This rapid deterioration of the army's position was precipitated by a get tough policy coupled with a glaring lack of actionable intelligence and the employment of force that more often than not, exceeded the need.

Hard-line tactics turned a population heretofore accepting of the British presence away from the army and into the arms of the IRA.<sup>6</sup> At that point, no amount of appeasement in the form of better housing, better jobs, political representation or advanced education would be enough to bridge the divide that had been created between the army and the minority Nationalist population.

With the military campaign to restore law and order abandoned in favor of a counterinsurgency/counterterrorist policy against the IRA, the British and Northern Irish governments initiated a series of legal punitive measures designed to eliminate the terrorist threat. From a comparative perspective, these measures and their effectiveness or lack thereof are interesting insofar as they share similarities with certain initiatives employed by the U.S. in pursuit of the war on terror. Measures used by Britain included proscription, search and seizure, extended detention without charge, internment, Diplock trials, and the reliance on the supergrass system. While each legal maneuver was designed to bring about the destruction of terrorist organizations and their ability to effectively function, flawed and biased application set against the constraints of a liberal democratic society doomed them to failure and in many instances served as a recruitment tool for the very organizations they were designed to defeat.

The advent of the 1970s ushered in many internal political changes for Northern Ireland. Constitutional nationalism found a new advocate in the form of the Social Democratic and Labour Party (SDLP). Ulster Unionists lost their devolved Stormont government when it was prorogued in 1972 in favor of direct rule from Westminster. Reforms to the equality agenda which had been slow in coming from the Stormont administration were implemented by the London administration. Despite the intensity of the IRA's campaign against British rule, a basis for dialogue existed between the communities and the London and Dublin governments on restoring a devolved government representative of the two main traditions in Northern Ireland. Essentially, the time was right to begin the process of bringing Northern Ireland out of the shadow of fear and suspicion and into an era of trust and cooperation beneficial to all the province's residents.

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<sup>6</sup> Tony Geraghty, *The Irish War: The Hidden Conflict between the IRA and British Intelligence* (Baltimore and London: The Johns Hopkins University Press, 2000), 34.

## B. THESIS OVERVIEW

While much discussion has focused on the IRA's transition from violence to political involvement, relatively little attention has been paid to the dynamics of this transition over the course of the three major initiatives designed to bring peace to Northern Ireland. Similarly, the manner in which the attitudes and actions of the Unionist population shaped the current state of non-violence from the IRA has also received relatively little critical examination. If the Good Friday Agreement of 1998 was as Seamus Mallon<sup>7</sup> described "Sunningdale<sup>8</sup> for slow learners,"<sup>9</sup> why did it take Unionists/Loyalists and Nationalists/Republicans so long to come to a consensus on ending the violence? If Mallon was correct, why would Sinn Fein/IRA support an agreement which, on the face of it, was no better than that offered 25 years before? If unionism rejected the power sharing arrangement of 1973, why would they agree to accept an agreement cut from the same cloth in 1998? Given the steepness of the learning curve for both communities, what can be learned from the efforts to bring peace to Northern Ireland?

Despite their seemingly intractable differences, the parties to the Northern Ireland conflict have managed to move toward a power-sharing arrangement representative of both communities while foregoing key elements of their structural platforms. Sinn Fein and the IRA have agreed to recognize the will of the majority within Northern Ireland, accepted the province's position within the United Kingdom, and agreed to end their armed struggle against British rule in Ireland. For their part, the Unionists have come to recognize the rights of the minority population; have, with outside mediation, negotiated a settlement with Republicans; and have entered into a power-sharing arrangement with Sinn Fein despite reservations about their sincerity of commitment to the peace process.

Given the overwhelming difficulties in traveling the long path to peace, both communities were influenced not only by the actions of external third parties but by the

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<sup>7</sup> Seamus Mallon was the deputy leader of the Social Democratic and Labor Party and Deputy First Minister in the Northern Ireland Assembly that convened after the passage of the Good Friday Agreement.

<sup>8</sup> The name given to the agreement reached in December 1973 to establish a power-sharing Executive in Northern Ireland and also to set up a Council of Ireland. CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#T> Current as-of: 30 May 2006.

<sup>9</sup> Maurice J. Bric and John Coakley, *From Political Violence to Negotiated Settlement* (Dublin: University College Dublin Press, 2004), 122.

actions of each other. As such, this thesis is a case study of the Northern Ireland Troubles with a focus on the manner in which Nationalists/Republicans and Unionists/Loyalists influenced and shaped the three major initiatives designed to bring peace to the province. The intent is to trace the processes of influence each community had on the Sunningdale Agreement of 1973, the Anglo-Irish Agreement of 1985, and the Good Friday Agreement of 1998. In doing so, the author will examine the pressure that Unionists/Loyalists exerted on the British Government in Westminster and how they manipulated the levers of power at the local government level to shape a position on each initiative. The thesis also examines Unionist ability to mobilize the Protestant population of the province in opposition or support of the respective agreements. Similarly, it will trace the influence that Nationalists had in shaping the debate leading to negotiated peace. It explores how Republicans, through Sinn Fein and the IRA, exerted their influence on each proposal by engaging in acts of violence, participating in constitutional democracy via the ballot box, or by taking part in overt and covert negotiations. This thesis will dedicate a chapter to each of the three major peace initiatives and will conclude with an analysis of the respective agreements and how they ultimately contributed to the current peace within Northern Ireland.

Chapter II will examine aspects of the Sunningdale Agreement of 1973 as the first substantive effort to achieve peace through a power-sharing arrangement and improved cross-border cooperation. It provides an analysis of the political landscape within the province prior to the agreement. It examines the parties to the agreement and reviews their mandates by analyzing the pressures the parties to the agreement faced from dissidents within their organizations. It will also analyze the impact respective communal opposition had on accommodating those not willing to support total allegiance to the crown or complete loyalty to the goal of a united Ireland. After examining the political environment within Northern Ireland in the early 1970s, this chapter provides a review of the Sunningdale Agreement, the election of the power-sharing assembly, the appointment of the power-sharing executive, and an examination of the events leading to the demise of the province's first power-sharing experiment. The chapter concludes with a look at the positions of the key players in the post-Sunningdale era of the mid 1970s.

Chapter III provides an analysis of the events leading up to the signing of the Anglo-Irish Agreement, provides an assessment of the key features of the agreement, and evaluates the roles played by the British and Irish governments and the subsequent response of the Nationalist and Unionist communities to the agreement. A critical aspect of this chapter is the role played by the political parties in developing initiatives which paved the way to the agreement or sought to provide an alternative arrangement for governing the province. The chapter concludes by examining the agreement in terms of its utility in addressing Northern Ireland's political and paramilitary malaise.

Chapter IV assesses the initiatives of the Social Democratic and Labour Party (SDLP) and the two governments as they sought to pave the way for a comprehensive and inclusive agreement capable of attaining broad cross-community support during the latter part of the 1980s and the early 1990s. The author will discuss measures initiated to create an environment conducive to a negotiated settlement and examine the Good Friday Agreement (GFA) in terms of what incentives it provided to each community. The chapter traces the process of promoting the GFA and the resultant difficulties posed by differing interpretations and how such difficulties translated into a labored implementation process. The chapter concludes by evaluating how the Catholic and Protestant communities in Northern Ireland perceived the agreement in terms of the gains and losses.

Finally, the thesis will conclude with the examination in Chapter V of the lessons learned throughout the iterative process of developing and implementing the three peace initiatives. The author will compare how key aspects of each agreement and the associated negotiations changed over time and how the Good Friday Agreement led to the cessation of hostilities by the IRA. Ultimately, this thesis will attempt to evaluate the intensity of actions employed by each community and the shifts in ideology required to arrive at an equitable arrangement for facilitating an end to terrorist activities within the province.

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## **II. THE SUNNINGDALE AGREEMENT AND POWER-SHARING**

This chapter examines the first substantive effort to achieve peace through a power-sharing arrangement and improved cross-border cooperation. To understand the initiative, it is first essential to have an understanding of the political landscape within the province prior to the agreement. Who were the parties to the agreement and what were their constituencies and mandates? What constraints were placed on the parties by the weight of history and their sense of identity? Finally, what pressures were the parties to the agreement facing from dissidents within their organizations? How did communal dissent to accommodating those unwilling to support total allegiance to the crown or complete loyalty to the goal of a united Ireland impact the political parties?

After examining the political environment within Northern Ireland in the early 1970s, this chapter provides a review of the Sunningdale Agreement, the election of the power-sharing assembly, the appointment of the power-sharing executive, and an examination of the events leading to the demise of the province's first power-sharing experiment. To illuminate the rationale for the failure of Sunningdale, this chapter provides an analysis of the roles played by the parties to the agreement, those opposed to the agreement, and the sovereign governments. The chapter concludes with a look at the positions of the key players in the post-Sunningdale era of the mid 1970s.

### **A. THE PRE-SUNNINGDALE POLITICAL LANDSCAPE**

#### **1. Moderate Nationalism: The Social Democratic & Labour Party (SDLP)**

I think if people had then been asked what is your dream, your dream would have been to participate in a coalition government with the Northern Ireland Labour Party and some liberal Unionists (Ben Caragher, SDLP policymaker)<sup>10</sup>

The Social Democratic and Labour Party (SDLP) grew out of the civil rights movement of the late 1960s as an amalgamation of the old Nationalist Party, the progressive National Democratic Party (NDP), and Republican Labour. The party borrowed heavily from the membership and guiding principles set out by the NDP with

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<sup>10</sup> Gerard Murray, *John Hume and the SDLP* (Dublin: Irish Academic Press, 1998), 6-7.

approximately 80 percent of the party's initial membership coming from NDP<sup>11</sup> and early policy heavily influenced by the concern for civil rights and the development of ties with the Irish Republic with a view to achieving eventual reunification with the consent of the majority of people both north and south of the island's border. Unlike the old Nationalist Party, the SDLP sought to actively represent its constituents by fully participating in the old Unionist-dominated Stormont assembly. As such, the party demonstrated a willingness heretofore missing within the Nationalist community and political apparatus to work within the political structures of the Northern Irish statelet and, in doing so, recognizing the legitimacy of the Stormont assembly to govern the peoples of Northern Ireland.

By recognizing the legitimacy of Stormont, the party hoped to work within the constitutional political system and with moderate Unionists to effect reform of the apparatus of governing the province. The central planks of the party's platform focused on improving minority rights and achieving recognition of the Irishness of the Nationalist community. Yet, the party's hopes for achieving reform through participation were severely undermined by the actions of the British army and the Unionist government. The Falls Road curfew of 1970 followed by mass detentions and the eventual introduction of internment<sup>12</sup> without trial in 1971 forced the SDLP to withdraw support for and participation in the Unionist controlled Stormont Parliament. While the party's desire to participate in the political process remained strong, its inability to extract even the most minor reforms from the Stormont government coupled with the increasing dissatisfaction of the Nationalist community made continued participation in the assembly a futile undertaking. The party's July 1971 decision to abstain from further participation in the Stormont assembly was founded in the realization that representative governance in Northern Ireland could only be achieved by depriving the Ulster Unionist Party (UUP) of its monopoly on power. The introduction of internment without trial in August 1971 further galvanized the SDLP's opposition to continued majority rule and it

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<sup>11</sup> Gerard Murray and Jonathan Tonge, *Sinn Fein and the SDLP: From Alienation to Participation* (Dublin: O'Brien Press, 2005), 12.

<sup>12</sup> On 9 August 1971 the Northern Ireland government with the support of the authorities in London decided to intern without trial those suspected of paramilitary-related activities. Initially the measure was used exclusively against suspects within the Catholic community. CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#T> Current as-of: 9 June 2006.

actively sought the abolition of the Stormont government and the transfer of power to Westminster.<sup>13</sup> To assert leadership within the Nationalist community, the party organized a civil disobedience campaign which promoted the non-payment of rents and rates to local authorities. Such non-violent protests not only played well to the mainstream Nationalist community but also provided a viable alternative to the violence espoused by the PIRA.<sup>14</sup>

The policy of abstentionism was not without risk. Failure to provide representation for the Catholic community placed the party in a position similar to that of the old Nationalist Party. As such, the SDLP courted the risk of irrelevance. Yet internment, which overwhelmingly impacted the Catholic community, and the inability to enlighten Unionist primacy to the necessities of social equity, made continued participation as the province's opposition in governance an untenable position. Consequently, the party was forced to lobby Westminster for change by bringing down Stormont's majority rule. The party's primacy within the Nationalist community was also challenged by the increasing support that the PIRA gained as a result of internment and the events of Bloody Sunday.<sup>15</sup>

Withdrawal from Stormont permitted the SDLP the space it needed to consolidate its thinking and develop policy designed to achieve an equitable resolution to the problems of Northern Ireland. A series of policy recommendations for the governance of Northern Ireland emerged from the architects of SDLP policy during the period of which many aspects came to be incorporated, in various formats, into future power-sharing recommendations by the British and Irish governments. Some of the recommendations proposed by the early SDLP strategist John Duffy relied heavily on the Council of Ireland proposals contained in the Government of Ireland Act of 1920. One proposal called for the establishment of a new political framework involving the British and Irish governments and representatives of the Unionist community. Others focused on the twin

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<sup>13</sup> Murray, 13.

<sup>14</sup> Murray and Tonge, 26.

<sup>15</sup> Bloody Sunday refers to the events that took place in Derry on the afternoon of Sunday 30 January 1972. A Northern Ireland Civil Rights Association (NICRA) march had been organized to protest the continuation of internment without trial in Northern Ireland. Stone throwing by youths at soldiers led to an arrest operation. During the next 30 minutes these soldiers shot dead 13 men (and shot and injured a further 13 people) mainly by single shots to the head and trunk. CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/events/bsunday/sum.htm> Current as of: 15 July 2006.

planks of equality and the Irish dimension through harmonization of legal, social, cultural, and economic institutions both north and south of the border.<sup>16</sup> Other key elements of early policy papers included a call for the British government to clearly state that it had no desire to continue support for the partition of Ireland and that the Irish government should declare a willingness to advocate changes to the Republic's constitution which might be objectionable to the Unionist tradition in Ireland. Ultimately, the SDLP's early thinking saw the province's problems in the context of requiring accommodation in three main areas, namely internal to Northern Ireland; between communities north and south of the border; and between to British and Irish governments.<sup>17</sup> In a departure from the traditional Nationalist position, the SDLP outlined the fears of the Protestant community and not British imperialism as the main obstacle to Irish unity.<sup>18</sup>

While early discussion papers focused to a large extent on reviving many aspects of the Government of Ireland Act of 1920, the party, recognizing its divergent background and the need to distinguish itself from its predecessors, adopted a condominium approach by which Northern Ireland would be governed jointly by Britain and the Republic of Ireland. This policy approach was articulated in the party's *Towards a New Ireland* proposal. In essence, the policy was seen as a means of recognizing Unionist identity by maintaining the link to Britain while providing the Catholic community with an end to Protestant domination and discrimination, the withdrawal of British troops, and an opportunity to actively participate in power sharing.<sup>19</sup> The tenets of the early policy papers and the condominium approach proposed in *Towards a New Ireland* formed the basis of the SDLP's negotiating position for future participation in the power sharing executive and assembly.

The prorogation of the Stormont Assembly on 24 March 1972 was broadly welcomed by the SDLP but it did not mean the end of internment which continued as part of British policy within the province until 1975. Yet, the collapse of Stormont and majority Unionist rule was a success for the SDLP. It was seen to pave the way for a

<sup>16</sup> Murray, 14.

<sup>17</sup> Ibid., 15.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid., 17.

level playing field with the potential of creating favorable conditions for a future power sharing arrangement with moderate Unionists. Stormont's demise enabled then British Conservative Secretary of State for Northern Ireland, William Whitelaw, to publish a discussion paper for the future of the province. In this paper, Whitelaw outlined the British government's recognition that after four years of violence and in order to achieve any lasting peace in the province, it would be necessary to engage the Irish government in constructive talks and provide an incentive for cooperation by offering a voice in the affairs of government for Northern Ireland. It also identified simple majority rule in the province as a thing of the past. Future governance would require the inclusion of the minority Nationalist population in the exercise of executive power.<sup>20</sup> By 1973 the blueprint for devolved government in Northern Ireland was established on the pillars of the proportional representation electoral system,<sup>21</sup> a renewed commitment to the place of Northern Ireland within the UK and a desire to improve north-south cooperation through the establishment of a Council of Ireland. Whitelaw's proposals were generally in keeping with many of the recommendations outlined in their early unpublished SDLP policy papers. These papers offered, through the Council of Ireland, the potential of increasing the Irish dimension believed necessary for any satisfactory resolution of the conflict within the province. While not addressing all of the SDLP's concerns with regard to police reorganization and suspension of internment, the White Paper appeared to offer sufficient concessions to permit the party to support the concept of a revitalized Northern Ireland Assembly.<sup>22</sup>

## **2. Extreme Nationalism: Republicanism, Sinn Fein, & The Provisional IRA**

While the SDLP pursued the constitutional path to reform in Northern Ireland, the PIRA were busily plotting a course for the statelet's destruction via the exercise of

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<sup>20</sup> David McKittrick and David McVea, *Making Sense of the Troubles: The Story of the Conflict in Northern Ireland* (Chicago: New Amsterdam Books, 2002), 88.

<sup>21</sup> Under proportional representation (PR), representatives are elected from multi-seat districts in proportion to the number of votes received. PR assures that political parties or candidates will have the percent of legislative seats that reflects their public support. A party or candidate need not come in first to win seats. World Policy Institute. Available on-line at: <http://www.worldpolicy.org/globalrights/democracy/abcs.html> Current as-of: 8 June 2006.

<sup>22</sup> Murray, 20.

extreme political violence. Indeed, the IRA's strategy as defined in their Green Book<sup>23</sup> was based on the following five principles:

- A concerted war of attrition against British forces to force their withdrawal
- A bombing campaign against British financial interests in Northern Ireland
- To make the six counties ungovernable except by colonial military rule
- To utilize propaganda and publicity to gain national and international support
- Further the war by punishing criminals, collaborators, and informers<sup>24</sup>

Once Stormont was prorogued, the Provisionals viewed any proposal made by Britain to devolve power back to the province as a desperate attempt to maintain influence in a war they were sure to lose. Lacking any political involvement in the electoral process in Northern Ireland or elsewhere, the Republican movement in general and, the PIRA specifically, saw the Stormont power sharing arrangement as nothing more than a distraction. Their goal remained the removal of all vestiges of British rule and military presence from Northern Ireland as the first step in the process of eventual unification with the rest of Ireland. To that end, they continued their bombing campaign in an effort to make the province ungovernable.<sup>25</sup> When the local and assembly elections were held in 1973, the PIRA, lacking a grass-roots political presence, tried to organize an electoral boycott across the Nationalist communities but failed.

The Provisional's attempts to boycott the constitutional political approach to addressing Northern Ireland's problems was partially symptomatic of their political ineptitude and partially framed by a fear that the Nationalist community might reject their platform. Consequently, any attempt to develop Sinn Fein as a political movement in the power-sharing era was forsaken and the party was considered little more than an afterthought to the military campaign against British occupation. Yet, despite the focus

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<sup>23</sup> Refers to the title of the manual given to all members of the Irish Republican Army (IRA) and contains all the rules and instructions of the organization. CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#T> Current as-of: 9 June 2006.

<sup>24</sup> "Northern Ireland: Reappraising Republican Violence." *Research Institute for the Study of Conflict and Terrorism. Conflict Studies* 246 (November/December 1991). 7.

<sup>25</sup> J. Bowyer Bell, *The Irish Troubles: A Generation of Violence 1967-1992* (London: St Martins Press, 1993), 378.

on military tactics, the Republican movement was not without politics. While not politically adept in the Sunningdale era, the IRA nonetheless was heavily involved in covert shuttle diplomacy with the British government and senior members of the British opposition. On three separate occasions throughout 1972, the Provisionals conducted secret talks with representatives of the British Conservative Party in government and representatives of the opposition Labour Party. The first such meeting took place in Dublin on 13 March 1972 between the IRA and Labour leader Harold Wilson and his shadow Secretary for Northern Ireland, Merlyn Rees. It was the last day of one of the many IRA ceasefires during the early 1970s and the gathering served more as a getting to know you meeting rather than one resulting in any substantive breakthroughs. The second meeting took place on 7 July 1972 at Cheyne Walk, the Chelsea home of then Northern Ireland Secretary William Whitelaw's Minister of State, Paul Channon.<sup>26</sup> As a precondition to attending the talks the IRA demanded and was granted political status for prisoners and the ability to select their own delegation to the talks.<sup>27</sup> At the talks, the IRA reiterated their demands for the British government to recognize the right of the unitary Irish people to determine their future, the withdrawal of British troops, and the end of internment with an amnesty for all. The talks proved inconclusive.<sup>28</sup> The final meeting took place on 18 July 1972 between the Labour leader, Harold Wilson, Merlyn Rees, and Joe Cahill of the IRA. The goal of the meeting was to attempt to restore a ceasefire to curb the escalating violence which had claimed the lives of 42 people over the course of 11 days. Again, the meeting failed to yield substantive results.<sup>29</sup> What seems clear is that the IRA leadership used these occasions more as a platform to make their demands known rather than as a genuine vehicle for earnest negotiations on a peaceful resolution to the conflict.

The Republican movement's incentive to actively participate in the political process greatly diminished when Prime Minister Edward Heath prorogued Stormont and introduced direct rule from London on 24 March 1972.<sup>30</sup> Given that the fall of the

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<sup>26</sup> Richard English, *Armed Struggle: The History of the IRA* (London: Pan Books, 2003), 157.

<sup>27</sup> Peter Taylor, *Provos: The IRA & Sinn Fein* (London: Bloomsbury, 1998), 137.

<sup>28</sup> *Ibid.*, 143.

<sup>29</sup> *Ibid.*, 146.

<sup>30</sup> English, 155.

Stormont government achieved one of the IRA's three main demands,<sup>31</sup> the development was viewed by the Republican movement as a sign that their military campaign was a success. The suspension of Stormont clarified the conflict as one between the IRA and Britain. Throughout the remainder of 1972, the IRA was convinced that victory was at hand as Britain was sure to tire of events in Northern Ireland.

The advent of the power-sharing agreement and the return of devolved government at Stormont were anything but positive developments for the IRA. Indeed, Republicans were openly hostile to the Sunningdale agreement because they believed that it did not go far enough in recognizing the aspirations of Irish nationalism. Perhaps the greatest hostility within the Republican circles was reserved for the SDLP. The Republican movement was highly critical of the SDLP decision to participate in a power-sharing arrangement. Richard English expresses the sentiment that this opposition went beyond the philosophical differences that separated constitutional nationalism from the practitioners of armed revolt. In his view, Republicans were attempting to garner greater support within the Nationalist community by casting the SDLP as a party too willing to compromise to achieve power and, once in power, a party lacking the resolve to adequately represent the Nationalist case.<sup>32</sup> Underlying this criticism was a realization among Republicans that their exclusion from the Sunningdale talks and the implementation of a power-sharing arrangement was a dangerous attempt to marginalize them and, if successful, threatened to diminish their constituency within the Nationalist community.<sup>33</sup>

### **3. Unionists/Loyalists**

For more than forty years, the Ulster Unionist Party was an unchallenged monolithic presence in the governance of Northern Ireland. The party had taken its mandate from the formation of the statelet through the Government of Ireland Act of 1920 and formed every government within the province from 1921 through the abolition

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<sup>31</sup> On 10 March 1972, Sean MacStiofain articulated three demands for securing peace. The first involved the immediate withdrawal of British forces to barracks and a statement of intent from the British government fixing a date for complete withdrawal of forces from Ireland. The second was the abolition of the Stormont parliament. The final demand called for an amnesty for all political prisoners in Britain and Ireland who had already been tried or were awaiting trial. English, 155.

<sup>32</sup> *Ibid.*, 166

<sup>33</sup> Murray and Tongue, 73.

of the Stormont parliament in 1972. Throughout the course of the Stormont assembly's existence, the Ulster Unionists ensured that it remained, in the words of Lord Craigavon, the first Prime Minister of Northern Ireland, "a Protestant parliament for a Protestant people."<sup>34</sup> Indeed Unionists were united not only by the institutions of government which they controlled but also by their Protestant faith and organizations such as the Orange Order.<sup>35</sup> Yet, despite the institutions created to preserve Northern Ireland's place within the United Kingdom, the statelet's Protestant majority have often labored under a siege mentality born from a mistrust of the intentions of their benefactors in Westminster, a fear of being subsumed into a majority-Catholic Irish republic, and a fear of the aspirations of the province's minority Catholic and mostly Nationalist population. The perception of the Nationalist enemy within and outside the statelet remained a core facet of the Ulster Unionist sense of siege<sup>36</sup> and was readily evidenced by the successive policies of Unionist governments designed to subjugate the Nationalist population within Northern Ireland's borders while limiting contact with the Republic of Ireland until the constitutional position within the UK was recognized and accepted by the southern government.

The unraveling of the Unionist united front began in earnest with the ascendancy of Terence O'Neill to the position of Northern Ireland Prime Minister in 1963. O'Neill, having served in the Stormont assembly since 1946, had a radically different vision for the future of Northern Ireland than that of his predecessors. As part of his early economic platform for the province, he sought rapprochement between the Protestant and Catholic populations. In his view, Catholics who had heretofore been economically, socially, and politically marginalized could be made to live like Protestants if presented with the means to do so. In his words, "If you treat Roman Catholics with due consideration and kindness, they will live like Protestants in spite of the authoritative nature of their

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<sup>34</sup> "Northern Ireland: Problems and Perspectives." *The Institute for the Study of Conflict, Number 135*. 1982, 5.

<sup>35</sup> The Orange Order is the largest of the three main loyal orders. The Order was founded on 21 September 1795 and currently has between 80,000 to 100,000 members. The order has strong links with the Ulster Unionist Party (UUP). It regards itself as defending civil and religious liberties of Protestants & seeks to uphold the rule & ascendancy of a Protestant monarch in the United Kingdom. CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/organ/oorgan.htm#oo> Current as of 23 July 2006.

<sup>36</sup> Richard English and Graham Walker, *Unionism in Modern Ireland: New Perspectives on Politics and Culture* (London: MacMillan Press Ltd, 1996), 120.

Church.”<sup>37</sup> While his sentiment was not completely embraced within the mainstream of Ulster unionism, his attempts to improve cross-border relations with the southern Irish government met with alarm within the party and open hostility from fundamental Loyalists such as the Reverend Ian Paisley who led street demonstrations to highlight the danger of O’Neill’s policies to the Protestant people of Northern Ireland. Within mainstream unionism, opposition to O’Neill’s radical departure from the status quo came from William Craig, the Home Affairs minister within his cabinet.<sup>38</sup> From a Nationalist perspective, O’Neill’s cross-border diplomacy resulted in the Nationalist Party temporarily abandoning its long-standing abstentionist policy and assuming their seats in the Stormont assembly as the main opposition party to Unionist hegemony.

Yet, for all his outward attempts at rapprochement, O’Neill firmly believed in the Union, insofar as loyalty to the British monarchy rested on the monarchy remaining in Protestant hands. As such, he realized that any attempt to break this allegiance would be resisted by force.<sup>39</sup> The rhetoric of minority inclusion was tempered by his Unionist background. Therefore, he tended to characterize the problems of Northern Ireland as being rooted in behavioral differences between the communities and not in structurally based discrimination. As such, his behavioral approach offered little towards bridging the divide upon which Unionist supremacy was based.<sup>40</sup> Yet, O’Neill’s proposals, however modest or prompted by overt pressure from Westminster, failed to account for the radicalizing effect they would have upon the Unionist establishment within the province. Both Craig and Paisley used O’Neill’s modest proposals to make political capital with the latter linking the rise of the civil rights movement in Ulster to the policies of liberalization advocated by O’Neill.<sup>41</sup> Ultimately, O’Neill’s downfall was cemented when, facing mounting pressure from the Westminster government, he introduced a five point plan designed to meet the demands of the civil rights movement with regard to housing, local representation, discriminatory policing, independent oversight of complaints, and review of local authority corruption in Derry. Paisley and Craig seized

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<sup>37</sup> English and Walker, 150.

<sup>38</sup> Ibid., 121.

<sup>39</sup> Ibid., 120.

<sup>40</sup> Ibid., 149.

<sup>41</sup> Ibid., 160.

upon these initiatives to ferment further discontent among the Protestant population.<sup>42</sup> Facing increasing dissent within the party and pressure from a disgruntled electorate, he resigned in April 1969 and was replaced as Prime Minister by his cousin, James Chichester-Clark. However, by the time he ceded power, O'Neill had sealed a legacy of disintegration of Stormont and the splintering of the Unionist party.<sup>43</sup>

The collapse of the majority-rule Stormont government in 1972 had a deep and lasting psychological effect on Ulster Unionists. For Protestants, the imposition of direct rule from London meant the end of both the regime and state they had known for 50 years.<sup>44</sup> The fractures within unionism had since crystallized into specific camps and constituencies. William Craig formed the Ulster Vanguard as an umbrella for traditional Loyalist groups which emerged from the IRA violence on 1971<sup>45</sup> while Ian Paisley formed the Democratic Unionist Party in September 1971.<sup>46</sup> For his part, Brian Faulkner continued to lead the mainstream UUP. Within each strand of unionism, differing pictures of Ulster's future began to emerge. Craig, through his Vanguard movement, advocated for a Universal Declaration of Independence (UDI). For his part, Paisley preferred total integration of the province into Britain. However, total integration was an unacceptable option for many Northern politicians who stood to lose influence in the grander scheme and scale of British politics. Integration also faced additional opposition from the British and Irish governments who concurred in the opinion that, whatever Ulster was, it was anything but British.<sup>47</sup> The Faulkner-led faction of the UUP saw shared government as the way forward.

Unfortunately for Faulkner, a large percentage of his party did not support the notion of power sharing and consequently formed an alliance with Craig's Vanguard to form the United Ulster Unionist Council (UUUC).<sup>48</sup> In the general election of 1974 the

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<sup>42</sup> English and Walker, 162.

<sup>43</sup> Ibid., 150.

<sup>44</sup> David W. Miller, *Queen's Rebels: Ulster Loyalism in Historical Perspective* (Dublin: Gill & MacMillan, 1978), 150.

<sup>45</sup> Ibid., 153.

<sup>46</sup> Democratic Unionist Party Webpage. Available on-line at: <http://www.dup.org.uk/> Current as-of: 23 July 2006.

<sup>47</sup> Miller, 157.

<sup>48</sup> Ibid., 159.

UUUC took eleven of the twelve Westminster seats allocated to Ulster with Gerry Fitt of the SDLP taking the final seat. The level of discontent within Ulster's Protestant community was unmistakable and did not bode well for the implementation and execution of the power-sharing arrangement.

## **B. THE SUNNINGDALE AGREEMENT**

The publishing of the Westminster government's White Paper in March 1973 established the construct under which a power-sharing arrangement would operate. The paper, *Northern Ireland Constitutional Proposals*, called for the establishment of a 78 member assembly with devolved powers and the development of a Council of Ireland to establish cross-border cooperation. While power was to be devolved to the new power-sharing assembly, London would retain responsibility for the province's legal and security apparatus. Assembly elections took place in June and resulted in 72.3% of the electorate casting ballots. Given the Republican boycott and incidents of intimidation, the turnout was quite a success. While initial results indicated those supporting power-sharing garnered 52 of the 78 seats available, many of the 24 UUP representatives elected would subsequently come to oppose the power-sharing executive.<sup>49</sup>

With the composition of the assembly determined by the June elections, the work of forming an executive was initiated when an agreement in principle was reached between the moderate Ulster Unionists, the SDLP, and the Alliance party. For those Unionists agreeable to power sharing, the executive provided an avenue to restore the primacy of their majority status within the province. The SDLP had long since recognized that, until the majority of the people of Northern Ireland agreed to unification with the south, there could be no change in the Britishness of the province. As such, the executive and the power sharing assembly offered the best hope for political inclusion and the possibility to establish institutions which might pave the way to a united Ireland. By November 1973, the framework for the executive was finalized. There would be six Unionists, four SDLP, and one Alliance Party<sup>50</sup> member. The body would be headed by

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<sup>49</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/events/sunningdale/chron.htm> Current as-of: 26 July 2006.

<sup>50</sup> The Alliance Party of Northern Ireland (APNI) supports union with Britain but would accept formal links with the Republic of Ireland. The party is considered moderate and attracts mainly middle-class support from the two main communities in Northern Ireland. CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/organ/aorgan.htm#apni> Current as-of: 26 July 2006.

Brian Faulkner as first minister while the leader of the SDLP, Gerry Fitt would be the deputy. With the executive set and the assembly elections already completed, all that remained to be accomplished was to establish the roles of the respective governments and to determine the shape and nature of the proposed Council of Ireland.

The Sunningdale Agreement came about as a result of a conference hosted by the British government and attended by representation from the Irish government, the UUP, the SDLP, and the Alliance Party. Conspicuous by their absence were the uninvited representatives of dissident Ulster unionism and the Republican movement. The conference took place at Sunningdale in December 1973 and produced several initiatives that were to form the basis for initiating the first power sharing executive arrangement between the province's majority Protestant and minority Catholic peoples since the establishment of the state under the terms of the Government of Ireland Act of 1920.

The conference itself afforded the parties in attendance an opportunity to voice their position on the current and future status of Northern Ireland. Interestingly but not unexpectedly, the Irish government and the SDLP expressed a desire for the integration of Northern Ireland into a united Ireland with the consent of the majority population of the province. Yet, the Irish government's recognition of the will of the majority was in direct contradiction with Articles 2 and 3 of the Irish Constitution of 1937 which laid claim to whole of the island of Ireland. This issue would prove problematic as the agreement was executed.

For their part, the Unionists and Alliance Party delegation reaffirmed their desire to remain part of the United Kingdom. The British government expressed their desire to resolve the difficulties by constitutional democratic means and recognized and accepted that the majority of the people of Northern Ireland desired to remain a part of the UK. The British delegation also demonstrated flexibility on the issue by recognizing that, if at some point in the future, the majority of the people of Northern Ireland wished to terminate their relationship within the Union and become a part of a greater united Ireland, they would willingly support such a position.<sup>51</sup>

The establishment of a cross-border institution designed to improve cooperation on areas of mutual interest to the northern and southern governments proved to be the

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<sup>51</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#T> Current as of: 9 June 2006.

most nettlesome arrangement contained within the agreement. This body, known as the Council of Ireland, was to consist of a Council of Ministers charged with executive functions and a Consultative Assembly charged with advisory and review powers. The Council of Ministers would consist of fourteen members drawn equally from the Northern Ireland Assembly and the Irish Dail.<sup>52</sup> While vested with executive responsibilities, the Council of Ministers would be limited by the requirement to achieve unanimous consent on any proposal before them. The Consultative Assembly would consist of 60 members, 30 members from the Dail and 30 members from the Northern Ireland Assembly. The agreement identified myriad and far-reaching areas for cooperation between the two governments. Sunningdale also recognized the difficulties associated with identifying the common interests of both entities and which executive powers should be delegated to the Council of Ministers. As such, the attendees agreed to defer identifying specific areas of responsibility until after the power sharing executive was operational. The agreement did provide that the Northern Ireland Assembly and the Dail had final authority over what functions would be delegated to the Council of Ireland.

Sunningdale provided Unionists the opportunity to express their concern that members of the IRA were effectively using the Irish Republic as a safe haven. Having launched paramilitary operations in Northern Ireland, they could seek refuge from the pursuing Northern Irish security services within the safe confines of the Republic. While the Irish government was sympathetic to the Unionist concerns, it recognized the complexities of legal issues associated with extradition, joint jurisdiction, and extension of domestic jurisdiction when trying suspects for offenses committed outside the state. As such, the issue was deferred for future review beyond the scope of the agreement.<sup>53</sup>

The Sunningdale conference also recognized the need for police reform to increase the appeal and effectiveness of the Royal Ulster Constabulary (RUC) within Northern Ireland. The agreement called for the establishment of northern and southern policing authorities under the auspices of the Council of Ireland and called for the establishment of independent procedures for dealing with complaints against police actions. In recognition of the tremendous unpopularity of detention among the

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<sup>52</sup> The Dail or Dail Eireann is the parliament of the Republic of Ireland.

<sup>53</sup> McKittrick and McVea, 96.

Nationalist community of Northern Ireland, the British government made a commitment to end the practice as soon as the security situation within the province permitted. As a gesture of good will, the Secretary of State for Northern Ireland committed to the release of selected detainees before Christmas 1973.<sup>54</sup>

To ensure the expeditious implementation of the terms of the Sunningdale Agreement, the British government immediately undertook the process of seeking authority from Parliament to devolve appropriate powers to the new Northern Ireland Executive and Assembly. Such action paved the way for the appointment of the Executive and convening the Assembly in January 1974.

### **1. Power Sharing & Its Demise**

No sooner had the executive met than its troubles began. The first blow came when on 4 January 1974; the Ulster Unionist Council<sup>55</sup> rejected the Sunningdale Agreement and forced Brian Faulkner to resign his leadership of the party. Within a month, the British Prime Minister called a general election. The event undermined the Executive by providing the anti-agreement Unionists the opportunity to effectively voice their displeasure. The election would also jeopardize Westminster's underlying support if the Conservative government was not returned to power. The problems for Faulkner continued to snowball with constitutional challenges to Dublin's support for the agreement and questionable statements about the primacy of Irish claims to sovereignty over Northern Ireland by Taoiseach (Prime Minister) Liam Cosgrave.<sup>56</sup> When combined with the continued pace of IRA activities and the refusal of Dublin to extradite wanted Republicans for trial in Northern Ireland, the level of Protestant discontent continued to grow.

### **2. The Ulster Workers Council (UWC) Strike**

The British general election of February 1974 provided the UUUC the first major opportunity to leverage Unionist power as never before to express their displeasure at the Sunningdale agreement and to wield increased influence over the British government. By agreeing to field only one anti-Sunningdale candidate in each electoral district for the

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<sup>54</sup> Coogan, *The Troubles*, 197.

<sup>55</sup> The Ulster Unionist Council was the governing body within the Ulster Unionist Party (UUP).

<sup>56</sup> J. Bowyer Bell, *The Secret Army: The IRA*, Revised Third Edition (New Brunswick, New Jersey & London: Transaction Publishers, 1997), 404.

Westminster parliament, the UUP, DUP, and Ulster Vanguard were able to capture eleven of the twelve seats allotted to Northern Ireland. The SDLP captured the remaining seat and represented the only pro-Sunningdale voice of those elected.<sup>57</sup> The vote highlighted the overwhelming unpopularity of the agreement within the Protestant community in the province. The fact that the opposition Labour Party was returned to power in Britain with a minority government only served to further the influence that the Unionists could leverage to achieve their objectives when it came to policy setting in Northern Ireland. The aforementioned problems and the success of the UUC further undermined the legitimacy of the executive. Yet despite the growing Unionist opposition to the executive within the Northern Ireland assembly itself, the body continued to operate and perform the functions of government designated to it.

Given the failure of constitutional politics to bring down the power sharing executive, anti-Sunningdale Unionists turned to the tactic of civil disobedience as a means to achieving their goal. Using a province-wide strike to convey their anger at the executive and its support for Sunningdale, the Ulster Workers Council (UWC), representing key workers within critical industries such as electricity generation, fuel supply and distribution, shipbuilding, and other heavy industry, provided the anti-agreement Unionist cause the impetus needed to bring unrelenting pressure to bear on the executive. While Unionist and Loyalist politicians had initially rejected the notion of a strike, they rapidly climbed on-board when it appeared that the action was having the desired effect. In initiating the strike, the UWC's manifesto included the following demands:

- Dissolution of the executive and the resumption of powers by the Secretary of State
- New assembly elections before September 1974
- A reduction in the size of constituencies
- Rejection of the Council of Ireland – even as a point for discussion
- Loss of veto power for Secretary of State once the new assembly is in place<sup>58</sup>

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<sup>57</sup> McKittrick & McVea, 101.

<sup>58</sup> Bell, *The Secret Army*, 407.

The strike itself had a slow beginning. Indeed, during the first day of the action, the majority of people went to their places of employment. It was not until members of the Protestant paramilitary Ulster Defense Army (UDA) took it upon themselves to enforce the strike that the concept took hold. In many instances workers were intimidated by paramilitaries, cars were hijacked, places of business shut down and barricades erected to prevent the population from going about their work.<sup>59</sup> Yet, the intimidation alone was not enough to bring the strike's effectiveness home. The UWC's control of the key industries of electricity generation and fuel distribution enabled it to ratchet up the pressure on both the Northern Ireland Executive and the British government and force reconsideration of the Sunningdale agreement. During the course of the two week strike, the UWC was able to force industries to close their doors because they lacked electricity to conduct normal operations. As such, those workers who were not supporting the strike were effectively shut out from their places of work.

From the Executive's perspective, their position was exacerbated by the fact that it had no mandate over matters of security. As such, it was unable to direct either the RUC or the army to take effective steps to break the strike. Not that such power would have done any good as it is highly unlikely that the RUC would have acted to break a strike which, on a personal level, many of within the force actually supported. Throughout the strike, the army had kept its distance instead choosing to continue to focus its efforts on counter-terror operations and patrols. The view from the army command structure was that dealing with the strike was a law enforcement function and therefore fell to the RUC.<sup>60</sup> Yet, the belief persisted that, had the army and RUC acted quickly to break up the strike, momentum would have been lost and the population would have returned to work.

The persistent blackouts, the reduction in the availability of basic food stuffs and fuel, and the threat to the water and sanitation system had the desired effect on the Executive. In an effort to placate the strikers, the implementation of the agreed Council of Ireland provisions was suspended until after the next Assembly election. First Minister Faulkner asked the recently appointed Labour government's Secretary of State

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<sup>59</sup> McKittrick & McVea, 103.

<sup>60</sup> Ibid.

for Northern Ireland, Merlyn Rees to begin a dialogue with the UWC to end the strike. When this request was refused, Faulkner saw no alternative but to resign. His resignation effectively ended the power sharing executive and brought to an end the first major effort to inclusively bring the Troubles to an end.

The UWC strike did not bring Unionists back to the glory days of the Northern Ireland that they had controlled for almost 50 years through the execution of simple majority rule. It did, however, restore their sense of purpose and unity. While many internal divisions still remained, unionism was at the zenith of its post-direct rule power. In national elections, hard-line candidates had taken eleven of the twelve seats at Westminster. Through organization and cooperation, they had brought down a power sharing executive they viewed as a threat not only to their interests but to their position within the Union. Their membership, by controlling vital positions within key industries, had brought the province to a standstill. Finally, they demonstrated their willingness to veto any solution to the problems of Northern Ireland which might diminish their status within the community.

### **C. WHY THE POWER-SHARING EXPERIMENT FAILED**

Much analysis has been done on the failure of the power sharing arrangement of 1973-1974. Some, including the then leader of the SDLP Gerry Fitt, have proposed that the inclusion of the Council of Ireland provision was a bridge too far for Unionists to cross as it was seen as a mechanism leading to the eventual reunification of the island.<sup>61</sup> Others such as Miller have questioned whether Unionists were ready to share power with Nationalists.<sup>62</sup> Another argument is that the Irish or British governments failed to provide the necessary support for the institution by respectively abandoning territorial claims or effectively dealing with the strike by the UWC which ultimately brought down the Assembly and Executive.<sup>63</sup> The reality is that a combination of these and other factors were greatly instrumental in the failure of the power sharing arrangement and the continuation of the troubles for an additional 25 years.

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<sup>61</sup> Coogan, *The Troubles*, 208.

<sup>62</sup> Miller, 164.

<sup>63</sup> McKittrick and McVea, 106.

## 1. Nationalists

For the Nationalist population as represented by the SDLP, Sunningdale and the power sharing executive provided not only a voice in government that they had not known since the partition of Ireland but also a vehicle in the Council of Ireland which might ultimately pave the way for the peaceful reunification of the island. While Sunningdale did not provide an immediate end to internment, it did provide for the release of some prisoners held in detention without trial. As such, assuming a role in a power sharing executive offered many of the key demands the party had made central to their political manifesto.

The collapse of the power sharing executive helped Nationalists realize the limitations of their power. By insisting on the inclusion of the provisions for the Council of Ireland, the SDLP effectively forced the hand of moderate Unionists such as Brian Faulkner who was unable to sell the proposal to his constituency because it held the potential to undermine the very foundations of the Union with Britain. Yet, the inclusion of the Council was viewed as essential by many within the SDLP. Without it, the fear was that Republicans would soon erode the support for moderate nationalism and, with it, support for the SDLP. Others such as the executive's Deputy First Minister, Gerry Fitt saw the Council proposal as a poison pill which working class Protestants would never swallow. In his view, the accession of Nationalists into a power sharing executive was the most that could be achieved at the time. Anything more would harden the Protestant resolve and jeopardize the entire arrangement.<sup>64</sup> In his view, it was more important to build confidence among the Catholic and Protestant communities by emphasizing the power-sharing element of the executive first and then turning the party's attention to issues associated with the Council of Ireland. Ending discrimination and providing equal opportunities greatly outweighed all facets of north-south cooperation.<sup>65</sup> Conversely, the majority of the party's members viewed Unionist opposition to the Council of Ireland skeptically. Many felt that the issue had been conveniently hijacked and used as a reason for abstention from participation in power-sharing with representatives of the minority

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<sup>64</sup> Coogan, *The Troubles*, 208.

<sup>65</sup> Murray, 23.

community.<sup>66</sup> In retrospect, both Fitt and those fearing the erosion of the SDLP's position within the Nationalist community were correct. The Council of Ireland was indeed a bridge too far for the Protestant majority while later Republican engagement in constitutional politics would erode SDLP support within the Nationalist community and make it the second choice of Catholics within the province.

## **2. Republicans**

From a Republican perspective the Sunningdale Agreement and subsequent power sharing executive provided little in the way of advancing their cause and therefore gave them little incentive to support the arrangement. The agreement itself not only recognized the partition of Ireland but guaranteed that there would be no change in the constitutional position of Northern Ireland without the consent of the majority of the population within the province. Republicans viewed such a guarantee as a de facto Unionist veto which, given the demographic situation, would mean that it would be a very long time, if ever, before a Catholic, let alone Republican, majority held sway within the province. Of course, the exclusion of Republicans from the Sunningdale talks was an attempt to marginalize their influence with the hope of decreasing their support among the Catholic population. Yet, to produce tangible results, the agreement and executive needed to yield a decrease in violence to reassure members of each community that power sharing could produce governance which was capable of restoring normalcy to their everyday lives.

By excluding a Republican element from the talks, the British government failed to consider the impact this vital constituency would have in undermining the effectiveness of the executive as it went about its mandate to govern. Had the British authorities managed to initiate covert negotiations with the IRA leading to a temporary cease fire in exchange for minor concessions such as an increased release of detainees held under internment or a scaling back of army patrols, the new executive could point to a decrease in violence to help shore up rank and file Unionist support for the arrangement.

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<sup>66</sup> Murray, 23.

### 3. Unionists

Although divided on the power sharing executive, Unionists were totally opposed to the tenets of the Council of Ireland. Moderate Unionists were prepared to accept the concept of sharing power with Catholics if the arrangement was cemented with a guarantee of the province's position as unquestionably part of the UK and was accompanied by a measurable decrease in the level of violence. Unfortunately, the Council of Ireland, territorial assertions by the Dublin government in relation to Articles 2 and 3 of the Irish constitution, and the continued pace of paramilitary activity undertaken by the IRA undermined what Sunningdale had attempted to achieve to such a degree that many within the Protestant community felt little option but to bring their protest to the streets. In doing so, the UWC quickly reminded moderate Unionists, Nationalists, and the sovereign governments that real power within the province lay in the hands of the Protestant people and, when their wishes were ignored, they would use that power to restore the status quo.

In essence, the strike served as a vehicle for the majority of Protestants to make their voices heard on the Council of Ireland issue. It also served as a vehicle to reassert a Protestant identity which, despite a growing Catholic middle class and a proportional decrease in Unionist power, was still strongly held within the community. For Protestants who supported the union with Britain, no power sharing executive would ever create a joint nationality with Catholics.<sup>67</sup> In a strange irony, the strike which at its center held firm to the notion of the strength of the union with Britain, served to alienate the British government from their traditional Unionist allies. Indeed, the British annoyance at the strike was so great that Prime Minister Harold Wilson publicly chastised the strikers by saying

Yet people who benefit from this [British expenditures] now viciously defy Westminster, purporting to act as though they were an elected government, spend their lives sponging on Westminster and British democracy and then systematically assault democratic methods. Who do they think they are? It is when we see the kind of arrogant, undemocratic behavior now going on that the patience of citizens, parents, taxpayers becomes strained.<sup>68</sup>

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<sup>67</sup> Miller, 164.

<sup>68</sup> Marc Mulholland, *The Longest War: Northern Ireland's Troubled History* (Oxford: Oxford University Press, 2002), 120.

As such Ulster Unionists, in asserting their right to preserve the bond with Britain had undermined the trust in democratic principles which were at the heart of being British.

#### **4. The British Government**

Given Britain's desire to establish a power sharing executive in Northern Ireland, the level of commitment displayed in trying to bring an end to the UWC strike was strangely lacking. While it is true that the election in February 1974 returned a Labour government perhaps not as invested in the process as its Conservative predecessor, there can be little doubt that a more determined approach by the RUC and army to stop intimidation and remove barricades during the early days of the UWC strike may well have led to its collapse. Indeed, Andy Tyrie, the leader of the UDA and one of the key figures behind the organization and enforcement of the strike admitted as much when he conceded that a major show of force from the RUC or army at the start of the strike might have destroyed the momentum and led to its collapse.<sup>69</sup>

#### **5. The Irish Government**

The Irish government also played a critical role in the failure of the Sunningdale Agreement and the power sharing executive. By recognizing Northern Ireland as a separate entity and accepting of the will of the people as the key determinant of that entity's future, the government had taken the first steps in formalizing relations between the two states. Yet, the inability of the Republic's government to deal with the territorial claims to Northern Ireland contained in Articles 2 and 3 of the constitution continued to be a major impediment to a Unionist accepting that southern intentions were less than hostile. Unionist unease was aroused further by court challenges against southern participation in Sunningdale. Finally, unwillingness to extradite wanted IRA members from the Republic to the North greatly contributed to the impression of state sponsorship of the IRA held by many Unionists.

Given that Sunningdale came just four and a half years after the beginning of the troubles, it is doubtful that the government would have garnered sufficient popular support within the Republic to initiate a referendum to change Articles 2 & 3 of the constitution. They could, however, have been more cooperative on the extradition issue. While it may not have been enough to save power sharing by itself, it may have paved the

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<sup>69</sup> McKittrick and McVea, 104.

way to softening the support for anti-agreement Unionists within Northern Ireland's Protestant community.

#### **D. THE POST-SUNNINGDALE ERA**

##### **1. The SDLP**

The collapse of Sunningdale proved particularly difficult for the SDLP. Internal debate focused on the reasons behind the collapse of the power-sharing arrangement. As previously mentioned, party leader Gerry Fitt blamed the heavy emphasis the party placed on the importance of the Council of Ireland. Others, led by deputy party leader John Hume blamed the weakness of the British government in standing up to unionism for the failure. Yet another position was taken by prominent party members such as Paddy Devlin (a former Minister for Health in the power-sharing executive) and Austin Currie who reiterated the view that Sunningdale failed because Unionists simply were not ready to share power with Catholics.<sup>70</sup>

As the party moved beyond the wreckage of Sunningdale, the next opportunity to advance their agenda of power sharing and the necessity of an Irish dimension in any settlement plan for Northern Ireland came when then Secretary of State for Northern Ireland, Merlyn Rees proposed a Constitutional Convention. The purpose of the convention was to attempt to have the political parties within the province produce an internal solution based on popular support and devoid of interference from sources outside the province itself. While not enamored with the chances of achieving any meaningful breakthroughs, the SDLP fought the convention elections in May 1975 on a platform of renewed power-sharing and a clearly defined Irish dimension.<sup>71</sup> The party attained 23.7 percent of the electorate and secured 17 seats in the 78-member Convention. The combined forces of the anti-Sunningdale UUUC secured 47 seats, ominously demonstrating the depth of feeling among rank and file Protestants.<sup>72</sup> Despite their substantial minority position at the convention, the SDLP continued to pursue an Irish dimension to any future settlement whilst also advocating for reform of the RUC to make it a more professional and representative police service. Yet, given the UUUC's

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<sup>70</sup> Murray, 48.

<sup>71</sup> Ibid., 33.

<sup>72</sup> Murray and Tonge, 52.

overwhelming majority at the convention, the SDLP's ability to achieve any progress on its agenda within the constraints of the convention was severely curtailed. Indeed, when the final report was presented to the British government in November 1975, only the Unionist position was conveyed.<sup>73</sup>

## 2. Republicans

In a strange historical irony, the UWC which ultimately brought down the power-sharing executive in May of 1974 was largely supported by Republicans. In their somewhat naive view, Loyalists were heroically standing up to British imperialism. Republicans still clung to the belief that they were better positioned to come to an accommodation with working class Protestants than those operating within the constitutional process.<sup>74</sup> This belief evidently demonstrated the immaturity of Republican political thinking. Whereas the SDLP clearly viewed Unionist intransigence and fears as the major obstacle to Irish reunification, the IRA were trapped in belief that British colonialism was the major impediment to the exercise of the Irish identity.

The real genesis of political activity within republicanism came during the IRA truce of 1975.<sup>75</sup> The ceasefire afforded the British forces breathing space to improve their intelligence capabilities on IRA membership and tactics while attempting to split the organization by drawing its members into constitutional politics.<sup>76</sup> From a Republican perspective, the ceasefires give rise to the opening of incident centers<sup>77</sup> which provided the Provisionals and Sinn Fein a base for local political and community involvement.<sup>78</sup> They were a watershed in the public perception of Sinn Fein. The organization now had a public face, political standing, and a physical presence within the Nationalist

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<sup>73</sup> Murray, 34.

<sup>74</sup> Murray and Tongue, 74.

<sup>75</sup> The IRA truce began on 10 February 1975 and officially lasted until 23 January 1976, however a series of incidents during 1975 involving members of the IRA led to the early termination of the ceasefire.

<sup>76</sup> English, 179.

<sup>77</sup> During the Irish Republican Army (IRA) ceasefire of 1975-1976 a number of incident centers were established in Catholic areas. There were conceived as a means of monitoring the ceasefire and in particular dealing with complaints against members of the Royal Ulster Constabulary (RUC) and the British Army. The centers were also a means of providing a point of contact between the British government and the Republican movement. CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#I> Current as of: 18 July 2006.

<sup>78</sup> Tim Pat Coogan, *The I.R.A.* (London: HarperCollins Publishers, 2000), 399.

community.<sup>79</sup> Although the ceasefire collapsed in September 1975 due to sectarianism, the resumption of the IRA campaign, and the government's failure to meet the political demands of republicanism,<sup>80</sup> the period did provide Sinn Fein with its first meaningful taste of political engagement during the troubles.

### **3. Unionists/Loyalists**

The collapse of the power-sharing arrangement was a victory honed by the actions of the Loyalist-initiated UWC strike. The amalgamation of the anti-power sharing UUP members with Craig's Ulster Vanguard and Paisley's DUP into the UUUC went a long way towards repairing the Unionist divisions which surfaced during the premiership of O'Neill. The effective management of candidate nomination within constituencies ensured the anti-agreement forces garnered eleven of the twelve seats available to Northern Ireland representatives within the Westminster parliament. The UUUC carried this power base forward through the May 1975 elections for the Constitutional Convention proposed by Merlyn Rees. Those opposed to power-sharing secured 47 of the 78 seats available at the Convention.<sup>81</sup> The Convention assembled in May and logged 30 sessions which culminated in the publishing of a report in November 1975. The report amounted to a Unionist wish-list, seeking a return to majority rule and ruling out any new Council of Ireland. Also recommended was a return to Stormont under majority rule and with enhanced powers, a doubling of Northern Ireland seats at Westminster, and the introduction of an oath of allegiance to the Queen for all major appointments. The single olive branch offered to Nationalists was the possibility of chairing some committees.<sup>82</sup> The proposals were rejected by the Social Democratic and Labour Party (SDLP), the Alliance Party of Northern Ireland (APNI), and the British government. While the Convention did reconvene the following February, further progress beyond the impasse created by the UUUC demands was impossible and Rees dissolved the Convention in March 1976.<sup>83</sup>

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<sup>79</sup> Taylor, 186.

<sup>80</sup> Ibid., 196.

<sup>81</sup> CAIN Web Service. *Northern Ireland Constitutional Convention - A Summary of Main Events*, Available on-line at: <http://cain.ulst.ac.uk/events/convention/sum.htm> Current as-of: 24 July 2006.

<sup>82</sup> McKittrick and McVea, 113-114.

<sup>83</sup> CAIN Web Service. *Northern Ireland Constitutional Convention - A Summary of Main Events*

Internal disagreements and the failure to achieve a return to the majority-rule system of devolved government within Stormont via the Paisley-led Loyalist strike of 1977 led to the disintegration of the UUUC. For Unionists, the institutions of power were gone, their regime had collapsed and their state was in ruin.<sup>84</sup> The years following the collapse of the majority-ruled Stormont meant that, in the words of David Miller, “the fact that it (the Protestant) state was not immediately succeeded by some other state has meant that the province has been through a period in the state of nature, where life does indeed turn out to be nasty, brutish, and short.”<sup>85</sup>

In retrospect, it is possible that the Sunningdale Agreement and the power sharing executive of 1974 were ahead of their time. The circumstances surrounding the establishment and dissolution of the executive indicate a failure on the part of all parties to make the sacrifices necessary to reach a real and lasting peace for the province. Of course, central to this peace initiative’s failure was the lack of maturity demonstrated by both the Unionist and Nationalist communities of Northern Ireland. A recalcitrant Protestant population in the majority but living with a siege mentality and fearing southern interference coupled with a Catholic population seeking to break their own siege mentality by reaching out for greater southern engagement both overplayed their hands and paved the way for an additional quarter century of terror and destruction. Unfortunately, it would take almost thirty years of violence within the province before the parties to the conflict attained sufficient momentum to work together and end the conflict.

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<sup>84</sup> Miller, 165.

<sup>85</sup> Ibid.

### **III. THE ANGLO-IRISH AGREEMENT**

After the collapse of the 1974 Sunningdale power-sharing experiment, the British had, until the implementation of the Anglo-Irish Agreement (AIA), attempted to resolve the conflict predominantly in the context of Northern Ireland. The AIA signified the beginning of the process whereby the British government accepted the SDLP thesis for resolving the NI conflict.<sup>86</sup> The process was complicated by political instability in the Irish Republic resulting in several changes in government and the divergent attitudes of the British and Irish governments to issues ranging from the treatment of hunger strikers and the Falklands war to whether the primary focus should be on the need to improve the security situation within Northern Ireland or decrease the alienation felt by the Province's Nationalist population.

This chapter provides an analysis of the events leading up to the signing of the Anglo-Irish Agreement; presents an assessment of the key features of the agreement; and evaluates the roles played by the British and Irish governments and the subsequent response of Nationalist and Unionist communities to the agreement. A critical aspect of this chapter is the role played by the political parties, specifically the SDLP, in developing initiatives which paved the way to the agreement or sought to provide an alternative arrangement for governing the province. The chapter concludes with an examination of the agreement in terms of its utility in addressing Northern Ireland's political and paramilitary malaise.

#### **A. THE PRE-ANGLO-IRISH ENVIRONMENT**

##### **1. The Governments**

The lack of progress in finding a political solution within the confines of Northern Ireland led the new Conservative government of Margaret Thatcher to seek alternative avenues in moving the process forward. The first opportunity to do so presented itself in May 1980 when Thatcher and Taoiseach, Charles Haughey agreed to establish an Anglo-Irish Intergovernmental Council to examine cooperation in the areas of security and the economy; develop new institutional arrangements for the Province; and encourage mutual

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<sup>86</sup> Murray and Tonge, 139.

understanding between the governments and across the sectarian divide.<sup>87</sup> The dynamics of the inter-governmental relationship was often driven by selfish considerations. For her part, Thatcher, an admitted Unionist at heart,<sup>88</sup> was most concerned with the security situation along the border and hoped to obtain guarantees that the Republic would take a more active role in pursuing IRA terrorists within its borders and extraditing those wanted for crimes in Northern Ireland. The Irish government was more concerned with increasing its ability to gain political influence into the governance of the Province. At the heart of this desire lay the fear that, in the wake of the 1981 hunger strikes, Sinn Fein's political influence within the Nationalist community would grow and lead to the eventual displacement of the SDLP. It was also feared that, if such a scenario was allowed to transpire, Sinn Fein might successfully expand their political base within the Republic and destabilize the island as a whole.

The British government initially paid scant attention to Irish concerns over the growth of Sinn Fein. The election of Bobby Sands, a hunger striker, to the Westminster Parliament and upon his death, his replacement by his campaign manager, served as a wake-up call to the Conservative administration. While Margaret Thatcher understood the polarization that had taken place within Northern Ireland as a result of the hunger strikes and the government's response, she believed the growth in support for Sinn Fein was as much a result of the ineffectiveness of the SDLP.<sup>89</sup> Still, the need to check Sinn Fein's influence was obvious and further solidified at the intergovernmental summit in November 1981. The summit resulted in the formal establishment of the Anglo-Irish Intergovernmental Council which provided the blueprint for potential Dublin involvement in the affairs of Northern Ireland<sup>90</sup> Despite the best intentions of the early intergovernmental summits, implementation of recommendations and agreements were suspended due to the Irish government's less than wholehearted support for the British position as it related to the Falklands conflict.

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<sup>87</sup> Mulholland, 142.

<sup>88</sup> Eamonn Mallie and David McKittrick, *Endgame in Ireland* (London: Hodder and Stoughton, 2001), 59.

<sup>89</sup> Murray, 108.

<sup>90</sup> *Ibid.*, 120.

While the British government had become more receptive to seeking an accommodation with the Irish government, they had not abandoned the idea of finding a solution within the confines of Northern Ireland. The establishment of a Constitutional Conference in 1980 followed by an Advisory Council with the goals of examining government departments, legislation, and initiatives on the future of the province proved unacceptable to Nationalists on the grounds that they took a one-dimensional provincial approach to finding workable solutions. In early 1982, the new Northern Ireland Secretary, James Prior proposed a U.S.-style separate Executive and Assembly arrangement with separate powers and built-in protections to prevent any party from implementing a veto in an attempt to bring down the Assembly. The proposal was enticing to constitutional Nationalists because it provided an avenue towards power-sharing but was abandoned in favor of a form of rolling devolution<sup>91</sup> which, when proposed by Secretary Prior in his White Paper, abandoned any prospect for an Irish dimension in the governance of Northern Ireland. While the White Paper initially called for a modest Irish dimension, Prior was instructed by Thatcher to remove the provision. The SDLP rejected the proposal and, although they contested elections to the devolved assembly, they refused to take their seats. Prior would later lament that the decision to remove the Irish dimension was 'probably our greatest mistake.'<sup>92</sup> Nationalist expectations, which had been raised by the prospect of power-sharing, were dashed by the reality of rolling devolution. The entire exercise resulted in an unrepresentative assembly with minor powers and served to further polarize the Nationalist and Unionist communities.

In order to break the impasse, it was becoming increasingly obvious that a more comprehensive and focused solution was required to move the province toward a lasting peace.

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<sup>91</sup> In 1982 the British government proposed to initiate a process whereby devolved power would be returned to local politicians in Northern Ireland by way of an elected assembly. Initially this assembly was to have limited powers but the intention was that additional administrative and legislative powers would be devolved if the assembly commanded cross-community support. The concept was to become widely known as 'rolling devolution'. In the end however the initiative failed to win the support of any significant representative of the Nationalists community and in 1986 the assembly was wound up by the British government. Source: Cain Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#R> Current as-of: 4 October 2006.

<sup>92</sup> McKittrick and McVea, 157.

## 2. The Rise of Political Republicanism–The Hunger Strikes & Sinn Fein

While the ceasefire of 1975 afforded Sinn Fein an opportunity to establish a public face, political standing, and physical presence within the Nationalist community in Northern Ireland via incident centers, the party still clung to abstentionist policies and refused to contest elections. Instead, the Republican movement focused its efforts on attempting to form coalitions with groups thought sympathetic to their cause.<sup>93</sup> Thus, the only electoral alternative to SDLP for Nationalists favoring a tougher policy towards partition was the Irish Independence Party (IIP)<sup>94</sup> Consequently, at the beginning of the 1980s, Sinn Fein had taken on the characteristics of a social organization for those too timid or too old for continued service in the IRA.<sup>95</sup> Yet, within Republican circles there was a realization of a need for change. The armed struggle was not achieving the desired goal of driving the British out of Northern Ireland by military means and the inability to secure concessions on the hard-line policies of criminalization which eroded political prisoner status<sup>96</sup> introduced under the former Labour government's Northern Ireland Secretary, Roy Mason, represent a continued source of frustration for the movement. Indeed, the progressively worsening conditions within the prisons which had graduated from a blanket protest in 1976 to a dirty protest in 1978 and an abortive hunger strike in 1980 in order to secure the restoration of political prisoner status led Sinn Fein to organize the H-Block<sup>97</sup> Committee's appeals to the Church, Fianna Fail,<sup>98</sup> and the SDLP for political and moral support.<sup>99</sup>

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<sup>93</sup> Murray and Tonge, 106.

<sup>94</sup> Ibid., 105.

<sup>95</sup> Mulholland, 138.

<sup>96</sup> Prior to 1976 all prisoners who had been convicted on charges relating to the conflict in Northern Ireland served their sentences under a distinct prison regime known as special category status. The prisoners viewed themselves as 'political prisoners'. The decision by the British government to remove special category status from those sentenced for paramilitary-related crimes after 1 March 1976 gave rise to protests by prisoners and led directly to the Republican hunger strikes of 1980 and 1981. Source: CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#P> Current as-of: 30 September 2006.

<sup>97</sup> In 1976 the British government opened eight new prison blocks at the Maze Prison, just outside Belfast, to house the increasing number of people convicted on paramilitary-related charges. The new cells were referred to as 'H-Blocks' because the plan of the blocks resembled the letter 'H'. Source: CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#H> Current as-of: 30 September 2006.

<sup>98</sup> One of the two main political parties in the Republic of Ireland. The party was originally formed from those who opposed the 'Treaty' in 1921.

<sup>99</sup> Murray and Tonge, 107.

The continued failure to secure concessions from the British government led Republican prisoners to embark on a second wave of hunger strikes at the beginning of March, 1981. The strike was not welcomed by Sinn Fein who viewed it as a total diversion of the movement and organizationally distracting.<sup>100</sup> Despite their displeasure, the organization was presented an opportunity to open a second front against Britain when on 5 March, 1981, the independent Member of Parliament representing the Fermanagh/South Tyrone district died suddenly. The vacated seat provided Sinn Fein the opportunity to capitalize on massive Catholic sympathy for the hunger strikers by entering the political arena on very favorable terms.<sup>101</sup> Bobby Sands, a hunger-striker, was chosen to represent the prisoners. His selection was based on the fact that he was the prisoner closest to death and had been convicted and sentenced on minor weapons charges and therefore presented the most acceptable side of the Republican movement.<sup>102</sup> The by-election to fill the vacant seat was held on 9 April and, after much deliberations leading to an SDLP abstention, the election came down to a straight contest between Bobby Sands and Harry West of the UUP. Sands was elected to the Westminster parliament having secured just over 51% of the vote.

Despite the overwhelming public relations value of Sands' election, the British government stood firm and refused to concede political status to the prisoners. Sands died on 5 May 1981 after 66 days on hunger strike. In the by-election to fill his seat, his campaign manager, Owen Carron was elected. Emboldened by their early political success, Sinn Fein decided to test the waters in the Irish Republic. In the June 1981 general election, two hunger strikers were elected to the Dail. While it may have initially appeared that Sinn Fein had generated sufficient support to present a viable Nationalist position in the South, the illusion was quickly shattered by the failure of all seven party candidates to secure a single seat in the Republic's general election of March 1982.<sup>103</sup>

The hunger strikes leading to the deaths of 10 prisoners had a tremendous impact on the political landscape of Northern Ireland and enabled Sinn Fein to set the political agenda throughout the 1980s. The election of Bobby Sands showed at least tacit support

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<sup>100</sup> Murray and Tonge, 109.

<sup>101</sup> Mulholland, 138.

<sup>102</sup> Ibid.

<sup>103</sup> Murray and Tonge, 111.

among the Nationalist community for the cause of the hunger strikers. His subsequent death proved problematic for Anglo-Irish relations in light of Britain's unwillingness to negotiate a settlement. The hunger strikes were particularly problematic for the SDLP who saw their position within the Nationalist community eroded by sympathies for the hunger strikers and the subsequent upsurge in support for Sinn Fein. Indeed, the party had to temper its sympathies for the prisoners with the need to conduct business at the local government level despite Sinn Fein requesting SDLP withdrawal to show support for the prisoners.<sup>104</sup> For Sinn Fein, the transformation was startling. The party had grown from little more than a flag of convenience for the IRA into a political organization.<sup>105</sup> Electoral politics, once viewed as a burdensome distraction to the armed struggle suddenly provided a new front in the campaign. The hunger strikes not only invigorated the political campaign, it also garnered international sympathy for the Republican movement while breathing life into the military campaign by increasing the recruiting base and injecting a fresh sense of energy and commitment into the organization.<sup>106</sup> Carron's victory in August 1981 provided Sinn Fein a springboard for contesting all elections in the North. Indeed, the new departure of marrying the political campaign with the armed struggle is best summed up in the words of Danny Morrison at the 1981 Sinn Fein Ard Fheis.<sup>107</sup> Referring to the new approach, he asked the attendees "Who here really believes we can win the war through the ballot box? But will anyone here object if, with a ballot paper in one hand and the Armalite in the other, we take power in Ireland?"<sup>108</sup> For much of the rest of the 1980s Sinn Fein was able to garner approximately 11 percent of the vote in Northern Ireland elections<sup>109</sup>

The rise in Sinn Fein's fortunes rang alarm bells in both Dublin and London. In Dublin, Prime Minister Garrett FitzGerald was most concerned with the potential for Sinn Fein to eclipse the SDLP as the majority voice for northern nationalism while an

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<sup>104</sup> Murray and Tonge, 109.

<sup>105</sup> McKittrick & McVea, 158.

<sup>106</sup> Mallie and McKittrick, 41.

<sup>107</sup> An Ard Fheis is a party annual conference. The term is used by all Irish political parties.

<sup>108</sup> Liam Clarke and Kathryn Johnston, *Martin McGuinness: From Guns to Government*, Revised and Updated (Edinburgh: Mainstream Publishing Company, 2003), 150.

<sup>109</sup> Mallie and McKittrick, 41.

emboldened Republican movement might set in motion a campaign to destabilize the whole of Ireland.<sup>110</sup> For the British government, the concern was expressed by the Secretary of State for Northern Ireland when he indicated that the Provisionals might turn Ireland into ‘a Cuba off our Western coasts.’<sup>111</sup> The fears of both governments were not unfounded as the British General Election results of June 1983 saw the Sinn Fein vote climb to 13.4 percent against the SDLP’s 17.9 percent. The response was a redoubling of Anglo-Irish contacts and the involvement of the constitutional Nationalist parties on the island of Ireland in the New Ireland Forum.

### **3. The New Ireland Forum**

The failure of the Sunningdale power-sharing arrangement of 1974 and the subsequent inability to cement agreements with moderate Unionists on the formation of an acceptable means of devolved government within Northern Ireland led the SDLP to reevaluate their position. Indeed, Unionist intransigence led party strategists to believe that, while the majority community enjoyed the assurance provided on their constitutional future within the United Kingdom, no progress could be made towards a comprehensive settlement. Consequently, the party’s focus shifted from seeking an internal solution within the confines of the province to one involving the British and Irish governments. In 1979, a policy document entitled *Towards a New Ireland* appeared and called on the two governments to work jointly to create the conditions whereby both traditions in the North could function together to create peace, stability, and unity.<sup>112</sup> The party further defined its thinking in a second policy document, *Northern Ireland – A Strategy for Peace* which called on the British government to renounce its claim to selfish interests in Ireland while continuing to provide the Unionist population a constitutional guarantee which contributed to their unwillingness to actively negotiate a good faith political settlement. It defined the Northern Ireland problem in a multi-dimensional framework consisting of inter-community relations, North-South relations, and Irish-British relations. This document foreshadowed the *New Ireland Forum* in that it identified a unitary state or a federal/confederal arrangement as possible solutions to address the Irish problem.<sup>113</sup>

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<sup>110</sup> Murray, 108.

<sup>111</sup> Ibid., 133.

<sup>112</sup> Ibid., 101.

<sup>113</sup> Ibid., 102.

Binding all SDLP initiatives together throughout the early 1980s was the continuing desire to achieve an Irish dimension and the desire to highlight the negative impacts that the Unionist veto was having on the search for lasting peace.<sup>114</sup>

The hunger strikes and resultant increase in support for Sinn Fein served as a wake up call to the SDLP. They could no longer claim the title as the singular representatives of Northern Ireland's Nationalist community. Something had to be done to stem the rising tide of support for Sinn Fein and bolster the SDLP's flagging electoral base while reviving the Anglo-Irish process. The SDLP duly responded by proposing a *Council for a New Ireland*. While the Unionists took the somewhat cynical view that the proposed council was nothing more than a Nationalist attempt to justify an abstentionist policy from the recently formed Assembly,<sup>115</sup> the SDLP viewed the concept as a means of integrating their philosophy and ideology into the mainstream of southern Irish policy towards the North.<sup>116</sup> While opinions may vary on the SDLP's rationale for proposing the council, it is generally agreed that the project did offer an alternative to participation in the Stormont Assembly while providing a means by which the party could be seen to be actively representing Nationalist interests while pursuing a solution to the Troubles. Thus, when the Assembly elections took place in October, 1982, the SDLP Manifesto clearly identified the desire to pursue a council consisting of all democratic parties and willing to discuss how best to accommodate unionism in a New Ireland while debating alternatives within an Anglo-Irish construct.<sup>117</sup>

The SDLP's concept of a *Council for a New Ireland* was transformed into the *New Ireland Forum* which was launched in March 1983. All parties engaged in constitutional politics on the island of Ireland were invited to participate in the forum.<sup>118</sup> Sinn Fein's continued association with violence excluded them from the process.<sup>119</sup> Believing that the forum would offer nothing substantive and secure within their

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<sup>114</sup> Murray, 99.

<sup>115</sup> Feargal Cochrane, *Unionist Politics and the Politics of Unionism Since the Anglo Irish Agreement* (Cork: Cork University Press, 2001), 5.

<sup>116</sup> Murray, 123.

<sup>117</sup> *Ibid.*, 124.

<sup>118</sup> Kennedy-Pipe, 117.

<sup>119</sup> Mulholland, 143.

constitutionally guaranteed position, the Unionist parties of Northern Ireland declined the invitation to officially participate. In doing so, the Unionist parties missed an historical opportunity to positively portray their position to a broader Irish audience and influence the course of the final forum report to reflect the Unionist position.

The *New Ireland Forum* convened until May 1984 when it issued its final report. The strong influence of the SDLP throughout the forum's deliberations is witnessed in the recommendations contained in the final report and highlighted a shift in traditional Nationalist thinking towards openness in accepting the Britishness of the Protestant tradition within a new Ireland and a need for a new Irish constitution to accommodate a pluralistic society.<sup>120</sup> Through their active involvement, the SDLP had been able to create a new paradigm in traditional southern political thinking towards the North. While the *Forum Report* did contain an option expressing a desire for a unitary state as the preferred solution, the option was accompanied by other proposals for a federal state, a confederal state, and a joint authority option which would see the Province administered by both Britain and Ireland.

In many ways, the Forum was a triumph for the SDLP. At the outset, it provided the party an alternative political avenue to Secretary Prior's devolved Assembly. It afforded the SDLP a unique opportunity to exert their influence on southern Irish thinking on Northern Ireland and, in so doing, shape a pan-Nationalist solution set meriting further discussion and consideration. It also put the party squarely in the limelight of northern Nationalist consciousness and stunted the growing popularity of Sinn Fein within that community. The Forum responded to Sinn Fein's accusation that the SDLP tried to be 'all things to all men'<sup>121</sup> by accommodating the divergent positions of all colors of Nationalist thinking from both sides of the border while affording the opportunity to examine the motives behind Unionist fears of association with the Irish Republic. To the SDLP, it was the Unionist's hostility towards the South which remained the primary problem thwarting efforts to obtain a political settlement and prohibiting a power-sharing arrangement with an Irish dimension.<sup>122</sup>

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<sup>120</sup> Murray, 135.

<sup>121</sup> Thomas Hennessey, *The Northern Ireland Peace Process: Ending the Troubles?* (Dublin: Gill and Macmillan Ltd, 2000), 33.

<sup>122</sup> Murray and Tonge, 125.

Despite the fact that the forum report recognized the existence of a rival tradition in the community and a commitment to seeking an acceptable settlement with the Unionist community via political means,<sup>123</sup> the report which appeared in May 1984 was not well received by Northern Ireland's Protestants. After many years of contented inaction, the major Unionist parties were spurred to action by the prospect of the forum report stealing the limelight and dictating the pace of political developments in the North. The UUP were the first to respond when they preempted the publication of the final forum report by circulating *The Way Forward* in April 1984. This document proposed increased legislative powers for a devolved Assembly operating under a committee structure with membership divided on a proportionate party basis. It also proposed a bill of rights to protect minority Catholic rights while categorically ruling out any role for the government of the Irish Republic in the affairs of Northern Ireland.<sup>124</sup> Given the overwhelming majority held by the two Unionist parties within Northern Ireland, *The Way Forward* effectively offered little appeal to the Catholic minority. For their part, the DUP offered two responses to the New Ireland Forum Report. The first, *The Unionist Case: The Forum Report Answered* was little more than a castigation of the SDLP while describing the joint authority option contained in the *Forum Report* as a major step on the road to a united Ireland. The second document, *Ulster: The Future Assured*, called for the restoration of a devolved and comprehensive majority rule with a cabinet government answerable to the Assembly. It also proposed committee oversight of legislation and referral of potentially discriminatory legislation to the Secretary of State. Again, the major failing of such a proposal is that it ignored the desires of the Nationalist community.<sup>125</sup> Within the confines of the now exclusively Unionist Northern Ireland Assembly, the Devolution Report Committee published the *Catherwood Report* in 1985 which mimicked many of the recommendations put forth in *The Way Forward* including extension of legislative devolution to the existing Assembly and the implementation of a minority bill of rights.<sup>126</sup>

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<sup>123</sup> Cochrane, 6.

<sup>124</sup> *Ibid.*, 7.

<sup>125</sup> *Ibid.*, 8.

<sup>126</sup> *Ibid.*, 15.

Sensing an impending agreement between Dublin and London, the UUP and DUP formed a joint working party in August 1985 with the intention of blocking any role for Dublin in the affairs of Northern Ireland. The Unionist joint leadership then sent a letter to Prime Minister Thatcher in September offering to protect minority interests, while indicating a willingness to engage in discussions with Dublin on issues of mutual interest, but no cabinet positions for Nationalists in any future devolved Executive.<sup>127</sup> Beyond unionism, the response to the *New Ireland Forum Report* was mixed. Sinn Fein, having been excluded from the forum, saw merit in the unitary state option but on the whole dismissed the report as a ‘show trial for Irish unity that created the illusion of political movement when nothing at all was happening.’<sup>128</sup> Gerry Adams, leader of Sinn Fein went further by criticizing the *Forum Report* for failing to challenge British claims of sovereignty in Ireland and for failing to express the right of Irish national self-determination.<sup>129</sup> For its part, Sinn Fein had revised its notion of Irish unity. Gone was concept of federalism outlined in their policy paper *Eire Nua*<sup>130</sup> which held out the possibility that Unionists could conceivably attain majority rule in an expanded nine-county Ulster.<sup>131</sup> In its place, a vision of a 32-county Republic with a renewed commitment to decentralized socialism.<sup>132</sup> By abandoning the federalist state concept, Sinn Fein hoped to demonstrate the equality of all people born on the island of Ireland, regardless of their religion, and put an end to the existence of the Northern statelet through the exercise of Irish self-determination.<sup>133</sup> Yet, despite the harsh rhetoric and condemnations from Republicans, little was offered in the way of a constructive alternative. Republicans instead chose to stick to the traditional approach of discounting

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<sup>127</sup> Cochrane.

<sup>128</sup> Murray and Tonge, 127.

<sup>129</sup> Hennessey, 36.

<sup>130</sup> *Eire Nua* was the name given to a policy document of Provisional Sinn Féin (PSF) which advocated that any future political settlement in Ireland should be based on a federal arrangement based on the four provinces of Ireland. In 1981 it was dropped as party policy. Source: CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#E> Current as-of: 8 November 2006.

<sup>131</sup> Historically, the Province of Ulster consisted of nine counties. The partition of Ireland in 1920 split the province and allocated six counties to the Northern Ireland statelet with the remaining three allotted to the Republic of Ireland.

<sup>132</sup> Murray and Tonge, 129.

<sup>133</sup> *Ibid.*, 130.

unionism while laying the blame for the continuing violence at the feet of the British government and the institutions of partition.

The British government reaction was initially receptive to the Forum Report. Addressing the report before the House of Commons in July 1984, Secretary Prior expressed approval at the emphasis the report placed on recognizing the importance of majority consent within Northern Ireland, the condemnation of violence, the willingness of constitutional nationalism to understand the Unionist identity, and the willingness to discuss the views of others in resolving the conflict.<sup>134</sup> An unofficial inquiry into the *Forum Report* was commissioned by the British Irish Association. The inquiry, headed by Lord Kilbrandon, produced *Northern Ireland: Report of an Independent Inquiry* which was published in November 1984. The report sought ways to accommodate a greater role for the Dublin government in the affairs of Northern Ireland while providing a critical analysis of the British response to the *New Ireland Forum Report*. The Kilbrandon Committee report proposed a bill of rights, the abolition of the Flags & Emblems Act,<sup>135</sup> abolition of Diplock courts<sup>136</sup> and introduction of trial by two judges and a tradeoff between increased Irish participation in the affairs of Northern Ireland in exchange for increased southern cooperation on security issues.<sup>137</sup> On more substantive issues, the committee was split and consequently published two differing assessments. The Kilbrandon majority favored granting extensive executive and consultative rights to the Irish government with representation on the police authority. The majority also recommended legislative devolution for Northern Ireland with subsidiary roles for the London and Dublin governments. In contrast, the Kilbrandon minority recommended a minor role for the Irish government while rejecting power-sharing and proposing limited

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<sup>134</sup> Murray and Tonge, 132.

<sup>135</sup> The Flags and Emblems (Display) Act (Northern Ireland) 1954 was an act of the Northern Ireland Parliament passed in 1954, that effectively banned the display of the Irish tricolor in Northern Ireland. It was repealed in the 1980s under the direct rule of the British government, by the Public Order (Northern Ireland) Order 1987.

<sup>136</sup> In 1972 a committee headed by Lord Diplock was established by the British government to investigate possible changes to the legal procedures used in cases involving terrorism. Its report was published on 20 December 1972 and amongst its recommendations was that such cases should be heard by a Judge of the High Court, or a County Court Judge, sitting alone with no jury. These proposals were adopted by the authorities in 1973 and such courts became known as 'Diplock Courts'. Source: CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#D> Current as-of: 30 September 2006.

<sup>137</sup> Cochrane, 9.

local-government powers for any future Ulster assembly.<sup>138</sup> Interestingly, the Kilbrandon Report foreshadowed the Anglo-Irish Agreement by containing a recommendation that any treaty between the British and Irish governments should be deposited with the United Nations.<sup>139</sup>

The impact of the Kilbrandon Report was greatly diminished by the IRA's bomb attack on the Conservative party conference held at the Grand Hotel in Brighton in October 1984. The attack, designed to murder the Prime Minister and her cabinet, came close to doing so but ultimately claimed the lives of five lesser party members or their spouses.<sup>140</sup> Margaret Thatcher, already disposed to a pro-Unionist stance,<sup>141</sup> was in no mood for compromise on Northern Ireland's constitutional position within the Union. Consequently, after meeting with Taoiseach FitzGerald at the Anglo-Irish Summit at Chequers in November 1984, she appeared to deliver a critical blow to the recommendations of the *New Ireland Forum Report*. In her post summit press conference, the Prime Minister brusquely rejected the unitary state, federal state, and joint sovereignty options with a straight-forward 'That is out, that is out, that is out'<sup>142</sup> statement.

Despite the negativity of Thatcher's remarks, the November summit did produce a joint communiqué which reiterated the belief that no change in the status of Northern Ireland would come about through the use of violence, recognized that the province's society consisted of two distinct traditions whose rights were to be safeguarded, and reiterated a desire to increase security cooperation to create stability and defeat terrorism.<sup>143</sup> In retrospect, the summit sent mixed signals with regard to the British government's intent. On the one hand, the joint communiqué laid the foundations for future cooperation between the two governments which would ultimately lead to the

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<sup>138</sup> Cochrane.

<sup>139</sup> *Ibid.*, 10.

<sup>140</sup> On 12 October 1984 the Irish Republican Army (IRA) exploded a bomb in the Grand Hotel, Brighton, during the Conservative Party conference. Although five people were killed the real target of the attack Margaret Thatcher, then British Prime Minister, escaped without injury. Source: CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#B> Current as-of: 30 September 2006.

<sup>141</sup> Murray and Tonge, 132.

<sup>142</sup> *Ibid.*, 133.

<sup>143</sup> Cochrane, 11.

Anglo-Irish Agreement (AIA) while on the other, Thatcher's unequivocal rejection of the Forum Report's recommendations led many Unionists to believe constitutional nationalism had no option but to negotiate a political settlement within the context of Northern Ireland.<sup>144</sup> Indeed, this misunderstanding on behalf of Ulster unionism was to have significant ramifications in the wake of the AIA.

## **B. THE ANGLO-IRISH AGREEMENT**

### **1. The Governments**

Margaret Thatcher's outright rejection of the *Forum Report* recommendations after the Chequers summit came as quite a shock to Irish diplomacy and generated much anti-British sentiment in the Irish Republic. Yet, despite the brusque and public nature of Thatcher's rejection, negotiations resumed to construct an agreement between the governments which would address the British concern over security and the Irish concern over the alienation of the Northern Nationalist population. Thus, the agreement which was unveiled at Hillsborough Castle in Northern Ireland on 15 November 1985 amounted to a hybrid designed to accommodate the positions of both governments.

The agreement itself started out with Article 1 declaring that there would be no change in the status of Northern Ireland without the consent of the majority of the people within the Province and also reiterated the two governments' understanding that, at the time the agreement was signed, the majority wished to remain a part of the United Kingdom. The agreement did leave open the possibility that if, at some future date, the majority wished to become a part of a united Ireland, then the governments would introduce legislation to accommodate such a wish. There is little doubt that this declaration was designed to reassure Ulster Unionists who feared that an agreement they were not a party to negotiating could only lead to a weakening of their constitutionally guaranteed position and amount to nothing less than a step along the road to Irish unity. Article I was also designed to hold out hope for the Nationalist community that the possibility for unity still existed if a majority in the North agreed on such a course of action. For both governments, the first article demonstrated the delicate nature of compromise. For the British, they were demonstrating a degree of impartiality in the conflict and a willingness to recognize Nationalist aspirations towards a united Ireland.

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<sup>144</sup> Murray and Tonge, 135.

For their part, the Irish government recognized the will of the Unionist population and their desire to maintain their identity and position within the UK. This recognition demonstrated that, despite the continued territorial claim to Northern Ireland, the Republic's government had finally come to accept the reality of the situation as it existed in the province.

Articles 2 through 9 focused on the establishment of the Inter-Governmental Council (IGC) for political, security, legal, justice, and cross border cooperation. These articles effectively granted the Irish government a say in the affairs of Northern Ireland. While the Irish government had no executive power, the IGC provided a forum to express concerns and act as an advocate for the interests of northern Nationalists. In those instances where the governments disagreed, the IGC provided an avenue for both to make determined efforts to resolve their differences within the framework of the conference.<sup>145</sup> While being an obvious concession to the desires of constitutional nationalism, the IGC, by allowing the Irish government a consultative role in the affairs of the North, provided the Thatcher government an active ally in the running of Northern Ireland and blunted international criticism of Britain for her handling of the troubles.

The degree to which such a role mattered can best be judged by how the IGC provision was interpreted by the governments. The Irish Prime Minister, Garret FitzGerald viewed the AIA as 'as near to Joint Authority as one can get,' while Margaret Thatcher believed that the Irish role was little more than consultative. In her view, 'Far from representing any threat to the union of Northern Ireland with the United Kingdom, the Agreement reinforces the Union.'<sup>146</sup> She continued to present the problem in the context of security cooperation and decreased the emphasis on Nationalist grievances. Indeed, the differing views of the agreement held by each government continued as each sought to reassure its constituents that the AIA was fulfilling divergent needs. Explaining the meaning of the AIA in December 1985, the Northern Ireland Secretary Tom King pointed out that the agreement was a recognition and acceptance by the Irish government

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<sup>145</sup> McKittrick and McVea, 163.

<sup>146</sup> Cochrane, 26.

that ‘for all practical purposes there will never be a united Ireland.’ The agreement was expressly designed to present ‘a united front against gunmen.’<sup>147</sup>

Despite their differing views on the AIA, both governments agreed that the agreement produced no erosion of British sovereignty but it did permit the Irish government to increase their influence in the North without having to modify their constitutional claim over the province. The AIA, by excluding the parties to the conflict and instead focusing on a government to government construct, did succeed in removing the de facto guarantee that political progress depended upon Unionist authorization. Significantly, the agreement incorporated many of the SDLP’s goals for attaining Nationalist equality and presented formulas for aligning the Nationalist and Unionist traditions.<sup>148</sup> The willingness of Britain to accede to the SDLP analysis of the situation in Northern Ireland was perhaps influenced by the manner in which constitutional nationalism had reinvented itself and, in so doing, recognized the intransigence of the Unionist community. The agreement also demonstrated the level of commitment to finding a joint solution to the problem. This commitment was supported by the fact that, unlike the Sunningdale Agreement which was nothing more than a joint communiqué, the AIA was an internationally recognized treaty and registered at the United Nations.<sup>149</sup>

Ultimately, the AIA was ambiguous enough to allow both governments to claim it to be more than it was. By accommodating a consultative role for the southern government, the Republic could claim to be representing the interests and aspirations of the Nationalist community while avoiding the need for sacrifice, adjustment and compromise that would be necessary in order to fulfill its territorial claim to the North and, at the same time, contain the spread of the IRA’s armed struggle.<sup>150</sup> At the same time, Britain could claim to have strengthened the Union through security arrangements with the Republic while offering the carrot of a united Ireland if the majority of the province’s population agreed to such an arrangement. If neither side felt fully vindicated by the arrangements contained in the agreement and negotiated on their behalf by the national governments, Article 10 provided that they could always seek an internal

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<sup>147</sup> Murray and Tonge, 150.

<sup>148</sup> Ibid., 142.

<sup>149</sup> Mulholland, 146.

<sup>150</sup> Bowyer-Bell, *The Secret Army*, 563.

accommodation by agreeing to work together towards the establishment of a devolved power-sharing government. Under the terms of Article 10, failure to achieve an acceptable form of devolved government would result in the IGC continuing to function as the ‘framework for the promotion of cooperation between the two parts of Ireland concerning cross border aspects of economic, social and cultural matters in relation to which the Secretary of State for Northern Ireland continues to exercise authority.’<sup>151</sup> Obviously, such a provision was designed to prod Unionists into negotiating a power-sharing arrangement or face the prospect of continued interference into the province’s affairs by the Dublin government.

## **2. The Nationalist & Republican Response**

The implementation of the AIA proved to be a vindication of the SDLP’s persistent efforts to find a workable solution to the Northern Ireland problem. While the SDLP consisted of several factions who supported divergent solutions which found expression in the Forum Report, the party as a whole had moved on and realized that the most promising avenue toward a lasting peace required a strengthening of the Anglo-Irish axis with some form of joint authority or joint sovereignty. As such, paragraphs 4.15 and 4.16 of the Forum Report established the baseline for the Anglo-Irish negotiations which led to the signing of the AIA. These paragraphs emphasized that new political structures and institutions were required to

accommodate together two sets of legitimate rights: the right of Nationalists to effective political, symbolic and administrative expression of their identity; and the right of Unionists to effective political, symbolic and administrative expression of their identity, their ethos and their way of life and secondly, these rights had to transcend Northern Ireland and involve the London and Dublin governments.<sup>152</sup>

In hindsight, despite Margaret Thatcher’s dismissal of the Forum Report’s proposals, the document did form the basis for stimulating discussion and ultimately negotiations between the two governments on the Northern issue.

Perhaps more importantly for the SDLP, the AIA showed an acceptance by the British government of three key points that the party had long advocated. First, the problem could not be resolved within the confines of the Province and would require the

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<sup>151</sup> Anglo Irish Agreement, Article 10.

<sup>152</sup> New Ireland Forum Report, Paragraphs 4.15 & 4.16.

active participation and interaction of the Dublin and London governments. Next, both governments had a responsibility to adjudicate the implementation of a devolved power-sharing government in the North. Without the backing of the governments, it would be unlikely that the Unionists or Nationalists would be willing to support an arrangement where they felt their respective interests were not being backed by the governments acting as guarantors. Finally, it ended British claims that the province's problems were strictly an internal British affair.<sup>153</sup>

Yet, despite the SDLP's success in gaining general acceptance of their analysis by both governments and the incorporation of that analysis into the AIA, the party had mixed success in achieving its objectives with regard to the implementation of the AIA's structures. The SDLP had hoped for an executive role for the Irish government in the affairs of Northern Ireland; a name change and reorganization of the RUC; changes to the province's legal system; the phasing out of the UDR,<sup>154</sup> and implementation of the right of Nationalists to fly the Irish flag. Their agenda produced mixed results. The positive side of the balance sheet reflected a victory when the *Flags and Emblems Act* was repealed permitting the display of the Irish flag in the North. Other victories included new guidelines on fair employment, and greater representation of Catholics on many public bodies.<sup>155</sup> While the UDR was eventually disbanded and merged with the Royal Irish Regiment in 1992, the Irish government did not receive an executive role in the affairs of the province and it would not be until the implementation of the Good Friday Agreement that substantive reform of the province's police force and legal systems were implemented.

From a Republican perspective, the AIA proved problematic. The agreement itself was broadly supported throughout the Republic and was widely viewed as a positive development within the Nationalist community in Northern Ireland. Coupled with the fact that it was so overwhelmingly resented and opposed by the Unionist

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<sup>153</sup> Murray and Tonge, 139.

<sup>154</sup> A regiment of the British Army which was recruited in 1972 from within Northern Ireland. Most of the initial membership of UDR was composed of prior members of the 'B-Specials'. The regiment was almost entirely Protestant. The regiment was eventually merged with the Royal Irish Rangers to form the Royal Irish Regiment. Source: CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/othelem/glossary.htm#U> Current as-of: 7 October 2006.

<sup>155</sup> Murray, 155.

community, it made outright condemnation or simple opposition a difficult proposition. The leadership was split on the AIA and many senior figures within Sinn Fein and the Republican movement as a whole actually endorsed the positive aspects of the agreement. While some of the more radical Republicans such as Danny Morrison claimed that ‘SDLP bartering power flows from IRA firepower’ others such as Mitchell McLaughlin offered a more balanced assessment when he noted that ‘there is a negative counter-insurgency dimension to it (the AIA), but in fact as a result of it the British Government position has changed and changed irrevocably, they have actually indicated, in terms of historical perspective that they can be moved along.’<sup>156</sup> Within the ranks of Sinn Fein, polls indicated that as many as one-third of their voters supported the AIA.<sup>157</sup> Consequently, Sinn Fein was forced to attack the agreement over its de facto recognition of the partition of Ireland and the recognition of a British identity within Northern Ireland. Sinn Fein also attempted to gain credit for the IRA by pointing out that their actions had provided the SDLP political leverage to extract concessions from the British government.<sup>158</sup>

Regardless of how Sinn Fein attempted to portray the AIA, it rapidly became clear that the electorate were strongly behind the SDLP in their efforts to garner concessions via the IGC and the inter-governmental secretariat. When the SDLP chose to contest only four constituencies in the 1986 by-election, they gained a seat in Newry-South Armagh at the expense of the UUP and also managed to increase their share of the vote by 6 percent while Sinn Fein experienced a decrease from 41.9 percent to 35.4 percent of the Nationalist vote.<sup>159</sup>

### **3. The Unionist & Loyalist Response**

Persistent in the belief that no agreement was possible without their consent, the UUP leader, James Molyneaux, led his party and mainstream unionism to an opt out policy when it came to negotiations on the future of Northern Ireland.<sup>160</sup> On the whole, Molyneaux favored complete integration of the province into the United Kingdom;

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<sup>156</sup> Murray and Tonge, 149.

<sup>157</sup> Ibid., 151.

<sup>158</sup> Murray, 144.

<sup>159</sup> Bowyer-Bell, 561.

<sup>160</sup> McKittrick and McVea, 163.

therefore, negotiations leading in other directions were not to be encouraged. Set against such a backdrop, it is little wonder that the Unionist response to the publication of the AIA was immediate and illustrated not only the deep sense of betrayal at the hands of the British government but also reflected the psychological impact the agreement had on the Unionist psyche. The sentiment was best summed up by UUP MP Harold McCusker who, during a speech before the House of Commons, described his shock and dismay

This Agreement deals with my most cherished ideals and aspirations...I stood outside Hillsborough, not waving a Union flag – I doubt whether I will ever wave one again – not singing hymns, saying prayers or protesting, but like a dog and asked the Government to put in my hand the document that sold my birthright. They told me that they would give it to me as soon as possible. Having never consulted me, never sought my opinion or asked my advice, they told the rest of the world what was in store for me. I stood in the cold outside the gates of Hillsborough castle and waited for them to come out and give me the Agreement second hand...I felt desolated because as I stood in the cold outside Hillsborough castle everything I held dear turned to ashes in my mouth.<sup>161</sup>

Despite the fact that the AIA clearly provided assurances from both governments that there would be no change in the status of Northern Ireland without the consent of the majority, the agreement, by excluding Unionists from participating in shaping the document, struck at their basis of power and their Britishness. The AIA was delivering the promise of continuing the Union without the active participation of the Unionists. Indeed, many Unionists immediately recognized the agreement for what it was: an attempt to level the playing field by disenfranchising them and removing their hands from the levers of power. On the whole, it was a crushing end to the Unionist ascendancy and put the decision-making process for the province in the hands of the Anglo-Irish Conference of Ministers.<sup>162</sup>

Unionist shock and dismay soon gave way to a prolonged series of organized protest designed to discomfort the governments into abandoning the AIA by demonstrating that, without their consent, no agreement could be made to work in the province. Within eight days of the publication of the AIA, Unionist leadership had organized a massive street rally which attracted 250,000 people expressing their opposition to the agreement. Pressure was maintained by the combined efforts of DUP

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<sup>161</sup> Cochrane, 28.

<sup>162</sup> Murray and Tonge, 137.

and UUP councilmen to make local government inoperable. In the Irish Republic, two UUP members brought a legal challenge against the AIA to the Irish Supreme Court. In an ironic twist, they attempted to prove that the agreement violated the territorial claim that the Republic exerted over Northern Ireland and contained in Articles 2 & 3 of the Irish constitution.<sup>163</sup> Leadership turned to using the rump rolling devolution Assembly created by Secretary Prior to vent their anger at the agreement. When these efforts failed to achieve any movement on the behalf of the governments, the Unionists resigned their 15 seats at Westminster in the hope of utilizing the resultant by-election as a referendum on the AIA. The by-election, held in January 1986, produced mixed results for the anti-agreement campaign. While securing 44% of the electorate, the campaign did result in the loss of one Unionist seat in the Newry and South Armagh district where the SDLP deputy leader Seamus Mallon was elected to parliament.<sup>164</sup> The combined anti-agreement campaign next turned to a 'Day of Action' protest. While many were calling for a full-scale strike similar to that which brought down the Sunningdale power-sharing executive, the UUP instead preferred a non-violent one day protest which wouldn't unduly damage the business community. While the DUP leader Ian Paisley agreed to a peaceful protest he did indicate that companies who failed to shut their doors in support of the work stoppage would be blacklisted.<sup>165</sup> This mild intimidation coupled with the riots, looting, and attacks on the RUC which accompanied the protest exposed fissures in the anti-agreement alliance between the UUP and DUP. Indeed, the UUP support for street protests significantly waned in the wake of the one year anniversary rally for the anti-agreement forces. The rally at Belfast City Hall on 15 November 1986 ended in riots with one dead, 76 injured, and 110 arrested.<sup>166</sup>

Anti-agreement tactics continued into 1987 with a petition to the Queen; a boycott of all rates demands and withholding payment of television and vehicle license payments; and a day of defiance against public order laws.<sup>167</sup> While tactical divisions remained between the UUP and DUP leaders, both entered into a pact for the 1987 General

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<sup>163</sup> Cochrane, 24.

<sup>164</sup> Ibid., 143.

<sup>165</sup> Ibid., 146.

<sup>166</sup> Ibid., 161.

<sup>167</sup> Ibid., 163-166.

Election. The anti-agreement campaign again sought to use the election as a referendum on opposition to the AIA. The result was a lower voter turnout for the anti-agreement forces and, yet again, the loss of another parliamentary seat to the SDLP.<sup>168</sup> It was rapidly becoming clear that the public's anger against the AIA was on the wane. While the anti-Agreement pact between the UUP and the DUP was still holding together, it had become obvious that the militancy espoused by the DUP had failed to appreciably move the governments to reconsider the merits of the AIA. Slowly but surely, the UUP under the leadership of Molyneaux began to reassert control. Where all else had seemingly failed, he intended to maintain the partnership in opposition to the agreement while waiting for the AIA to collapse on itself.<sup>169</sup>

While mainstream unionism attempted a balancing act to keep the UUP and DUP alliance alive, those tending toward the Loyalist brand of unionism sought to proactively dismantle the AIA by any and all means necessary. In its embryonic state, the Loyalist response consisted of the establishment of a network of defense groups aimed at derailing the Anglo-Irish talks before they actually produced the AIA. These groups came to be known as Ulster Clubs and were organized by the United Ulster Loyalist Force (UULF) and, much like the political leadership within unionism; they resorted to historical precedents to deal with current crises.<sup>170</sup> Unfortunately, the Ulster Clubs were made up of many of the extreme groups rejected by mainstream Unionists and they relied heavily on the threat of the use of force and civil disobedience to demonstrate that Loyalists controlled the levers of power within Ulster and no agreement could be imposed on the people without the consent of the majority. Given the changing landscape of the political environment within Northern Ireland and the determination of the British government to impose a solution to the province's problem, the organization overestimated its political clout and ability to derail the Anglo-Irish process.<sup>171</sup>

For their part, the UDA initially recommended support for the constitutional process and urged support for the Unionist parties in the wake of the AIA. Support began to dissipate as the rhetoric of mainstream politicians seemed to be making little headway

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<sup>168</sup> Cochrane, 175.

<sup>169</sup> Ibid., 177.

<sup>170</sup> Ibid., 134.

<sup>171</sup> Ibid., 136.

and by December 1985 the movement was split by those who openly advocated violent confrontation with the British government and those who insisted on the constitutional process receiving more time to roll back the agreement.<sup>172</sup> The tensions within the UDA somewhat mirrored those within the UUP-DUP anti-agreement coalition. The UUP firmly supported the constitutional process while the DUP often tinkered with the notion of violent resistance while realizing the constraints of political process. The UDA leadership's frustration with a lack of tangible progress grew in the wake of the March 1986 Day of Action protest. Successive street protests and demonstrations led to violent clashes between protesters and the police with Loyalist paramilitaries launching a systemic campaign of intimidation against RUC personnel. Homes were petrol-bombed with 500 police homes attacked and more than 150 officers forced to relocate.<sup>173</sup> All the while, the Loyalist rhetoric against the anti-agreement forces continued to grow. DUP leader, Ian Paisley, attempted to court and harness the extremes of loyalism by supporting the establishment of a new 'Loyalist army' under the moniker Ulster Resistance.<sup>174</sup> Despite his rhetoric and promise to lead the Ulster people into battle, Paisley was viewed warily by the UDA who questioned not only his commitment to fight but also his political prowess by taunting:

Mr. Paisley will learn quickly that Ulster people will no longer be used like Pavlov's dogs by people who have not the courage to fight, nor the intelligence and integrity to find a settlement.<sup>175</sup>

Ultimately, Unionists and Loyalists alike faced a critical dilemma: How far were they willing to go in their battle with the British government to preserve their position within the Union? Protests and demonstrations seemed to only strengthen the government's resolve and further drive a wedge between Britain and Unionists. Inflexibility, unwillingness to compromise and a lack of any substantive political creativity in the post-Sunningdale era had left Unionists and Loyalists devoid of any vision for a way out of the Province's impasse beyond restating entrenched positions. In many ways, the status quo provided by direct rule had lulled Unionists into a false sense

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<sup>172</sup> Cochrane, 137.

<sup>173</sup> McKittrick and McVea, 166.

<sup>174</sup> Cochrane, 158.

<sup>175</sup> *Ibid.*, 166.

of security. Consequently, the willingness to actively develop initiatives designed to end the troubles rarely, if ever, entered the strategic policy development process. When crisis did strike in the form of the AIA, Unionists, lacking forethought relied on historical precedence for guidance and reverted to the negative aim of destroying the AIA without offering any positive alternatives for consideration. The Unionist/Loyalist position was further complicated by the deep divisions that existed between the anti-agreement forces which, for the sake of compromise and the desire to present a united front, eschewed opportunities to negotiate and seek accommodation with the Nationalist community. The UUP, by placating Paisley and the DUP, created an environment where initiative was sorely lacking and the status quo prevailed.<sup>176</sup> Unionism had painted itself into a corner where the only option available was to wait-out the AIA in the hopes that it would go away.

### **C. THE ANGLO-IRISH AGREEMENT: A BRIDGE TO PEACE**

The single most endearing characteristic of the AIA was that it was impervious to a Unionist/Loyalist or Nationalist/Republican veto. The agreement, being between the two sovereign governments did not depend on the political concurrence of the parties to the conflict or their representatives. Conversely, its single biggest failing was that it ignored not only the constitutional political parties in Northern Ireland, but also the paramilitaries. Whereas Sunningdale attempted to address the inter-community relations within the Province and their relationship with the Irish Republic, the AIA sought to resolve the conflict on a government to government basis. As such, the AIA served more as an interim arrangement rather than a final solution. It was a roadmap which sought to level the playing field for Nationalists while attempting to reassure Unionists on their constitutional status within the United Kingdom. The aftermath of the agreement's implementation made clear the need to address the problem not only on an intergovernmental level but also on an intercommunity and cross-border basis.

Despite the hopes of the SDLP and the prognostications of doom from the Unionist and Loyalist camps, the AIA failed to substantially alter the political environment within Northern Ireland. Although progress was made in redressing basic concerns of the Nationalist population, major areas of concern continued to go

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<sup>176</sup> Mulholland, 150.

unreformed. Proposals to modify the security environment were hampered by a judicial system which continued to operate within an emergency legislation framework. Recommendations to reform policing within Northern Ireland went unheeded and recommendations put forth by the Irish government to reform the Diplock court system with a three-judge panel were rejected by the British government who clearly felt their Irish counterparts were overstepping their consultative mandate. Further hindering progress was the reelection in 1987 of a Fianna Fail government headed by Charles Haughey in the Irish Republic. Haughey, despite overwhelming support among the electorate for the AIA, was never fully enamored with the agreement and consequently failed to invest the efforts of his government in the utilization of its structures to further the cause of northern nationalism.<sup>177</sup>

For their part, the British government also acted to restrict the agreement from living up to its full potential. The British response was influenced by the need to contain Unionist fury and because efforts to increase security through the AIA were complicated by legal restraints which impeded the extradition of suspected terrorists from the Irish Republic.<sup>178</sup>

Perhaps the greatest achievement for the AIA was that it encouraged Sinn Fein to modify its political framework and abandon an isolationist policy in favor of engaging further in the constitutional political process. Broad-based electoral support among Nationalists north and south of the border coupled with recognition within the Republican movement that the agreement had achieved some progress in removing the Unionist veto made it very difficult for Sinn Fein to continue to remain on the periphery of the political process. The agreement brought Sinn Fein's political agenda into sharp focus and laid bare the fallacy that the socialist agenda of 1916 was still relevant or acceptable to a Nationalist population which had become accustomed to the realities of partition. It became increasingly obvious that the Irish government has strongly advocated the AIA out of a desire to check the growing popularity of Sinn Fein both north and south of the border after the hunger strike of 1981. In time, electoral returns clearly demonstrated the agreement had effectively achieved this end. Improving Anglo-Irish relations meant a

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<sup>177</sup> Murray and Tonge, 146.

<sup>178</sup> McKittrick and McVea, 169.

stabilization of the British position in Ireland and the Dublin government was now a party to the containment of the situation within Ulster.<sup>179</sup> The question for Sinn Fein became how the party could broaden its support base in order to increase their claim to moving the negotiating process toward an all-island political solution.<sup>180</sup> A reevaluation of Sinn Fein's internal problems revealed that it was becoming increasingly difficult to maintain support for the armed struggle; the electorate had a very limited desire for revolutionary socialism; and the continuation of the policy of abstentionism was hindering the party's ability to achieve political change on its terms. Consequently, the party moved to a greener agenda more in keeping with the issues of concern to the Nationalist electorate.<sup>181</sup> In 1986 the party eventually dropped their policy of abstaining from taking their seats when elected to the Dail in the Irish Republic.

In the final analysis, the AIA was not an agreement which sought to solve the Troubles and create an instantaneous peace and stability environment within Northern Ireland. Rather, it was a framework designed to create the conditions for future agreements capable of creating a lasting peace acceptable to all parties to the conflict. By bringing the two sovereign governments together, the AIA instilled ownership. Although each government entered the agreement to achieve their own goals whether they be security or joint authority, neither could divorce itself from the obligation to work together to solve the province's conflict. The agreement attempted to promote peace and stability by reconciling the Nationalist and Unionist traditions and by increasing contacts between the governments. In order to create an environment conducive to a lasting peace, the agreement had to present a carrot and stick dilemma to all parties within the province. From a Unionist perspective, the carrot was contained in Article 2(b), which stipulated that those matters which were devolved would not be within the remit of the Irish government. The sticks were enshrined in Articles 5(c) & 10 (b), which provided that in the absence of devolution the Irish government could put forward views and proposals within the IGC on all transferred matters. As such, the AIA was designed to act as a catalyst for devolved government in Northern Ireland.<sup>182</sup> To reassure Unionists,

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<sup>179</sup> Kennedy-Pipe, 123.

<sup>180</sup> Murray and Tonge, 152.

<sup>181</sup> Ibid, 152.

<sup>182</sup> Cochrane, 30.

the AIA, via Article 1, provided formal notification that Northern Ireland would remain a part of the United Kingdom until the majority of its citizens demanded otherwise. Yet, despite this reassurance, the agreement also removed the Unionist veto on the exclusivity of policy formulation within the province. For the Nationalist population, the carrot came in the form of improved social conditions and status via the efforts of the IGC. The stick for nationalism lay in the understanding that the Irish government's role in advocating the Nationalist position was purely consultative and recommendations presented on their behalf could be disregarded at the whim of the British administration. For both parties, their vested interests would clearly be best served by a commitment to work together in a power-sharing arrangement. The AIA attempted to provide the framework whereby such arrangements would be possible.

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## IV. THE GOOD FRIDAY AGREEMENT

This chapter further assesses the initiatives of the SDLP and the two governments as they sought to chart a course towards a comprehensive and inclusive agreement capable of attaining broad cross-community support during the latter part of the 1980s and the early 1990s. The author will discuss measures initiated to create an environment conducive to a negotiated settlement and examine the Good Friday Agreement (GFA) in terms of what incentives it provided to each community. The chapter traces the process of promoting the GFA and the resultant difficulties posed by differing interpretations and how such difficulties translated into a labored implementation process. The chapter concludes by evaluating how the Catholic and Protestant communities in Northern Ireland perceived the agreement in terms of what it provided to their respective communities.

### A. PRE-GOOD FRIDAY AGREEMENT INITIATIVES

#### 1. Pan Nationalism: The SDLP & Sinn Fein

In the wake of the AIA, Sinn Fein were polling between nine and twelve percent of the electorate in Northern Ireland. Regardless of how they felt about the AIA itself, an analysis of the agreement and the negotiating process had clearly demonstrated to Republicans that negotiations could move Britain towards concessions. Organizationally, however, the party was still very much the second choice to the SDLP within the Nationalist community. Also important was the fact that, having been excluded from the New Ireland Forum and subsequent input into the *Forum Report*, the Republican movement was now very much at odds with mainstream nationalism both north and south of the border. While Sinn Fein had been exploring avenues to broaden the political option as a complement to the armed struggle, lackluster results from the military campaign combined with the marginalization of the organization by the main political parties because of their affiliation with the IRA continued to frustrate their efforts towards acceptability and representation.

Despite Sinn Fein's pariah status, the SDLP, under the leadership of John Hume, reached out across the ideological divide and initiated talks with Sinn Fein's leader, Gerry Adams in 1987. For Hume, the olive branch was offered in hopes of convincing

the Republicans of the futility of their efforts. By bringing Sinn Fein into the political mainstream a common platform for expressing a Nationalist agenda could be developed. Putting all their conventional rhetoric aside, Sinn Fein entered the talks on the premise that a broadened Nationalist alliance could bring concerted pressure on the British government to recognize the right of the Irish people to self-determination. At the heart of their argument lay their common themes: namely, British occupation was an impediment to self-determination; occupation necessitated the option of an oppressed people to use force; and the entity known as Northern Ireland had facilitated an artificial Unionist majority capable of vetoing Irish self-determination.<sup>183</sup> In Republican eyes, the only path to peace lay in a British withdrawal, an end to partition of the island, and the expression of the Irish people as a whole of their right to national self-determination.

Against these divergent approaches, initial talks commenced on a basis of defining and redefining the concept of self-determination. The Sinn Fein position was that of self-determination of the people of the island as a whole. In their view, Unionists' objections to a united Ireland could not be permitted to stand in the way of the will of the Irish people both north and south of the border. To acknowledge the right of unionism as a majority in a statelet which Sinn Fein refused to recognize would be tantamount to a legitimization of the right to veto the will of all Nationalists on the island. Making such a concession was not something the Republican movement was prepared to do in the latter part of the 1980s. For his part, John Hume presented the SDLP case that had been advocated at the New Ireland Forum; namely that a united Ireland was an unachievable goal without the consent of Unionists. Therefore, self-determination had two constituencies: a northern one and a southern one. If the ultimate Nationalist goal of a united Ireland was ever to be achieved, Unionists would have to be enticed by constitutional means and convinced that their best interests and identity would be best served and preserved in a united Ireland.<sup>184</sup>

While the first round of SDLP-Sinn Fein talks ended without producing any substantive agreement on self-determination or a prospect for a truly pan-Nationalist approach to further negotiations over the future Northern Ireland, they did foster a greater

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<sup>183</sup> Sean Farren and Robert F. Mulvihill, *Paths to a Settlement in Northern Ireland* (Buckinghamshire: Colin Smythe Limited, 2000), 141.

<sup>184</sup> Murray, 179.

political understanding between the parties and clearly established a channel for future contacts. Indeed, contact between the parties was again established in 1992/1993 by John Hume as he sought to find a formula for bringing the IRA's paramilitary campaign of violence to an end and thus open the door for Republicans to actively involve themselves in the process of finding a peaceful solution to the troubles. The significance of the second round of talks lay in the apparent fundamental shift in the traditional hard-line Republican position on self-determination. Without directly saying so, the joint statement issued by the SDLP and Sinn Fein leadership after the talks in April 1993 seemed to allude to the need to accommodate the Unionist position. The statement indicated that an all-Ireland future was 'only achievable and viable if it can earn and enjoy the allegiance of the different traditions on this island, by accommodating diversity and providing for national reconciliation.'<sup>185</sup> While not directly saying so, this statement hinted at the first signs that Sinn Fein was slowly maneuvering itself into a position where it could prepare the Republican base for the need to negotiate. Their position on self-determination and their recognition and acceptance of the elements of partition would have to change.

## **2. Unionists**

Despite their best efforts to scupper the AIA, the Unionist alliance had achieved little between 1985 and 1990 other than alienating the British Conservative government and contributing to a growing sense within the halls of Westminster that Unionists were a large part of the Irish problem. Overall, the Anglo-Irish partnership remained strong and the Irish government's influence in the affairs of the province via the Intergovernmental Conference and its permanent secretariat remained a symbol of hope for Nationalists and a symbol of unwelcome interference for Unionists. It became increasingly clear to the Unionist leadership that their attempts to effect change to the AIA through protest and nonparticipation had failed miserably. The prevailing mood led Unionists to realize that change could only be achieved through inclusion in the political process and, in order to terminate the AIA, a power-sharing arrangement garnering broad cross-community support had to be implemented. As such, the dawning of the 1990s saw a Unionist

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<sup>185</sup> Farren and Mulvihill, 158.

alliance more willing to negotiate a settlement.<sup>186</sup> The Brooke-Mayhew talks of 1991/1992 provided an opportunity for Unionists to end their self-imposed political exile. The opportunity to do so came about as a result of an address given by then Secretary of State for Northern Ireland, Peter Brooke on 9 January 1990 when he indicated that if the parties within Northern Ireland could reach agreement to improve upon the manner in which the AIA was functioning, such recommendations would receive favorable attention by the British and Irish governments.<sup>187</sup> Unionists interpreted this comment to mean that the government had come to its senses and was now open to an alternative to the AIA. In reality, Brooke was merely restating a basic principle of the agreement which provided for its own replacement with a power-sharing arrangement acceptable to both communities within the province. Regardless of how the statement was interpreted, the response did indicate a willingness of behalf of the Unionist community to negotiate.

In spite of their overwhelming desire to end their political isolation, Unionists adopted negotiating tactics during all early talks which were very much constrained by the position they had taken in the wake of the AIA. In many respects, the main Unionist parties had tied their own hands and their position was based on the promise made to their constituents to destroy the AIA. Rhetoric designating the agreement as a diktat negotiated without their consultation and imposed upon their community without consent proved difficult to discard. Their hard-line position failed to consider the merits of the agreement; the continued commitment of the two governments to support the agreement; and the appeal of the AIA within the Nationalist community. The rejectionist policy of Unionists hamstrung the alliance's willingness to enter meaningful negotiations on a way forward without the imposition of requirements to suspend the mechanisms established by the AIA. Indeed, as a condition to participating in negotiations, the alliance demanded two concessions: the suspension of the AIA while talks were in progress and the exclusion of the Irish government from negotiations until substantial progress had been made by the parties.<sup>188</sup>

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<sup>186</sup> Murray and Tonge, 175.

<sup>187</sup> Cochrane, 273.

<sup>188</sup> *Ibid.*, 275.

### 3. The Governments

#### a. *Brooke/Mayhew Talks: Round 1*

After much wrangling over the terms for initiating negotiations and with all the key players bringing their respective baggage to the negotiating table, the talks process finally got underway in May 1991. The objectives for the talks were to reach agreement on the political structures for Northern Ireland and to explore options for replacing the AIA with a comprehensive agreement deemed more acceptable to the participants and their respective communities.<sup>189</sup> The talks themselves consisted of both governments and representatives of the UUP, DUP, SDLP, and the cross-community but Unionist-leaning Alliance Party of Northern Ireland (APNI). Despite having suffered politically as a result of the AIA, Sinn Fein continued to command in excess of 10 percent of the electorate and was the fourth largest party in Northern Ireland at the time. Their continued support for the PIRA campaign ensured their exclusion. Their absence and subsequent course of the talks contributed to the SDLP thesis that a substantive agreement was not achievable without the participation of all parties subject to the conflict.

The talks served a vital purpose because they allowed the main constitutional parties an opportunity to express their agendas. For the British government, the talks provided an opportunity for it to convey its position with regard to the conflict and to educate the Republican movement on the way forward. Brooke articulated his government's position by relaying the point that partition was not a British objective but rather an expression of the desire of the majority of the population of Northern Ireland and, as such, a hard reality. He also attempted to portray British involvement in the province as not being the result of any grand colonial design but rather a necessity in light of the security situation and sectarian divisions.<sup>190</sup>

(1) The Nationalist/Republican Position. The SDLP continued to advocate positions which had been conveyed in previous negotiations. Among them a proposal which involved the administration of government in Northern Ireland under the direction of six commissioners and an elected assembly. The proposal had a distinctive

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<sup>189</sup> Farren and Mulvihill, 147.

<sup>190</sup> Murray and Tonge, 180.

Irish and European dimension and harkened back to the *Towards a New Ireland* policy document circulated in 1972. The proposal was problematic insofar as it invited direct European involvement in what had routinely been cast as a British domestic affair.<sup>191</sup> Despite the rejection of such an idea, the SDLP's influence on British thinking was clearly on display as the very structure the talks assumed followed the three-strand approach to resolving the conflict which had been the touchstone of the party's thinking since the *New Ireland Forum*. The Forum had advocated a three-strand approach to resolving the conflict in Northern Ireland. The strands involved resolving relationships within Northern Ireland; defining the North-South relationship; and formalizing the British-Irish dimension to the problem. Finally, as the sole representatives of the Nationalist community, the SDLP advocated an acceptance of the AIA while promoting a political solution and rejecting violence.

(2) The Unionist/Loyalist Position. Not surprisingly, the Unionist parties were primarily concerned with the constitutional guarantee that Northern Ireland remain a part of the UK. The DUP did distinguish itself from the UUP by advocating a neighborly relationship with the Irish Republic and a desire for representative government not simply based on majority rule. In essence, this position was quite a departure for a party that had previously committed itself to the primacy of majority rule.<sup>192</sup> In contrast, the UUP, while firmly supporting the constitutional guarantee, tailored their argument more toward an integrationist platform while acknowledging the need for a regional assembly with limited powers. In many ways, their position continued in the tradition set forth by their leader James Molyneux whose integrationist credentials were well established. The APNI's position played to its constituency by stressing self-determination in a cross-community Northern Ireland context and calling for a strong devolved government while acknowledging the province's relationship with the Republic of Ireland and with Britain.<sup>193</sup>

The Brooke-Mayhew talks provide an interesting insight into the Unionist mindset and tactical position with regard to the negotiations process. Having

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<sup>191</sup>Murray and Tonge, 177.

<sup>192</sup> Farren and Mulvihill, 150.

<sup>193</sup> Ibid., 152.

secured a commitment from the British and Irish governments to suspend the Intergovernmental Conference and secretariat for a period of ten weeks, the combined UUP and DUP alliance then initiated a series of delaying tactics which precluded to initiation of talks while the issue of mediators for Strand Two (North-South relations) was decided. By the time meaningful talks were initiated, only four weeks remained before the AIA mechanisms resumed. While Nationalists viewed their tactics as a ploy to stall progress and spur another suspension of the AIA which would ultimately lead to its obsolescence and reinvigorated rejection by the Unionist community, the reality was that the Unionist parties remained intent on maintaining their socially superior status rather than reach a compromise agreement with the minority.<sup>194</sup> By effectively scuppering the talks by refusing to compromise, the Unionist alliance condemned themselves to a return to the AIA mechanisms which they so obviously despised.

***b. Brooke/Mayhew Talks: Round 2***

These early positions gave a critical glimpse into the differences that existed between the parties and of the difficulties which would lie ahead if a peaceful resolution to the conflict was to be negotiated. The differences continued into a second round of talks which convened in March 1992. Whilst the agenda remained the same the make up of the British and Irish delegation had changed substantially. Sir Patrick Mayhew had replaced Brooke as Secretary of State for Northern Ireland and the change in government in Dublin brought with it a new Irish ministerial team to the talks.<sup>195</sup>

(1) The Nationalist/Republican Position. The SDLP continued to advocate for a proposed government by a special commission consisting of representatives of the Irish and British governments with locally elected commissioners and one appointed by the European Union.<sup>196</sup> In addition, the SDLP was joined by the Irish government in its call for an independent executive function for north-south institutions. Neither party's desire to resurrect the ghost of the Council of Ireland had diminished with time. On a second front, the SDLP's seduction of Sinn Fein was well underway with the advent of the Hume-Adams talks. While not included directly in the

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<sup>194</sup> Cochrane, 279.

<sup>195</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/events/bmtalks/sum.htm> Current as of: 23 October 2006.

<sup>196</sup> Farren and Mulvihill, 156.

talks, its opinion did matter and was noted by the governments and the SDLP. If Sinn Fein could agree to commit itself to a peaceful resolution of the conflict, the door would be opened for their participation in discussing the way forward. An early incentive to Republicans was offered by the previous Secretary of State Peter Brooke who conceded that the IRA could not be defeated militarily and that Britain had no selfish strategic or economic interest in Northern Ireland. From a Republican perspective, such concessions at the time appeared to be an admission by the government that a military stalemate had been reached and that Britain was open to negotiating a settlement.<sup>197</sup> The reality of British policy was probably closer to their desire to actively seek Republican involvement in the political process as a means to move the paramilitaries away from their campaign of terror. While Brooke may have conceded that the British army could not defeat the IRA using acceptable tactics, the effects of war weariness and the desire to reap the rewards from a generation of fighting left the IRA and Sinn Fein searching for an exit strategy.<sup>198</sup> In light of Brooke's overtures and the promising nature of the talks with the SDLP, the onus for developing a strategy to carry the Republican movement toward the political arena rested with Gerry Adams. The key to success lay in the ability to convert the historical aspirations for Irish unity into a policy which could accommodate the Unionist majority within Northern Ireland. Making such a transition required a migration from unity to self-determination wrapped in the concept of the will of the Irish people as a whole. While vague in nature, such language was essential if Sinn Fein was to fully transition from being nothing more than the voice of the IRA to a full-fledged constitutional political party. Self-determination for the Unionist population of Northern Ireland was permissible if the principle was agreed to by people north and south of the border. In this regard, acceptance of the Irish people, taken as a whole, would determine the issue of consent and, when presented in such a manner, the Republican movement could make little argument to contradict the will of the people they claimed to represent.

The transformation of Sinn Fein and traditional republicanism was underway. In 1992, the party issued *Towards a Lasting Peace in Ireland*. This document reflected the changing views of the party and was a genuine attempt at offering an olive branch to

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<sup>197</sup> Murray and Tonge, 176.

<sup>198</sup> *Ibid.*, 179.

Britain. Gone was the bellicose calls for immediate British withdrawal and in their place a call for Britain to persuade Unionists on the merits of a united Ireland and an acknowledgement that partition had failed.<sup>199</sup>

(2) The Unionist/Loyalist Position. The resurrection of the talks process further demonstrated how little unionism had moved despite the resumption of the AIA. Prior to the 1992 British General Election and in anticipation of a Conservative Party more dependent upon their support to form a working government, the Unionists began to posture for concessions. Not surprisingly, the UUP, under the leadership of Jim Molyneaux, continued to advocate for a more integrationist policy towards Northern Ireland.<sup>200</sup> Unfortunately for Molyneaux and the UUP, the Conservatives secured an election victory sufficient to preclude dependence on the UUP or DUP. When talks did resume, the Unionists again demanded and secured a suspension of the AIA. While the talks did progress beyond Strand One (internal to Northern Ireland), Strand Two (North-South relations) discussions floundered when the DUP refused to negotiate until the Irish government agreed to address their plans for removing Articles 2 and 3 from the constitution. For their part, the UUP continued to chip away at the AIA and demanded that the agreement and its Irish dimension be replaced with a British-Irish agreement which was general in nature and didn't apply either explicitly or exclusively to Northern Ireland.<sup>201</sup> When the talks had ended without agreement in November 1992, Unionists had achieved little. Rather than facilitate an enhanced bargaining position, the UUP-DUP alliance produced little and may have restrained progress. Hardliners within the DUP attacked their own leader Ian Paisley for agreeing to talks with the Irish government and also attacked the UUP for conducting direct talks with Dublin during Strand Two. In the words of the DUP's Rev. William McCrea, the talks were a 'betrayal of the Loyalist people.'<sup>202</sup>

### *c. The Downing Street Declaration*

The Brooke/Mayhew talks ended in November 1992 and produced no significant agreement on the way forward. Other than the revelation that John Hume and

<sup>199</sup> Murray and Tonge, 182.

<sup>200</sup> Cochrane, 283.

<sup>201</sup> Ibid., 289.

<sup>202</sup> Ibid.

Gerry Adams were again involved in a dialogue for peace, no significant political developments transpired until the Taoiseach and British Prime Minister issued a Joint Declaration in December 1993. The declaration itself is interesting for two reasons. First, it presented a set of recurring themes which can be traced back to the AIA and positions previously advocated by the SDLP. The declaration spelt out how self-determination applied in the case of Northern Ireland. Implicit in this position was the understanding that the people of the province had a right to determine their future irrespective of the wishes of those in the south. It also identified the conditions under which the status of the province might change if the majority of voters expressed a desire for such a change. The familiar SDLP themes of a three-strand relationship (that between the communities in the North, that between the North and the South, and that between Ireland and Britain) was present and had become a bedrock of the Anglo-Irish relationship. The themes of an agreed meaning for self-determination and the three-strand approach to the relationship could trace their lineage to the New Ireland Forum and the AIA and would repeat themselves throughout the negotiating process leading to the Good Friday Agreement (GFA) of April 1998. The second point of interest in the Joint Declaration relates to the dynamic at play between the two governments. For their part, the British government emphasized its role as a facilitator to achieve an agreement which encompassed the totality of relationships while reiterating a statement previously made by the former Secretary of State Brooke that Britain had no selfish strategic or economic interest in Northern Ireland. As such, Britain had come a long way since the early 1980s. Similarly, the Irish government reiterated its commitment to the principles spelled out in the AIA while agreeing to further the cause of reconciliation between the two traditions on the island of Ireland by establishing a Forum for Peace and Reconciliation to examine how the Republic could better achieve the goals of being a democratic and pluralist society.<sup>203</sup>

In a general sense, the Joint Declaration was greeted positively by all with the notable exclusion of the DUP and Sinn Fein. For the DUP, it conceded too much to republicanism and left the door open just a little too much to the possibility of a united Ireland. For Sinn Fein, the declaration continued to contain the built-in Unionist veto

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<sup>203</sup> Farren and Mulvihill, 164.

couched as self-determination defined in terms of Northern Ireland. But taken as a whole, Sinn Fein's position on a Unionist veto was definitely a minority of one given that the successive Irish governments and the SDLP had consistently supported the consent principle as spelled out in the AIA. Sinn Fein was also out of step with their understanding of the political realities of the veto as it existed within Northern Ireland. In a purely political sense, the veto did exist for the Unionists insofar as no internal political progress was possible without their consent. However, this veto was not exclusive to Unionists. Nationalists also had a political veto and were very capable of using it as demonstrated by the SDLP's refusal to take their seats in Jim Prior's rolling devolution assembly of 1982 which led to its eventual suspension in 1986. Ultimately, the DUP's rejection was predictable but the grounds for Sinn Fein rejecting the declaration were somewhat suspect and rang hollow given the realities on the ground. Yet, despite the rhetoric, the Joint Declaration established a framework which outlined rejection of violence as the price of admission into the negotiations process. Sinn Fein's eagerness to actively involve itself in such negotiations can be seen from the relative speed with which Gerry Adams was able to convince the IRA Army Council to declare a conditional ceasefire in August 1994.

From a Republican perspective, Britain's reiteration in the Downing Street Declaration (DSD) of its position as a facilitator for the wishes of the majority of the people in Northern Ireland, forced the movement to reevaluate its commitment to violence via the PIRA or commit itself to a peaceful political resolution of the conflict through Sinn Fein. Having already advocated a form of self-determination, albeit less than that contained in the DSD, Sinn Fein was compelled to continue along the path to constitutional politics.<sup>204</sup> This compulsion did not, however, mean that the PIRA had completely abandoned their military campaign.

The Downing Street Declaration spawned a number of activities designed to expedite the process of negotiating a durable settlement. The first, the Forum for Peace and Reconciliation was established by the Irish government in October 1994 and extended an open invitation to all parties to participate. As they had with the New Ireland Forum, the major Unionist parties refused the invitation. For Sinn Fein, it

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<sup>204</sup> Murray and Tonge, 186.

amounted to their first brush with constitutionally elected politicians in a consultative forum. While the party continued to maintain its opposition to separate self-determination for the northern and southern parts of the island, it did gain an appreciation of the need to compromise. The Irish initiative was followed in 1995 by the joint issuance of a *Frameworks for the Future* document which spelled out the two governments' expectations for power-sharing, the nature of all-island structures, and how the Anglo-Irish structures would accommodate the hopes and aspirations of members of the Unionist and Nationalist communities within Northern Ireland.

Yet, with the processes for negotiations well defined, the parties were unable to overcome traditional enmities. Unionists were unable to either trust or negotiate with Sinn Fein while it continued to maintain the link with the IRA and, despite the implementation of a ceasefire to facilitate such negotiations, retained the option of resorting to the use of force if negotiations were not to their liking. For Sinn Fein, the stumbling block remained its continued mistrust for the motives and actions of the British government. It is entirely possible that Sinn Fein's recollections of the last major ceasefire concession to the government almost resulted in the complete collapse of the IRA and the Republican movement during the mid-1970s. Additionally, the *Frameworks* document held the most promise from a Republican perspective of an all-island approach to politics which was a necessity for the movement's continued participation. However, the British government, with a weakened electoral mandate and under pressure from Unionists whose votes they now depended upon in order to remain in office, failed to fully implement much of the *Frameworks'* initiatives.<sup>205</sup>

Frustrations with the pace of political process and the non-admission of Sinn Fein into all-party talks led to a resumption of the IRA's military campaign in February 1996. The resumption of the IRA campaign only served to further isolate Sinn Fein from the negotiating process. Yet, despite the renewal of violence, Sinn Fein continued to make positive noises about the need for a political solution and, in May 1996, they agreed to endorse the Mitchell principles which advocated a purely political solution and the complete rejection of paramilitary activities. The willingness to continue to pursue a political resolution was not universally accepted among the rank and file

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<sup>205</sup> Murray and Tonge, 190.

membership of the IRA or by some on the Army Council. When the decision was made to recommit to a ceasefire in 1997, dissidents had broken away to form the Real IRA<sup>206</sup> and, by the latter part of the year, Adams had consolidated his support among the Army Council membership for a policy of negotiated settlement.<sup>207</sup> The peace ticket moved forward secure in the knowledge that it retained the support of the party and the Army Council.

## B. THE GOOD FRIDAY AGREEMENT

### 1. Elections

Elections were held at the end of May 1996 to determine the composition of the negotiating teams. Despite their exile, Sinn Fein managed to increase their vote from 10 percent at the 1992 Westminster elections to 15.5 percent (see Table 1 below). The growth of Sinn Fein's electoral mandate coupled with the landslide election victory for the Labour Party in Britain's 1997 General Election and the election of a new coalition government in the Republic paved the way for the readmission of Sinn Fein back into the talks process after a new ceasefire was declared on 19 July 1997.<sup>208</sup>

Party	Total Vote	% Valid Vote	Constit. Seats	Extra Seats	Total Seats
Ulster Unionist Party (UUP)	181,829	24.17%	28	2	<b>30</b>
Social Democratic and Labour Party (SDLP)	160,786	21.36%	19	2	<b>21</b>
Democratic Unionist Party (DUP)	141,413	18.60%	22	2	<b>24</b>
Sinn Féin (SF)	116,377	15.47%	15	2	<b>17</b>
Alliance Party of Northern Ireland (APNI)	49,176	6.54%	5	2	<b>7</b>
United Kingdom Unionist Party (UKUP)	27,774	3.69%	1	2	<b>3</b>
Progressive Unionist Party (PUP)	26,082	3.47%	0	2	<b>2</b>
Ulster Democratic Party (UDP)	16,715	2.22%	0	2	<b>2</b>
Northern Ireland Women's Coalition (NIWC)	7,731	1.03%	0	2	<b>2</b>
Labour (Lab)	6,425	0.85%	0	2	<b>2</b>

Table 1. 1996 Forum Election Results.<sup>209</sup>

<sup>206</sup> The Real IRA was formed in the late 1990s as the clandestine armed wing of the 32-County Sovereignty Movement, a political pressure group dedicated to removing British forces from Northern Ireland and unifying Ireland. The 32-County Sovereignty Movement opposed Sinn Fein's adoption of the Mitchell principles of democracy and non-violence and also opposed the amendment of Articles 2 and 3 of the Irish Constitution which had claimed the territory of Northern Ireland. Source: U.S. Department of State. Available on-line at: <http://www.state.gov/documents/organization/10300.pdf> Current as-of: 24 October 2006.

<sup>207</sup> Murray and Tonge, 194.

<sup>208</sup> Farren and Mulvihill, 181.

<sup>209</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/issues/politics/election/1996.htm> Current as-of: 24 October 2006.

## 2. Negotiations

The admission of Sinn Fein into the talks process prompted the immediate departure of the DUP and the smaller Loyalist United Kingdom Unionist Party (UKUP).<sup>210</sup> Despite their withdrawal, the majority of key players were finally in place to negotiate a comprehensive and inclusive settlement to the conflict.

The negotiations process began on 15 September 1997 with three primary committees established on the basis of the three-strand approach and two additional subcommittees: one dealing exclusively with the decommissioning of paramilitary arms and the other tasked with developing confidence building measures such as human rights, economics, employment, culture, and prisoner release.<sup>211</sup> The fact that the negotiations were the only game in town acted as an incentive to all participating parties to focus their attentions on reaching a workable settlement. Without agreement, Nationalists and Republicans faced continuation of direct rule from Britain. Similarly, a failure of the negotiations process would lead to the reactivation of the AIA secretariat. With the specter of the AIA hanging over its head and when faced with the reality of a tangible power-sharing agreement within the context of Northern Ireland, the UUP discarded much of the intransigence it had displayed during the latter stages of the Brooke-Mayhew talks. The party had come to embrace the concept of reaching an accommodation acceptable to the two communities within the province. On the issue of the role to be played by the Irish government, the UUP opposition remained but the party was willing to concede a minor consultative role without executive powers in exchange for removal of Articles 2 and 3 from the Irish constitution. For their part, the SDLP simply reiterated what they had been saying since the *New Ireland Forum*. The party stressed the importance of the individual identities of the two communities within Northern Ireland while advocating for strong cross-border ties and a need for a continued Anglo-Irish partnership. In contrast, Sinn Fein repeated the standard Republican mantras of the failure of partition, the need to remove the British presence from Ireland, and a desire for a united Ireland. Additionally, the party argued for issues which were already within the purview of the 'confidence-building' subcommittee. Despite the repetition of demands,

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<sup>210</sup> G.K. Peatling, *The Failure of the Northern Ireland Peace Process* (Dublin: Irish Academic Press, 2004), 64.

<sup>211</sup> Farren and Mulvihill, 184.

the key issues of equality and prisoner release provided Sinn Fein sufficient maneuver space to bargain on what had been their core issues while still being able to claim concessions in light of the final agreement.

In an effort to facilitate progress within the negotiations the governments took three actions. First, they affirmed their joint commitment to consent and self-determination via democratic means. Next, they issued a *Propositions for Heads of Agreement* document which outlined their expectations on what the final agreement should contain. It then followed up with clarification on what cross-border cooperation should look like. While for differing reasons the documents posed specific difficulties to Unionists and Republicans alike, all parties to the negotiations realized that they had arrived at the best opportunity for peace in almost thirty years of conflict.<sup>212</sup> Finally, while the governments had set a deadline of May 1998 to conclude the talks, the Chairman, George Mitchell expedited the process and set a deadline of 9 April to conclude negotiations. Despite critical divisions particularly as they related to the key issues within the remit of the confidence-building and decommissioning subcommittees, an agreement was reached on Good Friday, 10 April 1998.

### **3. The Agreement**

The agreement signed by the parties and governments on 10 April 1998 and later endorsed by referenda both north and south of the border in May 1998 was a monument to the negotiating process and an historic breakthrough because it provided a unified vision for a way out of the bloodshed that had plagued the province for nearly thirty years. The length and contentiousness of the negotiations process are a testament to the differences that exist within Northern Irish society and each section of the final agreement bears witness to the tradeoffs made by the respective participants in achieving a settlement. The agreement, while comprehensive, essentially defines the status of Northern Ireland in constitutional terms and addresses strands one through three and the subcommittee issues identified during the multi-party talks of 1997.

On constitutional issues, the agreement bound the political parties and the two governments to respect the consent principle as expressed by the majority of the people of Northern Ireland whether they saw their future as part of the Union with Great Britain

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<sup>212</sup> Farren and Mulvihill, 191.

or as part of a united Ireland. In recognizing the right of the majority of the people of Northern Ireland to maintain their status within the United Kingdom, the agreement addressed the primary concern of Unionists and Loyalists alike: namely, the preservation of the Union. However, by recognizing that, if at some future date, the majority of the people of Northern Ireland decide to join the Irish Republic, then both governments would be obliged to actively support such a desire by introducing legislation in their respective Parliaments to make the aspiration a reality. This stipulation was clearly aimed at showing the Nationalist community that the path to a united Ireland remained open and potentially attainable through the constitutional process. Additionally, the GFA bestowed a unique right on the people of Northern Ireland to claim citizenship of Britain, Ireland, or both. This privilege would remain regardless of the status of the statelet. Finally, the agreement committed the governments to making fundamental legislative and constitutional changes. For the British, this entailed the repeal of the Government of Ireland Act of 1920 and its replacement with an act containing the principle of consent. For their part, the Irish government was obliged to initiate a referendum which would amend Articles 2 and 3 of the Irish constitution to remove language claiming territorial sovereignty over Northern Ireland and to insert the principle of consent.<sup>213</sup>

Strand One of the GFA was designated to address governmental institutions within Northern Ireland. The agreement called for the establishment of a 108-member Assembly elected on the basis of proportional representation and capable of exercising legislative and executive responsibility over devolved departments. To ensure cross-community inclusion, the agreement established safeguards to ensure equitable ministerial portfolio distribution based on proportional party strength and weighted voting procedures on legislation. Effectively, passage of legislation would require the consent of 60 percent of the members present and voting, and at least 40 percent of both Nationalist and Unionist members present to concur. This provision was designed to ensure that legislation avoided sectarianism and protected the rights of the minority community. Of course, implementation required representatives to register as either

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<sup>213</sup> The Good Friday Agreement. Section 2: Constitutional Issues. Available on-line at: <http://www.nio.gov.uk/agreement.pdf> Current as-of: 24 October 2006.

Unionist or Nationalist and, as such, did not facilitate the breaking down of barriers between the respective communities.<sup>214</sup>

Executive authority for the Assembly was delegated to a First Minister, a Deputy First Minister, and up to 10 Ministers with departmental responsibilities. The First and Deputy First Ministers would be elected by cross-community majorities within the Assembly while the departmental Ministers would be allocated based on party representation based on the d'Hondt system.<sup>215</sup> Ministers would have executive power over their department but would ultimately be responsible to the Executive. All Ministers would be required to take an oath of office requiring them to discharge their official duties in good faith; commit themselves to peaceful and democratic government; to serve the people in an unbiased manner; to participate actively in a program for government; to work within the mechanisms of the Executive Committees and to support the decisions of the same; and finally, to comply with the Ministerial Code of Conduct. Interestingly, there was no requirement to pledge allegiance to the Queen or British parliament, a concession in recognition of Nationalist sensitivities.<sup>216</sup>

Strand Two of the agreement focused on the North/South Ministerial Council (NSMC). While the Nationalist community under the SDLP and Sinn Fein had long campaigned for a council with independent executive powers, it was obvious that their Unionist counterparts would not be amenable to such an arrangement. As a compromise, the GFA proposed an arrangement whereby the NSMC would be accountable to the respective assemblies both north and south of the border from which they derived their power. For Unionists, this arrangement avoided any possibility that an independent body with executive powers could be usurped by Nationalists to bind Northern Ireland into a closer relationship with the Irish Republic. At the same time, the NSMC did provide an avenue for Nationalists to strengthen north/south cooperation on an array of issues which were mutually beneficial to residents on both sides of the border. Further protections for

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<sup>214</sup> The Good Friday Agreement. Strand One: Democratic Institutions in Northern Ireland.

<sup>215</sup> A system involving a mathematical model in which positions are shared out amongst different parties in the wake of an election with specific appointments made on the basis of proportionality. D'Hondt was introduced into Northern Ireland politics when it was used to determine the composition of the power-sharing executive envisaged under the Good Friday Agreement. Source: CAIN Web Service. Available online at: <http://cain.ulst.ac.uk/othelem/glossary.htm#D> Current as-of: 21 October 2006.

<sup>216</sup> The Good Friday Agreement. Strand One: Democratic Institutions in Northern Ireland.

Unionist and Nationalist interests were included in paragraphs 12 and 13 of Strand Two. Paragraph 12 provided a guarantee that proposals developed in the NSMC would require the endorsement of the Northern Ireland Assembly and the Irish Parliament to take effect. In large part, this arrangement provided an additional check and balance to ensure the Unionist parties maintained an effective veto capability for cross-border arrangements which they deemed to be not in their interests. In a similar vein, paragraph 13 was designed to meet a long-held Nationalist aspiration for closer links to the south. The language of the paragraph ties the Northern Ireland Assembly to the NSMC and stipulates that one cannot function without the other. In effect, Nationalist negotiators were able to build-in a provision which ensured the continuity of a cross-border arrangement while a devolved Assembly operated in the North. Any desire that Unionists might have to destroy the NSMC would result in a corresponding collapse of the Assembly. The NSMC would also incorporate a European Union dimension and a possibility for developing a joint parliamentary forum – two issues near and dear to the SDLP agenda. Finally, Strand Two identified twelve areas for potential North-South cooperation but failed to specifically mandate specific areas of responsibility.

Issues relating to the British-Irish Council (BIC) were covered in Strand Three. While addressing an original SDLP concern that any agreement should consist of an Anglo-Irish dimension, Strand Three was primarily a way of further reassuring the Unionist population on their constitutional position. The BIC was not specific to the Anglo-Irish relationship as it pertained to Northern Ireland but was inclusive of Scotland, Wales, the Isle of Man, and the Channel Islands. As such, the BIC dealt with the ‘totality of relationships among the peoples of these islands.’<sup>217</sup> This stipulation went a long way in decreasing the impact of the Anglo-Irish relationship as it pertained to provisions found in the AIA. The inclusion of the BIC also met the Unionist concern that there should be a reciprocity of linkages which would provide a mechanism to maintain the link to the UK in the event that Northern Ireland were to become a part of the Republic at some future date.<sup>218</sup> The provision for the establishment of the British-Irish

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<sup>217</sup> The Good Friday Agreement, Strand Three: British-Irish Council.

<sup>218</sup> Brendan O’Leary, *Comparative Political Science and the British-Irish Agreement*, in *Northern Ireland and the Divided World: Post Agreement Northern Ireland in Comparative Perspective* (Oxford: Oxford University Press, 2001), 62.

Intergovernmental Conference (BIIC) essentially killed the Anglo-Irish Intergovernmental Council and secretariat which had been established under the AIA. The consultative role that the Irish government had in the affairs of Northern Ireland would continue but only to the extent that they pertained to non-devolved matters.

The agreement also addressed matters such as human rights, cultural issues, decommissioning and police reform which were within the purview of the Decommissioning and Confidence Building Subcommittees during the multi-party talks. On the issue of decommissioning paramilitary weapons, the agreement identified a commitment to the total disarmament of all paramilitary organizations and called on the parties to the agreement to exert their influence over paramilitaries to achieve the goal of total decommissioning of weapons within two years of the agreement being endorsed via referendum. As such, the GFA was specific about the desire to have paramilitary weapons decommissioned within two years but did not actually mandate the destruction of weapons within that specific timeframe. The vagueness of language contained in this stipulation would prove extremely problematic with regard to the implementation of the agreement and the standing up of the devolved Executive. Additionally, the agreement required the British government to incorporate the European Human Rights Convention (EHCR) into the law of Northern Ireland and establish a Northern Ireland Human Rights Commission. The focus of this commission would be the development of supplementary legislation which, when taken in conjunction with the EHCR, would form the basis for a Bill of Rights for Northern Ireland. Culturally, accommodations were to be made for the acceptance and support of the Irish language. Finally, policing reform would be addressed through the establishment of an independent commission. The commission's mandate would include a review of the composition, recruitment, training, culture, ethos, and symbols of the police force to ensure support from the community as a whole.<sup>219</sup> Ultimately, the commission was headed by Chris Patten and in September 1999 issued its report *A New Beginning: Policing in Northern Ireland* which contained 175 recommendations for changes within the RUC.<sup>220</sup>

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<sup>219</sup> The Good Friday Agreement.

<sup>220</sup> The Report of the Independent Commission on Policing in Northern Ireland. *A New Beginning: Policing in Northern Ireland*. Available on-line at: <http://www.belfast.org.uk/report/fullreport.pdf> Current as-of: 22 October 2006.

## C. POST GOOD FRIDAY AGREEMENT: TROUBLED TIMES

### 1. Selling the Agreement

In the wake of the GFA and in the run up to the referendum vote, unionism and loyalism were divided like no other time since the Sunningdale Agreement. The pro-agreement camp consisted of a divided UUP and the Loyalist PUP and UDP. The anti-agreement forces were led by the DUP who were joined by defectors from the UUP, the Loyalist UKUP, and the leadership of the Orange Order. Most troubling for the pro-agreement camp was the split within the UUP which primarily revolved around the issues of decommissioning and police reform. The effect of the division was to put the UUP leader David Trimble in the precarious position of having to defend the GFA and forming an uneasy alliance with the SDLP and Sinn Fein.<sup>221</sup> Yet, despite such common ground with the Nationalist parties, it would have been political suicide for the UUP to form an alliance across the sectarian divide and to campaign in support of a yes vote in the GFA referendum held in May 1998. As a result, each camp was left to campaign individually and highlight to their respective communities the benefits secured for each. In the case of the UUP, this meant emphasizing how the agreement would strengthen the Union via the BIIC and the enshrinement of the province's constitutional position via the principle of the consent of the majority and how the Good Friday Agreement would bring an end to the much-despised AIA. In contrast, the DUP and other dissenters seized upon the Sinn Fein analysis that the agreement was a stepping stone to Irish unity. The rhetoric from party leader Rev. Ian Paisley, the most visible and vocal of the anti-agreement forces, was uncompromising. While the times had certainly changed, the theme remained consistent with that of Unionist opposition to the AIA. In Paisley's words: 'This is a struggle for the lifeblood of our country. We will not be bullied by a foreign country who wants a say in our future.'<sup>222</sup>

Within the Nationalist community, the agreement was a much easier sell, perhaps because it tangibly offered an opportunity for the community to actively participate in their own governance on equal terms with their Unionist counterparts. The agreement held out the prospect of real progress for Nationalists. It provided for a voice in

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<sup>221</sup> Cochrane, 380.

<sup>222</sup> *Ibid.*, 379.

government; it contained provisions for continued north-south cooperation via the NSMC; it promised reforms in human rights and policing; and, most importantly for Republicans, it offered a timeline for the early release of prisoners. While not fulfilling the desire of a united Ireland, it offered realistic and attainable objectives for a population denied equality for the better part of eighty years. As such, selling the agreement in the Nationalist neighborhoods of Northern Ireland was a relatively easy goal.

While the May 1998 referendum ultimately produced an overwhelming 71 percent vote in support of the GFA, a deeper analysis of the Unionist vote further highlighted the deep divisions that existed within the community. Although the referendum was conducted on a single constituency basis, best estimates indicated that the over-whelming majority of Nationalists voted 'yes' perhaps by as much as 96 or 97 percent of the voting electorate. In the case of Unionists who voted 'yes' it is estimated that the figure was between 51 and 53 percent in favor.<sup>223</sup>

## **2. Assembly Elections**

Following the passage of the GFA via the May 1998 referendum, the path was clear to hold Assembly elections the following month. Divisions remained very evident within the Unionist camp. Again, Unionist campaigned from their respective positions with regard to the agreement. The UUP offered a positive message which highlighted their role in negotiating a settlement which secured the union by institutionalizing the consent principle while removing the mechanisms of the AIA and securing the repeal of Articles 2 and 3 of the Irish constitution. Despite the positive spin the UUP put on the agreement, the June 1998 Assembly elections resulted in the DUP making significant inroads into the Ulster Unionist's base. As Table 2 below indicates, the DUP secured 18 percent of the electorate. The UUP saw their electoral percentage slump from 32.7 in the 1997 Westminster General Election to 21.3 percent.

The electoral story on the Nationalist side of the sectarian divide was also interesting. The SDLP, for the first time in its history secured more first preference votes than any other party. It was also the first time in the history of the Northern Irish statelet that a Nationalist party surpassed the main Unionist party in votes received. Their

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<sup>223</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/issues/politics/election/ref1998.htm>  
Current as-of: 20 October 2006.

success was attributable to larger voter turnout in Nationalist-held constituencies.<sup>224</sup> Of equal significance was the continued rising popularity of Sinn Fein. Their support advanced with the party garnering just over 18 percent of the vote – an increase of more than 2.5 percent from that achieved during the 1996 Forum campaign.

Ultimately, the composition of the Assembly after the 1998 election provided for a significant cross-community majority which supported the GFA with a still vigorous and vocal opposition.

Party	1st Preference Votes	%Votes	Nb. Seats
Social Democratic and Labour Party (SDLP)	177,963	21.96	24
Ulster Unionist Party (UUP)	172,225	21.25	28
Democratic Unionist Party (DUP)	145,917	18.01	20
Sinn Féin (SF)	142,858	17.63	18
Alliance Party of Northern Ireland (APNI)	52,636	6.5	6
United Kingdom Unionists (UKU)	36,541	4.51	5
Progressive Unionist Party (PUP)	20,634	2.55	2
NI Women's Coalition (WC)	13,019	1.61	2
Ulster Democratic Party (UDP)	8,651	1.07	0
Labour (Lab)	2,729	0.34	0
Others	37,144	4.58	3
<b>Total</b>	<b>810,317</b>	<b>100</b>	<b>108</b>

Table 2. 1998 Assembly Election Results.<sup>225</sup>

### 3. Decommissioning & Stalemate

The post agreement era was problematic as Unionists and Republicans continued to jockey for position with regard to the issue of decommissioning. The pro-agreement Unionist camp led by David Trimble had firmly nailed their colors to the post by stating that they would not enter government with Sinn Fein without a decommissioning of IRA weapons first. Indeed, the establishment and effective operation of an Executive floundered on the issue and delayed full implementation of devolved government in Northern Ireland until December 1999 – a full 18 months after the Assembly elections. In the interim, the Assembly got down to its business. It debated and agreed new government structures for departmental ministries, North-South structures, the Civic

<sup>224</sup> Murray and Tonge, 209.

<sup>225</sup> Cain Web Service. Available on-line at: <http://cain.ulst.ac.uk/issues/politics/election/ra1998.htm>  
Current as-of: 24 October 2006.

Forum, and British-Irish Council.<sup>226</sup> Despite tentative progress, the decommissioning issue continued to impede full implementation of devolution. To kick-start progress the governments issued the Hillsborough Declaration in April 1999 which sought to designate decommissioning as an obligation of the GFA.

While pleasing Unionists, Republicans felt betrayed and made their position known. To placate Republicans, the governments reverted to reiterating the goal of achieving decommissioning of arms within the timeframe set out by the original language contained in the GFA.<sup>227</sup> Unionist discontent led to further delays which were compounded with the steady progress of prisoner release and the publication of the Patten Commission report on police reform. This confluence of events put further pressure on the pro-agreement Unionist camp. To prevent further damage to the fragile support remaining within unionism for the GFA, a review was initiated under the leadership of Senator George Mitchell who had brokered the original GFA. The review lasted ten weeks and by November 1999 had produced a solution whereby devolution would be granted, the Executive would meet, and paramilitary representatives to the decommissioning body would be appointed. The choreography and sequencing of events were vital to political parties which had grown to view each others' motives in a less than favorable light.

The way forward clearly lay in a joint arrangement and it became incumbent upon both Republicans and Unionists to deliver on their commitments. Towards this end, the IRA agreed to appoint a representative to the Independent International Commission on Decommissioning<sup>228</sup> and the UUP agreed to move from their stated policy of 'no guns-no government' to 'government, then guns.' While the UUP agreed to enter government with Sinn Fein, they did so with a proviso that positive moves on decommissioning would be made within the predefined time limits and established a February 2000 deadline to reevaluate progress. To add further incentive to the decommissioning process, the UUP leader David Trimble authored a post-dated letter of resignation as First Minister for Northern Ireland with an effective date of February 2000.<sup>229</sup> These

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<sup>226</sup> Cochrane, 385.

<sup>227</sup> *Ibid.*, 387.

<sup>228</sup> Peatling, 72.

<sup>229</sup> *Ibid.*

concessions and stipulations paved the way to a short-lived Executive which historically included all the major political parties including the DUP whose opposition to the GFA did not extend to excluding themselves from the levers of power.<sup>230</sup> Slow progress on decommissioning again plagued proceedings and the Assembly and Executive were suspended by the Secretary of State for Northern Ireland before the UUP review had time to take place. Negotiations were held with the IRA and led to an agreed sequencing for decommissioning and paved the way for a resumption of devolution in June.

The decommissioning question refused to go away. The IRA used the issue as a bargaining chip to gain concessions from the British Government on troop levels and their presence within the province. Indeed, during the negotiations to resume the power-sharing arrangement after its first suspension, the joint statement issued by the governments contained a proviso that if the paramilitaries put their weapons beyond use, the British government would 'take further substantial normalization measures by June 2001.'<sup>231</sup> At this point, semantics entered the equation. Beyond use became the new currency of Republican thinking while Unionists were still wed to the notion that decommissioning equated to destruction.

#### **4. The Power-Sharing Government**

The operation of the power-sharing Assembly and Executive can only be described as fitful at best. Having established the Executive on 29 November 1999 and receiving devolved power on 2 December, the power-sharing arrangement only survived until 11 February 2000 when it was suspended by Secretary of State for Northern Ireland, Peter Mandelson to prevent the resignation of First Minister David Trimble. Perhaps the most notable achievement for the first power-sharing executive was the appointment of Sinn Fein's Martin McGuinness as minister for education and Bairbre de Brun as minister of health.<sup>232</sup> The power-sharing arrangement resumed operations on 29 May 2000 after the PIRA provided assurances that it was ready to begin a process that would "completely and verifiably" put its arms beyond use. This second attempt at conducting the business of government lasted until 10 August 2001 when the Assembly was again

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<sup>230</sup> Cochrane, 392.

<sup>231</sup> Ibid., 393.

<sup>232</sup> Ed Moloney, *A Secret History of the IRA* (New York: Norton, 2002), 486.

suspended by the Secretary of State for Northern Ireland. The impetus behind the second suspension revolved around the resignation of First Minister Trimble because of the failure of the PIRA to initiate decommissioning of weapons. Devolution was restored on 12 August with a proviso that substantive decommissioning of paramilitary weapons takes place within a six week timeframe. Although the PIRA issued verbal commitments to the process of engaging the monitoring commission, no decommissioning actually took place and the power-sharing arrangement was suspended for a third time. After the Independent International Commission on Decommissioning (IICD) announced that it had witnessed a significant decommissioning of PIRA weapons, the path was once again cleared to devolve powers back to the Stormont Executive and Assembly.<sup>233</sup> By this time, anti-agreement sentiment among Unionist assembly members had grown to the point of making David Trimble's position tenuous at best. His mandate to reconvene governance was only made possible by the re-designation of Alliance Party members as Unionists during a leadership vote on 5-6 November.<sup>234</sup> Such maneuvering was necessary to satisfy the communal voting requirements identified in the GFA.<sup>235</sup> Devolved government reconvened once again and lasted until its most recent suspension on 14 October 2002. This final suspension was brought about by allegations of Sinn Fein intelligence gathering at Stormont. In a strange irony, the individual accused of leading the alleged spy-ring, Denis Donaldson, was later identified as and admitted to being an agent of the British intelligence services operating against the PIRA.<sup>236</sup>

#### **D. CONCLUSION**

The Good Friday Agreement has endured many criticisms. One theme which persists in many texts analyzing the agreement from a Unionist perspective is that, as the only game in town, the parties had little option but to ascribe to the negotiating framework established by the British and Irish governments. According to this argument,

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<sup>233</sup> BBC News. *Timeline: Northern Ireland Assembly*. Available on-line at: [http://news.bbc.co.uk/2/hi/uk\\_news/northern\\_ireland/2952997.stm](http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/2952997.stm) Current as-of: 23 October 2006.

<sup>234</sup> Peatling, 79.

<sup>235</sup> Under Strand One of the GFA, the operation of the Assembly in Northern Ireland requires cross community participation to the extent that arrangements are in place which ensure key decisions are taken on a cross-community basis via parallel consent, i.e. a majority of those members present and voting, including a majority of the Unionist and Nationalists designations present and voting.

<sup>236</sup> BBC News. *Obituary: Denis Donaldson*. Available on-line at: [http://news.bbc.co.uk/2/hi/uk\\_news/northern\\_ireland/4877680.stm](http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/4877680.stm) Current as-of: 23 October 2006.

the only trade space that existed was to permit the parties to attempt to strengthen or weaken aspects of the framework that they felt most or least comfortable with. Indeed, the most contentious aspects of the agreement which have caused the greatest displeasure and disruption in the aftermath of the signing of the GFA involve the issues of decommissioning, police reform, and prisoner release. Not surprisingly, these issues are the very ones which, during the negotiating process, caused the most division among the participants.<sup>237</sup>

Despite the difficulties posed by these thorny issues and repeated claims by anti-agreement Unionists that the GFA would significantly weaken their constitutional position within the United Kingdom, the evidence would suggest otherwise. The primary issue at the heart of the Unionist cause, the maintenance of the Union, was secured. The Irish government, via public referendum, had amended Articles 2 and 3 of the Irish constitution to repeal any claim to sovereignty over the territory of Northern Ireland and instead replaced such claims with recognition of the consent principle based on the wishes of the majority of the people within the province. By the same token, Nationalists and Republicans recognized and accepted the right of the majority to maintain the Union while agreeing to participate in the governance of the province.

For the SDLP, these concessions were minor issues as they had long since come to the realization that the will of the northern majority had to be respected and accommodated. For Sinn Fein, however, these points were monumental. The recognition of the right of the Unionist people of Northern Ireland to determine their own future and agreement to participate in a devolved power-sharing government within the province amounted to the recognition of partition and an acceptance of the northern state and all it stood for. Also implicit in Sinn Fein's position was a begrudging acceptance that a united Ireland could not come about in the immediate future without the acquiescence of the Unionists. In the eyes of many die-hard Republicans, these concessions, when coupled with the abandonment of the armed struggle by the IRA, amounted to little less than a complete surrender. In their defense, Sinn Fein proffered the view that the GFA was not a final settlement but rather a stepping stone to the future. Indeed, they would point to the agreement's achievements as justification for their

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<sup>237</sup> Farren and Mulvihill, 193.

transformation, participation, and support. In return, the Unionists gave up astonishingly little. The acceptance of a power-sharing executive with members of the Nationalist community was little more than recognition of the reality on the ground. The Sunningdale Agreement of 1974 had put paid to the notion that any devolved government could be anything short of a cross-community arrangement. Direct rule had taken power out of the hands of the province's political class and ceded decision-making to London. While many Unionists were quite content with this arrangement because they believed it secured and strengthened the Union, the fact remained Westminster's commitment to the Union was tenuous at best and very much dependent upon the whim of the party in power.

Additionally, direct rule had also produced the hated AIA and institutions which ceded a strong consultative role into the administration of the province to the Irish government. While the GFA still contained undesirable cross-border institutions, it also increased the scope of the British-Irish Council (BIC) and thus increased the fora in which the British link could be emphasized and strengthened. The power of cross-border institutions was diminished by the requirement that accountability of the North-South Council members fell within the purview of the respective parliaments in Dublin and Belfast. With regard to police reform, the GFA was less beneficial to unionism. While many within the Unionist community viewed the RUC as their own police force, the need for a pluralistic force representative of the entire population and acceptable across sectarian lines was an imperative. Recognizing that a force whose composition was greater than 93% Protestant<sup>238</sup> and overwhelmingly Unionist in its approach to law enforcement would undergo radical change was not well received by Unionists. The proposed early release of prisoners was similarly problematic. In Unionist eyes, prisoner release was little more than a general amnesty for convicted terrorists who had perpetrated a cycle of violence lasting thirty years. Despite the fact that the prisoner release applied to Republican and Loyalist detainees, their release was a slap in the face to those who had suffered at the hands of terrorists and to the majority of law abiding citizens who viewed such action as an affront to their moral compass. Finally, the issue of decommissioning of paramilitary weapons remained unresolved by the agreement. At

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<sup>238</sup> Chris Ryder, *The Faithful Split* (London: Methuen Publishing Ltd, 2004), 255.

the heart of the matter was the Unionist contention that it could not form a government with a party (Sinn Fein) which was effectively the political wing of a paramilitary organization (IRA) which retained the capability to conduct a terrorist campaign against the state if the political environment was not to its liking.

## **V. TOWARDS A LASTING PEACE**

Since the statelet's establishment in 1921, politics and conflict in Northern Ireland have always been a zero-sum game. The gain for one community was always seen as a loss by those on the other side of the sectarian divide. Compounding the problem and consistently frustrating any attempt at progress was the siege mentality of Catholics who saw themselves as a minority within the confines of a northern entity, and the siege mentality of Protestants who lived in fear of becoming a minority in an all-Ireland state.

This chapter examines the factors contributing to the decline in Republican political violence and how peace, in the Northern Ireland context, required an iterative process of developing and implementing the three peace initiatives. The author will compare how key aspects of each agreement and the associated negotiations changed over time and how the Good Friday Agreement led to the cessation of hostilities by the PIRA. Consideration is given to the manner in which each community made ideological concessions to arrive at an equitable arrangement for facilitating an end to terrorist activities within the province. Finally, this chapter presents the case that the province's moderate political parties were essential for the establishment of a political environment conducive to peace, but only those on the political extreme can make the peace agreement and the newly formed political environment work.

### **A. THE DECLINE OF REPUBLICAN POLITICAL VIOLENCE**

Much debate has focused on why the IRA abandoned the military campaign in favor of constitutional politics. Some such as Ed Moloney have postulated that the Republican movement was split on how to proceed. Men like Gerry Adams and Martin McGuinness were moving in the direction of a political solution as early as the beginning of the 1980s. Others with more militant leanings were more willing to continue the armed struggle. The militarists were busy building a formidable arsenal based on shipments of explosives and weaponry from Libya during the mid-1980s. The shipments, however, stopped with the seizure of the vessel *Eksund* by French authorities in 1985. On board were sophisticated weaponry including surface to air missiles which would have greatly enhanced the IRA's capability to inflict serious losses on British forces within the province. Moloney argues that the loss of the *Eksund* and subsequent police

action in the Republic to locate previous arms shipments effectively ended the militarists' ability to deliver an effective campaign against British forces. Consequently, the political avenue became the most viable course for achieving a favorable resolution to the conflict.<sup>239</sup>

A second theory is that the success of the security forces in penetrating the movement via informers and saboteurs coupled with increased force protection measures employed by security personnel and the increasing incompetence of operatives leading to failed operations had effectively destroyed the IRA's ability to conduct a credible campaign. When combined with Loyalist targeting of IRA and Sinn Fein members, the military campaign was effectively at a dead end and had ceased to be an effective weapon in expelling the British military presence from Northern Ireland or in achieving the ultimate goal of a united Ireland.

A third argument revolves around the desire of the current political leadership to reap some reward for a campaign in which they invested more than thirty years of their lives. Once drawn into political engagement via the Hume-Adams talks, the allure of recognition and acclaim on the domestic and international political stage coupled with the potential for achieving political power through power-sharing governance was too appealing to ignore.

A different more nuanced analysis of the rationale behind the pursuit of a political solution by the Republican movement is premised on an analysis of the changing political environment and the possibilities such change presented. If the Sunningdale power-sharing experiment and its subsequent collapse had taught the Nationalist community anything, it was that the British government lacked a commitment to the issue of equality within the province and, when faced with sufficient pressure, would cave in to the demands of the Unionist/Loyalist population. This belief remained firm until the AIA was signed and implemented. After 1985, the British government remained committed to the agreement and stood firm in the face of escalating Unionist demands that the AIA be abandoned. The active participation of the Irish government as an advocate of Nationalist interests instilled a renewed sense of confidence in the political process for the vast majority of Catholic voters. Additionally, demographic trends within the

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<sup>239</sup> Moloney, 29.

province indicated a continued growth in the Catholic population relative to their Protestant counterparts (see Table 3 below).

Census Year	1961	1971	1981	1991	2001
<b>Total Population</b>	1,425,042	1,536,065	1,532,196	1,577,836	1,685,267
<b>No Religion Information</b>	26,400	142,500	274,000	174,061	233,853
<b>Number Stated Catholics</b>	497,547	477,921	414,532	605,639	678,462
<b>% Stated Catholics</b>	34.90%	31.40%	28.00%	38.40%	40.26%
<b>Estimated Number Catholics</b>	502,800	559,800	586,400	651,700	737,412
<b>Estimated % Catholics</b>	<b>35.30%</b>	<b>36.80%</b>	<b>38.50%</b>	<b>41.50%</b>	<b>43.76%</b>
<b>% Increase in Catholics</b>	-	1.50%	1.70%	3.00%	2.26%

Table 3. Catholic Demographics in Northern Ireland 1961-2001.<sup>240</sup>

While it can be argued that not all Catholics are Nationalist nor inclined to vote for an end to the Union with Britain, it is conceivable that most would share an affinity for the rights and aspirations of their co-religionists. Validation of the increasing electoral strength of the Nationalist community is witnessed by an examination of the share of the vote taken by both the SDLP and Sinn Fein in major elections since the early 1980s (see Table 4 below).

Election	Total Unionist %	Total Nationalist %	Unionist Block %			Nationalist Block %			Non Confessional %		
			UUP	DUP	Other U.	SDLP	SF	Other N.	APNI	Other Non	Other %
1982 Assembly	59.4	28.9	29.7	23	6.7	18.8	10	-	9.3	2.7	0.7
1983 Westminster	57	31.3	34	20	3	17.9	13	-	8	1.9	1.6
1987 Westminster	54.9	32.5	37.8	11.7	5.4	21.1	11	-	10	2.6	-
1992 Westminster	55.8	33.5	34.5	13.1	8.2	23.5	10	-	8.7	-	2
1996 Forum	52.9	36.9	24.2	18.8	9.9	21.4	16	-	6.5	2.5	1.2
1997 Westminster	50.5	40.2	32.7	13.6	4.2	24.1	16	-	8	0.7	0.3
1998 Assembly	47.4	39.6	21.3	18	8.1	21.9	18	-	6.5	2	4.5
2001 Westminster	52.7	42.7	26.8	22.5	3.4	21	22	-	3.6	1	-
2003 Assembly	51.7	40.7	22.7	25.7	3.3	17	24	0.2	3.7	1	2.9
2005 Westminster	51.8	41.8	17.7	33.7	0.4	17.5	24	-	3.9	0.2	2.2

Table 4. Electoral Representation in Northern Ireland 1982-2005.<sup>241</sup>

The growth of the Catholic population and its increasing interest in participating in the constitutional process make its voice difficult to ignore for not only Sinn Fein but also Unionist parties seeking to maintain the Union through an equitable power-sharing arrangement.

<sup>240</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/ni/popul.htm#cath> Current as-of: 13 November 2006.

<sup>241</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/issues/politics/election/electsum.htm> Current as-of: 13 November 2006.

## **B. PEACE AS AN ITERATIVE PROCESS**

The description by Seamus Mallon of the Good Friday Agreement as “Sunningdale for slow learners” is partially correct but the description lacks a comprehensive analysis of the facts. While Sunningdale and the GFA offered a devolved power-sharing Executive and Assembly representation based on proportional representation, each did so in a very different time and under differing circumstances. Sadly, the extreme elements in both communities were not ready for Sunningdale. Neither Republicans nor hard-line Unionists and Loyalists had the political maturity to accept an agreement which compromised the extremes for a workable middle ground. In contrast, the GFA was an agreement which opened the doors to all colors of nationalism/republicanism and unionism/loyalism. It brought all parties to the conflict together to forge a path towards lasting peace and good governance for both communities. Yet, despite its lofty goals, the agreement was flawed. In practice, it required the centrists such as the UUP and SDLP to negotiate but would ultimately require the extremes such as the DUP and Sinn Fein to execute.

### **1. Sunningdale**

For Unionists, Sunningdale offered an opportunity to resume the governance of the province with the proviso that they do so with the assistance of the Catholic minority. For moderate Unionists, the arrangement was acceptable; however, the poison pill contained in the agreement was the Council of Ireland and the degree of control that the Dublin government might be able to exert within Northern Ireland. Extreme Unionists and Loyalists alike viewed any role for Dublin as anathema and therefore unacceptable. Many also still clung to the belief expressed by Lord Craigavon that Stormont was a “Protestant parliament for a Protestant people.”<sup>242</sup> Thus, the Council of Ireland and the thought of sharing power with Catholics served as rallying cries for Unionists to unite and defeat the Sunningdale experiment. Perhaps, had Sunningdale included the extremes of Unionist/Loyalist thinking, a more equitable agreement which limited or excluded the provision for a Council of Ireland would have produced a power-sharing arrangement acceptable to all but the most extreme elements of Northern Irish society.

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<sup>242</sup> “Northern Ireland: Problems and Perspectives.” *The Institute for the Study of Conflict, Number 135*. 1982, 5.

From a Republican perspective, Sunningdale offered nothing to a Provisional IRA organization in the midst of a terror campaign. Although covertly involved in discussions with British government and opposition figures during the early 1970s, Republicans were not invited to participate in the Sunningdale negotiations. Had they been asked to participate, it is highly unlikely that they would have done so. At the time, Republicans had no electoral mandate, the political organization of Sinn Fein had yet to take place, and the movement's leadership was convinced that their military campaign to end British rule in Northern Ireland was succeeding. Despite having 23,900 British troops in the province in 1974,<sup>243</sup> Republicans were proclaiming 'Brits get ready to pull out.'<sup>244</sup> Devoid of any alternative other than a campaign of terror, Republicans were quite content to avoid the trappings of a negotiated settlement.

Sunningdale also highlighted an immaturity of thought within the SDLP. For a party seeking to extend its mandate as an inclusive social movement, it allowed itself to be hijacked by the strong Nationalist element who insisted on the inclusion of the Council of Ireland provision. Former SDLP leader Gerry Fitt's analysis that the Council would be a poison pill for Unionists proved correct. However, the SDLP's parochial interests demanded its inclusion to ensure the party's continued relevance within the Nationalist community. Perhaps Sunningdale could have succeeded if, as Fitt had suggested, the SDLP had placed its primary emphasis on building cross-community trust through the operation of the power-sharing Executive. The Council of Ireland should have been subordinated to the establishment of a fully functioning Unionist-Nationalist government.<sup>245</sup>

## **2. The Anglo-Irish Agreement**

In contrast to Sunningdale, the Anglo-Irish Agreement (AIA) was never really an attempt to achieve a lasting settlement to the Troubles. Rather, the AIA was a necessary step in establishing a working partnership between the two sovereign governments and enabled the mechanisms for devising a path towards peace. The exclusion of Unionists from the negotiations process was very necessary because their success in destroying the

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<sup>243</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/ni/security.htm#03> Current as-of: 13 November 2006.

<sup>244</sup> Murray and Tonge, 68.

<sup>245</sup> Murray, 23.

Sunningdale experiment threatened the successful implementation of any future agreement. In many ways, Unionists saw themselves as the final arbiter of any political solution within the province and firmly believed that their constitutionally guaranteed position within the Union and majority status guaranteed them the right to reject any initiative they viewed as not being in their best interest. Unfortunately for Unionists, their success in destroying Sunningdale had created a chasm of political innovation within its ranks. While direct rule from Westminster did not afford a platform for the development of high-profile local politicking, it did induce a comfortable sense of security within the Union, particularly for those with an integrationist bent. As such, it had become increasingly clear that unionism would have to be brought low in order to spur dialogue and instill a willingness to break the impasse and work towards an inclusive and equitable political solution. In many ways, this is exactly what the AIA did. By shaking Unionists from their political slumber, it forced them to react. By negotiating an agreement over their heads and by including an increased role for the Republic of Ireland in the province's affairs, the British government served notice that political intransigence was no longer acceptable. Although publicly committed to the Union, Margaret Thatcher put Unionists on notice that Westminster would act to protect the interests of the nation as a whole rather than defer national policy decisions to one section of society. Finally, by resisting demands to abandon the AIA, the British government demonstrated that the Unionist veto was limited and very much dependent upon the willingness of London to permit its utilization.

While the AIA was exactly what the SDLP had demanded (insofar as it established the critical government-to-government link), it still rejected republicanism. As Chapter Three describes, the agreement was conceived as a tool to bolster support for the SDLP and check the growing electoral successes of Sinn Fein. In spite of the fact that the AIA excluded Republicans, it did demonstrate that constitutional political involvement by Nationalists could move the government from wholehearted support for the Unionist position to one more willing to consider the plight of the minority and make accommodations to the same. The ferocity of the Unionist rejection of the AIA made outright Republican condemnation of the agreement an untenable position. Moderate nationalism could claim victory by pointing to the fact that constitutional politics had

secured an agreement which increased the role of the southern government as guarantor of the minority's rights and created an arrangement immune to the threat of Unionist destruction. The SDLP was able to make political capital out of the AIA by increasing their overall percentage of the vote in major election campaigns after the implementation of the AIA in 1985 while, at the same time, reducing Sinn Fein's share of the vote (see Table 5 below).

Election	Nationalist Block %		
	SDLP	Sinn Fein	Other Nationalists
1983 Westminster	17.9	13.4	-
1987 Westminster	21.1	11.4	-
1992 Westminster	23.5	10	-

Table 5. Nationalist Election Trends 1982-1992.<sup>246</sup>

### 3. The Good Friday Agreement

By the time the Good Friday Agreement (GFA) was reached in 1998, the political landscape within Northern Ireland had undergone a dramatic change. The Unionist coalition established to destroy the AIA had been cowed by its failure in this endeavor and was eager to find its way out of the self-imposed political wilderness. The SDLP had worked hard to nurture and grow a pan-Nationalist approach to ending the Troubles. Republicans had seen their electoral base decline and were finding their military campaign increasingly ineffective and difficult to prosecute. The euphoric projections for success espoused in the early 1970s had given way to a more pragmatic approach to the conflict in light of British determination to remain engaged in Northern Ireland and not give in to terror tactics. Indeed, the IRA's campaign was producing ever-diminishing returns with the passage of each year as the security apparatus within the province implemented more effective force protection measures; as the intelligence services became more adept at penetrating the Republican movement; and as the movement became more reliant on less experienced members to conduct operations. While the hunger strikes of the early 1980s had provided Republicans a means of opening a second front against British rule in the province, the movement had been politically hamstrung

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<sup>246</sup> CAIN Web Service. Available on-line at: <http://cain.ulst.ac.uk/issues/politics/election/electsum.htm> Current as-of: 13 November 2006.

by the AIA and had lost much of the initiative to the SDLP. The Hume-Adams talks provided a way out of the abyss and presented an opportunity to broaden the base of the pan-Nationalist front to include Republicans.

In effect the Hume-Adams talks and the Irish government's Forum for Peace and Reconciliation were critical in bringing Sinn Fein further into the mainstream of constitutional politics. It is doubtful that the conversion of Sinn Fein from being the mouthpiece of the PIRA into a full-fledged political party would have occurred rapidly had it not been for the vision and sacrifice of the SDLP's leader, John Hume. By reaching out across the ideological divide, Hume demonstrated not only great political courage but also a willingness to sacrifice his party's political capital in order to attain peace. Unlike Sunningdale, Hume realized that the path to peace in Northern Ireland would require the inclusion of those who had perpetrated political violence and the campaign of terror. By bringing Adams and Sinn Fein into the political mainstream, Hume sacrificed his party's preeminence within the Nationalist community and jeopardized the SDLP's position as a party that moderate Unionists could work with. Unlike any political leader on either side of the sectarian divide, Hume demonstrated a willingness to expend political capital to attain peace. There is little doubt that his actions prior to the GFA negotiations strengthened not only the Nationalist position but also went some way in convincing Sinn Fein of the need to compromise and make concessions for peace.

As such, a browbeaten Unionist coalition and an invigorated pan-Nationalist alliance entered into negotiations leading to the GFA. While it is true that the SDLP and Sinn Fein were not united in the positions they presented during negotiations (the fact remains they were very far apart in what they sought to achieve), the presence of moderate and heretofore extreme nationalism at the negotiating table was an essential ingredient in formulating a pathway to peace and an end to the campaign of terror.

Not surprisingly, real progress in the negotiations process was only achieved when the Unionist alliance was broken. The decision to admit Sinn Fein into the forum talks in the wake of the IRA renewing its ceasefire in July 1997 prompted the DUP and UKUP to withdraw from talks. The absence of the second largest Unionist party with the traditionally more Loyalist approach and interests led to an under-representation of their

position. The withdrawal did not, however, leave the UUP as the solitary representatives of unionism. The smaller Loyalist parties, the PUP and UDP were represented as was the Alliance Party. With the hardliners of the DUP in a self-imposed exile and attacking from without, the UUP, under the leadership of David Trimble, had only to contend with their own internal divisions. Those divisions came to a head over the issue of decommissioning of paramilitary weapons and were further exacerbated by the early release of prisoners. To many Unionists, these issues undermined the gains that had been made during the negotiating process and subordinated the central theme of securing the Union. However, by bringing the paramilitaries to the negotiating table, the governments and the mainstream political parties created a political construct of inclusiveness. An agreement emerging from such a process stood a much greater chance of acceptance than any negotiated by representatives of the mainstream political parties or by one imposed on the population by the governments.

In the final analysis, the strengthening of the Nationalist position and the destruction of the united Unionist front produced a breakthrough in the form of the GFA that was unattainable during Sunningdale or the AIA. Unfortunately, the agreement reached has garnered tepid support within the Unionist community with many feeling that too much was conceded for little gain. While concessions were made by Unionists, the sacrifices were not without offsetting gains. Unfortunately, as Chapter 4 points out, the implementation of the agreement has proven problematic. Despite the reality that the power-sharing Executive and Assembly have been suspended since 2002, the fact remains that real progress has been made towards bringing the political violence associated with the Troubles to an end. There has been no call for a return to arms among mainstream Republicans. Similarly, the unpopularity of the GFA within the Unionist community has not led to a Loyalist-led province-wide strike similar to that organized in 1974 by the Ulster Workers' Council to protest the Sunningdale arrangement. Perhaps, the inaction of the extremists on both sides of the sectarian divide speaks volumes to the real level of progress made in Northern Ireland since the Troubles began in 1968.<sup>247</sup>

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<sup>247</sup> Arthur Aughey, *The Politics of Northern Ireland: Beyond the Belfast Agreement* (London: Routledge, 2005), 59.

### C. GAINS AND LOSSES

A side-by-side analysis of the major tenets contained in the three agreements reveals not only the state of bargaining between the parties subject to each agreement but the ultimate complexity and specificity required to achieve consensus. Table 6 below provides a glimpse at the major issues contained in each agreement and what the parties gained or gave ground on in arriving at each final agreement.

	Irish Govt.		British Govt.		Unionist/Loyalist		Nationalist/Republican	
	Concession	Gain	Concession	Gain	Concession	Gain	Concession	Gain
<b>Sunningdale</b>	Consent		Consent			Consent	Consent	
		Council of Ireland	Council of Ireland		Council of Ireland			Council of Ireland
	Legal Action					Legal Action		
					Police Reform			Police Reform
			End of Detention			Devolved Govt.		End of Detention
		Devolved Govt.				Devolved Govt.	Devolved Govt.	
<b>AIA</b>	Consent		Consent			Consent		
		Intergovernmental Conf.	Intergovernmental Conf.					Intergovernmental Conf.
			Potential Devolution			Potential Devolution		Potential Devolution
	Extra-Territorial Jurisdiction		Police Reform			Extra-Territorial Jurisdiction		Police Reform
<b>GFA</b>	Consent		Consent			Consent	Consent	
	Citizenship		Citizenship			Citizenship		Citizenship
	Constitutional Status				Constitutional Status		Constitutional Status	
			Devolved Govt.			Devolved Govt.		Devolved Govt.
					Equality Commission			Equality Commission
					Power Sharing			Power Sharing
	British-Irish Council					British-Irish Council		
		North-South Ministerial Council	North-South Ministerial Council					North-South Ministerial Council
						NSMC Parliamentary Subordination		NSMC Parliamentary Subordination
					NSMC-Assembly Link			NSMC-Assembly Link
		British-Irish Intergovernmental Conf.				British-Irish Intergovernmental Conf.		British-Irish Intergovernmental Conf.
			Promote Irish Language/Culture					Promote Irish Language/Culture
						Decommissioning		Decommissioning
			Reduced Military Presence					Reduced Military Presence
			End of Emergency Powers					End of Emergency Powers
			Reduce Security Installations					Reduce Security Installations
	Offenses Against State Act					Offenses Against State Act		Offenses Against State Act
		Police Reform					Police Reform	
Prisoner Release		Prisoner Release			Prisoner Release		Prisoner Release	

Table 6. The Agreements.

Not surprisingly, the Good Friday Agreement was the most complex and required the greatest amount of bargaining by all parties to arrive at an agreed position. The complexity of the agreement was compounded by the inclusive nature of the negotiations and the desire to ensure that the final agreement contained sufficient detail to avoid confusion but ample wiggle-room to allow the parties to claim the agreement was more

or less than it really was. While vagueness on issues such as decommissioning was to have significant long-term effects on the implementation of the agreement, such uncertainty provided Republican leadership time to bring the movement along within the confines of the peace process. Similarly, the cross-community prisoner release initiative, while abhorrent to law-abiding citizens, served as an incentive to Loyalist and Republican extremists to support the agreement. Perhaps the most intriguing aspect of the GFA which was mostly lacking from Sunningdale and completely absent from the AIA was the bargaining that took place between the Unionist/Loyalist and Nationalist/Republican representatives. Key issues such as equality, the structure of the power-sharing Executive and Assembly, and the scope and nature of the North-South Ministerial Council (NSMC) required the representatives of each community to come together in face-to-face negotiations to achieve a settlement. Ultimately, compromise produced an agreement not entirely satisfying to any one party but one which provided the best roadmap toward a lasting peace.

#### **D. STASIS AND THE WAY FORWARD**

In many ways, the centrist parties in Northern Ireland are the ones who paid the heaviest price in bringing the peace process to fruition. In doing so, they exposed themselves to attacks from the extremes which, at various times, played well to receptive audiences in the respective communities. On the Unionist side, the UUP paid a heavy price for its willingness to seek accommodation through first the Sunningdale Agreement of 1973 and later the Good Friday Agreement of 1998. The first attempt at power-sharing resulted in the party almost imploding due to internal division and the opportunistic snipings of fellow Unionists such as Paisley of the DUP and West from Vanguard. With the GFA, centrists such as David Trimble were again subjected to attacks from not only fellow party members such as Jeffrey Donaldson but also from those Unionists in the DUP and the UKUP who had chosen to remain outside the process. Cognizant of the ability of extremists to play on the fears of the Unionist community, moderate elements within the UUP were increasingly drawn toward hard-line demands on decommissioning and the disbandment of the IRA before sitting in government with Sinn Fein. Rather than enabled to lead the province through devolved power-sharing, the UUP found itself erecting barriers to the process of establishing and operating a

provincial government. From the abstentionist DUP and UKUP perspective, the UUP was indecisive and all too willing to enter into government with former terrorists in the guise of Sinn Fein. In contrast, Nationalists viewed the UUP as obstructionists constantly grasping for new reasons to prevent their accession into the halls of power. The party, facing criticism from the extremes within its own ranks and from the DUP and UKUP, was in a no-win situation. Electoral results (see Table 1) demonstrate that, in the wake of the 2001 Westminster election, the party has lost considerable ground among Unionist voters and is now substantially weakened and less popular than Paisley's DUP.

A similar fate has befallen the SDLP. Ironically, the party with arguably the most consistent vision for resolving the Troubles and the principal architect behind the three-strand approach contained in the GFA appears to have reached the point of political irrelevance. Having carried the province's Nationalists, the southern political parties, and the British government to the realization that progress required an integrated approach accounting for Catholic and Protestant traditions, the SDLP seems to have reached its zenith by concluding the GFA. The party's role in building the peace should not be underestimated. Indeed, had it not been for the efforts of then party leader John Hume to bring Sinn Fein into the mainstream of constitutional politics, the PIRA might yet be plying its craft. The SDLP's mandate was often viewed by Republicans as "a brake on the revolutionary forces within the nationalist population until such time as the British and Irish governments could persuade a majority of Republicans to abandon insurrection and participate in the Northern Ireland system."<sup>248</sup>

For their part, Sinn Fein was able to point to the obstructionist nature of Unionist demands as a sign that their political leaders were negotiating in bad faith. By constantly impeding progress towards devolution, Unionists were again demonstrating their unwillingness to share power with an increasingly empowered Nationalist community. Remarkably, in transitioning to a constitutional party, Sinn Fein has abandoned its core demands and has been rewarded, via the ballot box, for doing so. Gone is the rhetoric condemning the Stormont Assembly, the rejection of the principle of consent for northern Unionists, and the demand for an end to British interference in what it viewed as Irish affairs. The reality was that, in light of the changing political environment within the

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<sup>248</sup> Murray and Tonge, 267.

province, Republicans could either support a political solution or risk losing their constituency from the Nationalist electorate by abstaining from the governance of the statelet or by returning to political violence.<sup>249</sup> The option of returning to the campaign of terror was limited by the politicization of the Republican movement which placed electoral constraints on their actions. Republicans wishing to achieve a united and free 32-county all-island republic would have to pursue the path of constitutional politics within the confines of Northern Ireland's political arrangement.

Ultimately, it is not surprising that those who invested the least in the peace process are those poised to reap its greatest rewards. The premise is that, by remaining on the periphery, the hardliners had the least political capital invested in the process. As such, it was easy for them to point out flaws in the GFA and play to the fears of their respective communities. When Unionists felt that the UUP had indulged Republicans on the issues of decommissioning, prisoner release, and disbandment of the IRA, they could vent their anger by casting their votes for the DUP or UKUP who carried no responsibility for the agreement because they had recused themselves from participating. Within the Nationalist community, the rationale for moving from the moderate SDLP to the extreme Sinn Fein was quite different. While the SDLP had played a large part in improving the lot of the province's Catholic population via the AIA and GFA, they lacked a vision for carrying the cause beyond the achievements of 1998. Their concept of Irish union in the context of a European nation state<sup>250</sup> has been lost on the electorate. As such, their manifesto had achieved its objective with the signing of the GFA. Nationalists seeking to achieve the ultimate objective of Irish unity could turn to Sinn Fein whose uncompromising commitment to the cause of a united Ireland is beyond question. Indeed, the party is unencumbered by the weight of historic negotiations with Unionists and brings a youthful exuberance to the Nationalist cause. Electoral results support the view of the party as best postured to meet their community's needs.

By assuming the extremes across the political divide the DUP and Sinn Fein have generally been successful in insulating themselves from internal divisiveness. Both have benefited from their peripheral role played in bringing peace to the province. In effect,

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<sup>249</sup> Murray and Tonge, 262.

<sup>250</sup> *Ibid.*, 258.

neither was soiled by doing the heavy lifting of negotiating peace. Both emerged relatively unburdened and untainted by the belief that either had traded on issues near and dear to their respective constituents' hearts. Their positions have translated into electoral mandates and they are ideally postured as the parties most capable of bringing the province out of its current state of political stagnation. The moderate UUP and SDLP who had crafted the path to a peaceful resolution to the Troubles have found themselves marginalized and replaced by the DUP and Sinn Fein. The parties heretofore at the opposite ends of the political extreme are becoming the center and, devoid of extremist enemies, they are becoming the center capable of delivering a stable settlement to the province.<sup>251</sup>

#### **E. CONCLUSION**

While all indications are that the campaign of terror within Northern Ireland is now over, the political situation remains undetermined. Decommissioning and an end to the PIRA's activities have been achieved. Police reform is on-going and independent assessments indicate that the province is on the verge of emerging from the shadow of sectarian strife. The British and Irish governments have worked tirelessly to restore devolved assembly and executive powers, yet progress has been painfully slow. The latest initiative, the Saint Andrews Accord, attempts to bridge the gap between Sinn Fein's position on supporting the Police Service of Northern Ireland (PSNI) and the DUP's unwillingness to enter government with Sinn Fein.<sup>252</sup> While the accord calls for the restoration of devolved government by 26 March 2007, it remains to be seen if the differences between the two main parties can be resolved. As such, it will remain incumbent upon the governments to continue their role as facilitators for a devolved power-sharing government. Intransigence on behalf of the DUP cannot be rewarded with a continuation of the status quo of direct rule from Westminster. To do so would invite further dissent within the Nationalist community and encourage some to contemplate a return to violence. Similarly, Sinn Fein must demonstrate their commitment to uphold the rule of law within the province by supporting the reformed PSNI. To bridge the gap,

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<sup>251</sup> Aughey, 163.

<sup>252</sup> TurkishPress.com. *Britain, Ireland Strike Accord on Northern Ireland's Future*, 13 October 2006. Available on-line at: <http://archive.turkishpress.com/news.asp?id=146531> Current as-of: 13 November 2006.

the governments must continue to promote a carrot and stick approach to the political impasse. The carrot of devolution must provide both communities with ownership and equality in government. The stick for failure to pursue power-sharing must be some form of joint political administration of the province by the two sovereign governments. The unfortunate truth is that if the political extremes fail to progress together they may force the governments to impose a politically regressive solution on the people of the province.

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## APPENDICES

### CONTENT:

#### A. The Sunningdale Agreement

Source: CAIN Web Service. Available on-line at:

<http://cain.ulst.ac.uk/events/sunningdale/agreement.htm>

#### B. The Anglo-Irish Agreement

Source: CAIN Web Service. Available on-line at:

<http://cain.ulst.ac.uk/events/aia/aiadoc.htm>

#### C. The Good Friday Agreement

Source: CAIN Web Service. Available on-line at:

<http://cain.ulst.ac.uk/events/peace/docs/agreement.htm>

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## **APPENDIX A. THE SUNNINGDALE AGREEMENT**

### **The Sunningdale Agreement December 1973**

1. The Conference between the British and Irish Governments and the parties involved in the Northern Ireland Executive (designate) met at Sunningdale on 6, 7, 8 and 9 December 1973.
2. During the Conference, each delegation stated their position on the status of Northern Ireland.
3. The Taoiseach said that the basic principle of the Conference was that the participants had tried to see what measure of agreement of benefit to all the people concerned could be secured. In doing so, all had reached accommodation with one another on practical arrangements. But none had compromised, and none had asked others to compromise, in relation to basic aspirations. The people of the Republic, together with a minority in Northern Ireland as represented by the SDLP delegation, continued to uphold the aspiration towards a united Ireland. The only unity they wanted to see was a unity established by consent.
4. Mr Brian Faulkner said that delegates from Northern Ireland came to the Conference as representatives of apparently incompatible sets of political aspirations who had found it possible to reach agreement to join together in government because each accepted that in doing so they were not sacrificing principles or aspirations. The desire of the majority of the people of Northern Ireland to remain part of the United Kingdom, as represented by the Unionist and Alliance delegations, remained firm.
5. The Irish Government fully accepted and solemnly declared that there could be no change in the status of Northern Ireland until a majority of the people of Northern Ireland desired a change in that status. The British Government solemnly declared that it was, and would remain, their policy to support the wishes of the majority of the people of Northern Ireland. The present status of Northern Ireland is that it is part of the United Kingdom. If in the future the majority of the people of Northern Ireland should indicate a wish to become part of a united Ireland, the British Government would support that wish.
6. The Conference agreed that a formal agreement incorporating the declarations of the British and Irish Governments would be signed at the formal stage of the Conference and registered at the United Nations.
7. The Conference agreed that a Council of Ireland would be set up. It would be confined to representatives of the two parts of Ireland, with appropriate safeguards for the British Government's financial and other interests. It would comprise a Council of Ministers with executive and harmonising functions and a consultative role, and a Consultative Assembly with advisory and review functions. The Council of Ministers would act by unanimity, and would comprise a core of seven members of the Irish Government and an equal number of members of the Northern Ireland Executive with provision for the participation of other non-voting members of the Irish Government and the Northern Ireland Executive or Administration when matters within their departmental competence were discussed. The Council of Ministers would control the functions of the Council. The Chairmanship would rotate on an agreed basis between representatives of the Irish

Government and of the Northern Ireland Executive. Arrangements would be made for the location of the first meeting, and the location of subsequent meetings would be determined by the Council of Ministers. The Consultative Assembly would consist of 60 members, 30 members from Dail Eireann chosen by the Dail on the basis of proportional representation by the single transferable vote, and 30 members from the Northern Ireland Assembly chosen by that Assembly and also on that basis. The members of the Consultative Assembly would be paid allowances. There would be a Secretariat to the Council, which would be kept as small as might be commensurate with efficiency in the operation of the Council. The Secretariat would service the institutions of the Council and would, under the Council of Ministers, supervise the carrying out of the executive and harmonising functions and the consultative role of the Council. The Secretariat would be headed by a Secretary-General. Following the appointment of a Northern Ireland Executive, the Irish Government and the Northern Ireland Executive would nominate their representatives to a Council of Ministers. The Council of Ministers would then appoint a Secretary-General and decide upon the location of its permanent headquarters. The Secretary-General would be directed to proceed with the drawing up of plans for such headquarters. The Council of Ministers would also make arrangements for the recruitment of the staff of the Secretariat in a manner and on conditions which would, as far as is practicable, be consistent with those applying to public servants in the two administrations.

8. In the context of its harmonising functions and consultative role, the Council of Ireland would undertake important work relating, for instance, to the impact of EEC membership. As for executive functions, the first step would be to define and agree these in detail. The Conference therefore decided that, in view of the administrative complexities involved, studies would at once be set in hand to identify and, prior to the formal stage of the conference, report on areas of common interest in relation to which a Council of Ireland would take executive decisions and, in appropriate cases, be responsible for carrying those decisions into effect. In carrying out these studies, and also in determining what should be done by the Council in terms of harmonisation. the objectives to be borne in mind would include the following:

- (1) to achieve the best utilisation of scarce skills, expertise and resources;
- (2) to avoid in the interests of economy and efficiency, unnecessary duplication of effort; and
- (3) to ensure complementary rather than competitive effort where this is to the advantage of agriculture, commerce and industry.

In particular, these studies would be directed to identifying, for the purposes of executive action by the Council of Ireland, suitable aspects of activities in the following broad fields:

- (a) exploitation, conservation and development of natural resources and the environment;
- (b) agricultural matters (including agricultural research, animal health and operational aspects of the Common Agriculture Policy), forestry and fisheries;
- (c) co-operative ventures in the fields of trade and industry;
- (d) electricity generation;
- (e) tourism;

- (f) roads and transport;
- (g) advisory services in the field of public health;
- (h) sport, culture and the arts.

It would be for the Oireachtas and the Northern Ireland Assembly to legislate from time to time as to the extent of functions to be devolved to the Council of Ireland. Where necessary, the British Government will cooperate in this devolution of functions. Initially, the functions to be vested would be those identified in accordance with the procedures set out above and decided, at the formal stage of the conference. to be transferred.

9. (i) During the initial period following the establishment of the Council, the revenue of the Council would be provided by means of grants from the two administrations in Ireland towards agreed projects and budgets, according to the nature of the service involved.
- (ii) It was also agreed that further studies would be put in hand forthwith and completed as soon as possible of methods of financing the Council after the initial period which would be consonant with the responsibilities and functions assigned to it.
- (iii) It was agreed that the cost of the Secretariat of the Council of Ireland would be shared equally, and other services would be financed broadly in proportion to where expenditure or benefit accrues.
- (iv) The amount of money required to finance the Council's activities will depend upon the functions assigned to it from time to time.
- (v) While Britain continues to pay subsidies to Northern Ireland, such payments would not involve Britain participating in the Council, it being accepted nevertheless that it would be legitimate for Britain to safe-guard in an appropriate way her financial involvement in Northern Ireland.

10. It was agreed by all parties that persons committing crimes of violence, however motivated, in any part of Ireland should be brought to trial irrespective of the part of Ireland in which they are located. The concern which large sections of the people of Northern Ireland felt about this problem was in particular forcefully expressed by the representatives of the Unionist and Alliance parties. The representatives of the Irish Government stated that they understood and fully shared this concern. Different ways of solving this problem were discussed; among them were the amendment of legislation operating in the two jurisdictions on extradition, the creation of a common law enforcement area in which an all-Ireland court would have jurisdiction, and the extension of the jurisdiction of domestic courts so as to enable them to try offences committed outside the jurisdiction. It was agreed that problems of considerable legal complexity were involved, and that the British and Irish Governments would jointly set up a commission to consider all the proposals put forward at the Conference and to recommend as a matter of extreme urgency the most effective means of dealing with those who commit these crimes. The Irish Government undertook to take immediate and effective legal steps so that persons coming within their jurisdiction and accused of murder, however motivated, committed in Northern Ireland will be brought to trial, and it was agreed that any similar reciprocal action that may be needed in Northern Ireland be taken by the appropriate authorities.

11. It was agreed that the Council would be invited to consider in what way the principles of the European Convention on Human Rights and Fundamental Freedoms would be expressed in domestic legislation in each part of Ireland. It would recommend whether further legislation or the creation of other institutions, administrative or judicial, is required in either part or embracing the whole island to provide additional protection in the field of human rights. Such recommendations could include the functions of an Ombudsman or Commissioner for Complaints, or other arrangements of a similar nature which the Council of Ireland might think appropriate.

12. The Conference also discussed the question of policing and the need to ensure public support for and identification with the police service throughout the whole community. It was agreed that no single set of proposals would achieve these aims overnight, and that time would be necessary. The Conference expressed the hope that the wide range of agreement that had been reached, and the consequent formation of a power-sharing Executive, would make a major contribution to the creation of an atmosphere throughout the community where there would be widespread support for and identification with all the institutions of Northern Ireland.

13. It was broadly accepted that the two parts of Ireland are to a considerable extent inter-dependent in the whole field of law and order, and that the problems of political violence and identification with the police service cannot be solved without taking account of that fact.

14. Accordingly, the British Government stated that, as soon as the security problems were resolved and the new institutions were seen to be working effectively, they would wish to discuss the devolution of responsibility for normal policing and how this might be achieved with the Northern Ireland Executive and the Police.

15. With a view to improving policing throughout the island and developing community identification with and support for the police services, the governments concerned will cooperate under the auspices of a Council of Ireland through their respective police authorities. To this end, the Irish Government would set up a Police Authority, appointments to which would be made after consultation with the Council of Ministers of the Council of Ireland. In the case of the Northern Ireland Police Authority, appointments would be made after consultation with the Northern Ireland Executive which would consult with the Council of Ministers of the Council of Ireland. When the two Police Authorities are constituted, they will make their own arrangements to achieve the objectives set out above.

16. An independent complaints procedure for dealing with complaints against the police will be set up.

17. The Secretary of State for Northern Ireland will set up an all-party committee from the Assembly to examine how best to introduce effective policing throughout Northern Ireland with particular reference to the need to achieve public identification with the police.

18. The Conference took note of a reaffirmation by the British Government of their firm commitment to bring detention to an end in Northern Ireland for all sections of the community as soon as the security situation permits, and noted also that the Secretary of State for Northern Ireland hopes to be able to bring into use his statutory powers of selective release in time for a number of detainees to be released before Christmas.

19. The British Government stated that, in the light of the decisions reached at the Conference, they would now seek the authority of Parliament to devolve full powers to the Northern Ireland Executive and Northern Ireland Assembly as soon as possible. The formal appointment of the Northern Ireland Executive would then be made.

20. The Conference agreed that a formal conference would be held early in the New year at which the British and Irish Governments and the Northern Ireland Executive would meet together to consider reports on the studies which have been commissioned and to sign the agreement reached.

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## APPENDIX B. THE ANGLO IRISH AGREEMENT

### ANGLO-IRISH AGREEMENT 1985

between  
THE GOVERNMENT OF IRELAND  
and  
THE GOVERNMENT OF  
THE UNITED KINGDOM

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The Government of Ireland and the Government of the United Kingdom:  
Wishing further to develop the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Community;

Recognising the major interest of both their countries and, above all, of the people of Northern Ireland in diminishing the divisions there and achieving lasting peace and stability;

Recognising the need for continuing efforts to reconcile and to acknowledge the rights of the two major traditions that exist in Ireland, represented on the one hand by those who wish for no change in the present status of Northern Ireland and on the other hand by those who aspire to a sovereign united Ireland achieved by peaceful means and through agreement;

Reaffirming their total rejection of any attempt to promote political objectives by violence or the threat of violence and their determination to work together to ensure that

those who adopt or support such methods do not succeed;

Recognising that a condition of genuine reconciliation and dialogue between unionists and nationalists is mutual recognition and acceptance of each other's rights;

Recognising and respecting the identities of the two communities in Northern Ireland, and the right of each to pursue its aspirations by peaceful and constitutional means;

Reaffirming their commitment to a society in Northern Ireland in which all may live in peace, free from discrimination and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government;

Have accordingly agreed as follows:

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## **A. STATUS OF NORTHERN IRELAND**

### ARTICLE 1

The two Governments

**(a)** affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland;

**(b)** recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland;

**(c)** declare that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish.

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## **B. THE INTERGOVERNMENTAL CONFERENCE**

### ARTICLE 2

**(a)** There is hereby established, within the framework of the Anglo-Irish Intergovernmental Council set up after the meeting between the two Heads of Government on 6 November 1981, an Intergovernmental Conference (hereinafter referred to as "the Conference"), concerned with Northern Ireland and with relations between the two parts of the island of Ireland, to deal, as set out in this Agreement, on a regular basis with

(i) political matters;

(ii) security and related matters;

(iii) legal matters, including the administration of justice;

(iv) the promotion of cross-border co-operation.

**(b)** The United Kingdom Government accept that the Irish Government will put forward views and proposals on matters relating to Northern Ireland within the field of activity of the Conference in so far as those matters are not the responsibility of a devolved

administration in Northern Ireland. In the interest of promoting peace and stability, determined efforts shall be made through the Conference to resolve any differences. The Conference will be mainly concerned with Northern Ireland; but some of the matters under consideration will involve cooperative action in both parts of the island of Ireland, and possibly also in Great Britain. Some of the proposals considered in respect of Northern Ireland may also be found to have application by the Irish Government. There is no derogation from the sovereignty of either the Irish Government or the United Kingdom Government, and each retains responsibility for the decisions and administration of government within its own jurisdiction.

### ARTICLE 3

The Conference shall meet at Ministerial or official level, as required. The business of the Conference will thus receive attention at the highest level. Regular and frequent Ministerial meetings shall be held; and in particular special meetings shall be convened at the request of either side. Officials may meet in subordinate groups. Membership of the Conference and of sub-groups shall be small and flexible. When the Conference meets at Ministerial level an Irish Minister designated as the Permanent Irish Ministerial Representative and the Secretary of State for Northern Ireland shall be joint Chairmen. Within the framework of the Conference other Irish and British Ministers may hold or attend meetings as appropriate: when legal matters are under consideration the Attorneys General may attend. Ministers may be accompanied by their officials and their professional advisers: for example, when questions of security policy or security co-operation are being discussed, they may be accompanied by the Commissioner of the Garda Síochána and the Chief Constable of the Royal Ulster Constabulary; or when questions of economic or social policy, or co-operation are being discussed, they may be accompanied by officials of the relevant Departments. A Secretariat shall be established by the two Governments to service the Conference on a continuing basis in the discharge of its functions as set out in this Agreement.

### ARTICLE 4

- (a)** In relation to matters coming within its field of activity, the Conference shall be a framework within which the Irish Government and the United Kingdom Government work together
- (i) for the accommodation of the rights and identities of the two traditions which exist in Northern Ireland; and
  - (ii) for peace, stability and prosperity throughout the island of Ireland by promoting reconciliation, respect for human rights, co-operation against terrorism and the development of economic, social and cultural co-operation.
- (b)** It is the declared policy of the United Kingdom Government that responsibility in respect of certain matters within the powers of the Secretary of State for Northern Ireland should be devolved within Northern Ireland on a basis which would secure widespread acceptance throughout the community. The Irish Government support that policy.
- (c)** Both Governments recognise that devolution can be achieved only with the co-operation of constitutional representatives within Northern Ireland of both traditions

there. The Conference shall be a framework within which the Irish Government may put forward views and proposals on the modalities of bringing about devolution in Northern Ireland, in so far as they relate to the interests of the minority community.

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## **C. POLITICAL MATTERS**

### ARTICLE 5

(a) The Conference shall concern itself with measures to recognise and accommodate the rights and identities of the two traditions in Northern Ireland, to protect human rights and to prevent discrimination. Matters to be considered in this area include measures to foster the cultural heritage of both traditions, changes in electoral arrangements, the use of flags and emblems, the avoidance of economic and social discrimination and the advantages and disadvantages of a Bill of Rights in some form in Northern Ireland.

(b) The discussion of these matters shall be mainly concerned with Northern Ireland, but the possible application of any measures pursuant to this Article by the Irish Government in their jurisdiction shall not be excluded.

(c) If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the Conference shall be a framework within which the Irish Government may, where the interests of the minority community are significantly or especially affected, put forward views on proposals for major legislation and on major policy issues, which are within the purview of the Northern Ireland Departments and which remain the responsibility of the Secretary of State for Northern Ireland.

### ARTICLE 6

The Conference shall be a framework within which the Irish Government may put forward views and proposals on the role and composition of bodies appointed by the Secretary of State for Northern Ireland or by Departments subject to his direction and control including

the Standing Advisory Commission on Human Rights;  
the Fair Employment Agency;  
the Equal Opportunities Commission;  
the Police Authority for Northern Ireland;  
the Police Complaints Board.

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## **D. SECURITY AND RELATED MATTERS**

### ARTICLE 7

(a) The Conference shall consider

- (i) security policy;
- (ii) relations between the security forces and the community;
- (iii) prisons policy.

(b) The Conference shall consider the security situation at its regular meetings and thus provide an opportunity to address policy issues, serious incidents and forthcoming events.

(c) The two Governments agree that there is a need for a programme of special measures in Northern Ireland to improve relations between the security forces and the community, with the object in particular of making the security forces more readily accepted by the nationalist community. Such a programme shall be developed, for the Conference's consideration, and may include the establishment of local consultative machinery, training in community relations, crime prevention schemes involving the community, improvements in arrangements for handling complaints, and action to increase the proportion of members of the minority in the Royal Ulster Constabulary. Elements of the programme may be considered by the Irish Government suitable for application within their jurisdiction.

(d) The Conference may consider policy issues relating to prisons. Individual cases may be raised as appropriate, so that information can be provided or inquiries instituted.

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## **E. LEGAL MATTERS, INCLUDING THE ADMINISTRATION OF JUSTICE**

### **ARTICLE 8**

The Conference shall deal with issues of concern to both countries relating to the enforcement of the criminal law. In particular it shall consider whether there are areas of the criminal law applying in the North and in the South respectively which might with benefit be harmonised. The two Governments agree on the importance of public confidence in the administration of justice. The Conference shall seek, with the help of advice from experts as appropriate, measures which would give substantial expression to this aim, considering inter alia the possibility of mixed courts in both jurisdictions for the trial of certain offences. The Conference shall also be concerned with policy aspects of extradition and extra-territorial jurisdiction as between North and South.

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## **F. CROSS-BORDER CO-OPERATION ON SECURITY, ECONOMIC, SOCIAL AND CULTURAL MATTERS**

### **ARTICLE 9**

(a) With a view to enhancing cross-border co-operation on security matters, the Conference shall set in hand a programme of work to be undertaken by the Commissioner of the Garda Síochána and the Chief Constable of the Royal Ulster Constabulary and, where appropriate, groups of officials, in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel, and operational resources.

(b) The Conference shall have no operational responsibilities; responsibility for police operations shall remain with the heads of the respective police forces, the Commissioner of the Garda Síochána maintaining his links with the Minister for Justice and the Chief Constable of the Royal Ulster Constabulary his links with the Secretary of State for Northern Ireland.

### **ARTICLE 10**

(a) The two Governments shall co-operate to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years, and shall consider the possibility of securing international support for this work.

(b) If it should prove impossible to achieve and sustain devolution on a basis which secures widespread acceptance in Northern Ireland, the Conference shall be a framework for the promotion of co-operation between the two parts of Ireland concerning cross border aspects of economic, social and cultural matters in relation to which the Secretary of State for Northern Ireland continues to exercise authority.

(c) If responsibility is devolved in respect of certain matters in the economic, social or cultural areas currently within the responsibility of the Secretary of State for Northern Ireland, machinery will need to be established by the responsible authorities in the North and South for practical co-operation in respect of cross-border aspects of these issues.

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## **G. ARRANGEMENTS FOR REVIEW**

### **ARTICLE 11**

At the end of three years from signature of this Agreement, or earlier if requested by either Government, the working of the Conference shall be reviewed by the two Governments to see whether any changes in the scope and nature of its activities are desirable.

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## **H. INTERPARLIAMENTARY RELATIONS**

### **ARTICLE 12**

It will be for Parliamentary decision in Dublin and in Westminster whether to establish an Anglo-Irish Parliamentary body of the kind adumbrated in the Anglo-Irish Studies Report of November 1981. The two Governments agree that they would give support as appropriate to such a body, if it were to be established.

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## **I. FINAL CLAUSES**

### **ARTICLE 13**

This Agreement shall enter into force on the date on which the two Governments exchange notifications of their acceptance of this Agreement.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at Hillsborough on the 15th day of November 1985

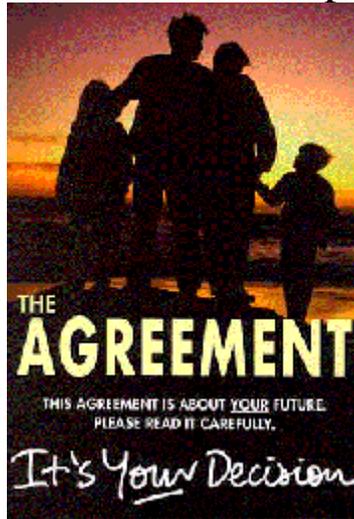
For the Government of Ireland ..... *Gearoid Mac Gearailt*

For the Government Of the United Kingdom ..... *Margaret Thatcher*

## APPENDIX C. THE GOOD FRIDAY AGREEMENT

# The Agreement

Agreement reached in the multi-party negotiations



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## DECLARATION OF SUPPORT

1. We, the participants in the multi-party negotiations, believe that the agreement we have negotiated offers a truly historic opportunity for a new beginning.
2. The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured, and their families. But we can best honour them through a fresh start, in which we firmly dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all.
3. We are committed to partnership, equality and mutual respect as the basis of relationships within Northern Ireland, between North and South, and between these islands.
4. We reaffirm our total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues, and our opposition to any use or threat of force by others for any political purpose, whether in regard to this agreement or otherwise.
5. We acknowledge the substantial differences between our continuing, and equally legitimate, political aspirations. However, we will endeavour to strive in every practical way towards reconciliation and rapprochement within the framework of democratic and agreed arrangements. We pledge that we will, in good faith, work to ensure the success of each and every one of the arrangements to be established under this agreement. It is accepted that all of the institutional and constitutional arrangements - an Assembly in Northern Ireland, a North/South Ministerial Council, implementation bodies, a British-Irish Council and a British-Irish Intergovernmental Conference and any amendments to British Acts of Parliament and the Constitution of Ireland - are interlocking and interdependent and that in particular the functioning of the Assembly and the North/South Council are so closely inter-related that the success of each depends on that of the other.
6. Accordingly, in a spirit of concord, we strongly commend this agreement to the people, North and South, for their approval.

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## CONSTITUTIONAL ISSUES

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;
- (v) affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities;
- (vi) recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.
2. The participants also note that the two Governments have accordingly undertaken in the context of this comprehensive political agreement, to propose and support changes in, respectively, the Constitution of Ireland and in British legislation relating to the constitutional status of Northern Ireland.

## **ANNEX A**

### **DRAFT CLAUSES/SCHEDULES FOR INCORPORATION IN BRITISH LEGISLATION**

1. (1) It is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1.  

(2) But if the wish expressed by a majority in such a poll is that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland, the Secretary of State shall lay before Parliament such proposals to give effect to that wish as may be agreed between Her Majesty's Government in the United Kingdom and the Government of Ireland.
2. The Government of Ireland Act 1920 is repealed; and this Act shall have effect notwithstanding any other previous enactment.

**SCHEDULE 1**  
**POLLS FOR THE PURPOSE OF SECTION 1**

1. The Secretary of State may by order direct the holding of a poll for the purposes of section 1 on a date specified in the order.
2. Subject to paragraph 3, the Secretary of State shall exercise the power under paragraph 1 if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.
3. The Secretary of State shall not make an order under paragraph 1 earlier than seven years after the holding of a previous poll under this Schedule.
4. (Remaining paragraphs along the lines of paragraphs 2 and 3 of existing Schedule 1 to 1973 Act.)

**ANNEX B**  
**IRISH GOVERNMENT DRAFT LEGISLATION TO AMEND THE**  
**CONSTITUTION**

Add to Article 29 the following sections:

7.
  1. The State may consent to be bound by the British-Irish Agreement done at Belfast on the ... day of ... 1998, hereinafter called the Agreement.
  2. Any institution established by or under the Agreement may exercise the powers and functions thereby conferred on it in respect of all or any part of the island of Ireland notwithstanding any other provision of this Constitution conferring a like power or function on any person or any organ of State appointed under or created or established by or under this Constitution. Any power or function conferred on such an institution in relation to the settlement or resolution of disputes or controversies may be in addition to or in substitution for any like power or function conferred by this Constitution on any such person or organ of State as aforesaid.
  3. If the Government declare that the State has become obliged, pursuant to the Agreement, to give effect to the amendment of this Constitution referred to therein, then, notwithstanding Article 46 hereof, this Constitution shall be amended as follows:
    - i. the following Articles shall be substituted for Articles 2 and 3 of the Irish text:
      - "2. [Irish text to be inserted here]
      3. [Irish text to be inserted here]
    - (ii) the following Articles shall be substituted for Articles 2 and 3 of the English text:

**"Article 2**

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

### **Article 3**

1. It is the firm will of the Irish nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions, recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island. Until then, the laws enacted by the Parliament established by this Constitution shall have the like area and extent of application as the laws enacted by the Parliament that existed immediately before the coming into operation of this Constitution.
2. Institutions with executive powers and functions that are shared between those jurisdictions may be established by their respective responsible authorities for stated purposes and may exercise powers and functions in respect of all or any part of the island."
- iii. the following section shall be added to the Irish text of this Article:  
"8. [Irish text to be inserted here]"  
and
- iv. the following section shall be added to the English text of this Article:  
"8. The State may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law."
4. If a declaration under this section is made, this subsection and subsection 3, other than the amendment of this Constitution effected thereby, and subsection 5 of this section shall be omitted from every official text of this Constitution published thereafter, but notwithstanding such omission this section shall continue to have the force of law.
5. If such a declaration is not made within twelve months of this section being added to this Constitution or such longer period as may be provided for by law, this section shall cease to have effect and shall be omitted from every official text of this Constitution published thereafter.

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## **STRAND ONE**

### **DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND**

1. This agreement provides for a democratically elected Assembly in Northern Ireland which is inclusive in its membership, capable of exercising executive and legislative authority, and subject to safeguards to protect the rights and interests of all sides of the community.

#### **The Assembly**

2. A 108-member Assembly will be elected by PR(STV) from existing Westminster constituencies.

3. The Assembly will exercise full legislative and executive authority in respect of those matters currently within the responsibility of the six Northern Ireland Government Departments, with the possibility of taking on responsibility for other matters as detailed elsewhere in this agreement.

4. The Assembly - operating where appropriate on a cross-community basis - will be the prime source of authority in respect of all devolved responsibilities.

#### **Safeguards**

5. There will be safeguards to ensure that all sections of the community can participate and work together successfully in the operation of these institutions and that all sections of the community are protected, including:

- (a) allocations of Committee Chairs, Ministers and Committee membership in proportion to party strengths;
- (b) the European Convention on Human Rights (ECHR) and any Bill of Rights for Northern Ireland supplementing it, which neither the Assembly nor public bodies can infringe, together with a Human Rights Commission;
- (c) arrangements to provide that key decisions and legislation are proofed to ensure that they do not infringe the ECHR and any Bill of Rights for Northern Ireland;
- (d) arrangements to ensure key decisions are taken on a cross-community basis;
  - (i) **either** parallel consent, i.e. a majority of those members present and voting, including a majority of the unionist and nationalist designations present and voting;
  - (ii) **or** a weighted majority (60%) of members present and voting, including at least 40% of each of the nationalist and unionist designations present and voting.

Key decisions requiring cross-community support will be designated in advance, including election of the Chair of the Assembly, the First Minister and Deputy First Minister, standing orders and budget allocations. In other cases such decisions could be triggered by a petition of concern brought by a significant minority of Assembly members (30/108).

(e) an Equality Commission to monitor a statutory obligation to promote equality of opportunity in specified areas and parity of esteem between the two main communities, and to investigate individual complaints against public bodies.

### **Operation of the Assembly**

6. At their first meeting, members of the Assembly will register a designation of identity - nationalist, unionist or other - for the purposes of measuring cross-community support in Assembly votes under the relevant provisions above.

7. The Chair and Deputy Chair of the Assembly will be elected on a cross-community basis, as set out in paragraph 5(d) above.

8. There will be a Committee for each of the main executive functions of the Northern Ireland Administration. The Chairs and Deputy Chairs of the Assembly Committees will be allocated proportionally, using the d'Hondt system. Membership of the Committees will be in broad proportion to party strengths in the Assembly to ensure that the opportunity of Committee places is available to all members.

9. The Committees will have a scrutiny, policy development and consultation role with respect to the Department with which each is associated, and will have a role in initiation of legislation. They will have the power to:

- consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee stage of relevant primary legislation;
- call for persons and papers;

- initiate enquiries and make reports;
- consider and advise on matters brought to the Committee by its Minister.

10. Standing Committees other than Departmental Committees may be established as may be required from time to time.

11. The Assembly may appoint a special Committee to examine and report on whether a measure or proposal for legislation is in conformity with equality requirements, including the ECHR/Bill of Rights. The Committee shall have the power to call people and papers to assist in its consideration of the matter. The Assembly shall then consider the report of the Committee and can determine the matter in accordance with the cross-community consent procedure.

12. The above special procedure shall be followed when requested by the Executive Committee, or by the relevant Departmental Committee, voting on a cross-community basis.

13. When there is a petition of concern as in 5(d) above, the Assembly shall vote to determine whether the measure may proceed without reference to this special procedure. If this fails to achieve support on a cross-community basis, as in 5(d)(i) above, the special procedure shall be followed.

#### **Executive Authority**

14. Executive authority to be discharged on behalf of the Assembly by a First Minister and Deputy First Minister and up to ten Ministers with Departmental responsibilities.

15. The First Minister and Deputy First Minister shall be jointly elected into office by the Assembly voting on a cross-community basis, according to 5(d)(i) above.

16. Following the election of the First Minister and Deputy First Minister, the posts of Ministers will be allocated to parties on the basis of the d'Hondt system by reference to the number of seats each party has in the Assembly.

17. The Ministers will constitute an Executive Committee, which will be convened, and presided over, by the First Minister and Deputy First Minister.

18. The duties of the First Minister and Deputy First Minister will include, inter alia, dealing with and co-ordinating the work of the Executive Committee and the response of the Northern Ireland administration to external relationships.

19. The Executive Committee will provide a forum for the discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers, for prioritising executive and legislative proposals and for recommending a common position where necessary (e.g. in dealing with external relationships).

20. The Executive Committee will seek to agree each year, and review as necessary, a programme incorporating an agreed budget linked to policies and programmes, subject to approval by the Assembly, after scrutiny in Assembly Committees, on a cross-community basis.

21. A party may decline the opportunity to nominate a person to serve as a Minister or may subsequently change its nominee.

22. All the Northern Ireland Departments will be headed by a Minister. All Ministers will liaise regularly with their respective Committee.

23. As a condition of appointment, Ministers, including the First Minister and Deputy First Minister, will affirm the terms of a Pledge of Office (Annex A) undertaking to discharge effectively and in good faith all the responsibilities attaching to their office.

24. Ministers will have full executive authority in their respective areas of responsibility, within any broad programme agreed by the Executive Committee and endorsed by the Assembly as a whole.

25. An individual may be removed from office following a decision of the Assembly taken on a cross-community basis, if (s)he loses the confidence of the Assembly, voting on a cross-community basis, for failure to meet his or her responsibilities including, inter alia, those set out in the Pledge of Office. Those who hold office should use only democratic, non-violent means, and those who do not should be excluded or removed from office under these provisions.

### **Legislation**

26. The Assembly will have authority to pass primary legislation for Northern Ireland in devolved areas, subject to:

(a) the ECHR and any Bill of Rights for Northern Ireland supplementing it which, if the courts found to be breached, would render the relevant legislation null and void;

(b) decisions by simple majority of members voting, except when decision on a cross-community basis is required;

(c) detailed scrutiny and approval in the relevant Departmental Committee;

(d) mechanisms, based on arrangements proposed for the Scottish Parliament, to ensure suitable co-ordination, and avoid disputes, between the Assembly and the Westminster Parliament;

(e) option of the Assembly seeking to include Northern Ireland provisions in United Kingdom-wide legislation in the Westminster Parliament, especially on devolved issues where parity is normally maintained (e.g. social security, company law).

27. The Assembly will have authority to legislate in reserved areas with the approval of the Secretary of State and subject to Parliamentary control.

28. Disputes over legislative competence will be decided by the Courts.

29. Legislation could be initiated by an individual, a Committee or a Minister.

### **Relations with other institutions**

30. Arrangements to represent the Assembly as a whole, at Summit level and in dealings with other institutions, will be in accordance with paragraph 18, and will be such as to ensure cross-community involvement.

31. Terms will be agreed between appropriate Assembly representatives and the Government of the United Kingdom to ensure effective co-ordination and input by Ministers to national policy-making, including on EU issues.

32. Role of Secretary of State:

(a) to remain responsible for NIO matters not devolved to the Assembly, subject to regular consultation with the Assembly and Ministers;

(b) to approve and lay before the Westminster Parliament any Assembly legislation on reserved matters;

(c) to represent Northern Ireland interests in the United Kingdom Cabinet;

(d) to have the right to attend the Assembly at their invitation.

33. The Westminster Parliament (whose power to make legislation for Northern Ireland would remain unaffected) will:

- (a) legislate for non-devolved issues, other than where the Assembly legislates with the approval of the Secretary of State and subject to the control of Parliament;
- (b) to legislate as necessary to ensure the United Kingdom's international obligations are met in respect of Northern Ireland;
- (c) scrutinise, including through the Northern Ireland Grand and Select Committees, the responsibilities of the Secretary of State.

34. A consultative Civic Forum will be established. It will comprise representatives of the business, trade union and voluntary sectors, and such other sectors as agreed by the First Minister and the Deputy First Minister. It will act as a consultative mechanism on social, economic and cultural issues. The First Minister and the Deputy First Minister will by agreement provide administrative support for the Civic Forum and establish guidelines for the selection of representatives to the Civic Forum.

#### **Transitional Arrangements**

35. The Assembly will meet first for the purpose of organisation, without legislative or executive powers, to resolve its standing orders and working practices and make preparations for the effective functioning of the Assembly, the British-Irish Council and the North/South Ministerial Council and associated implementation bodies. In this transitional period, those members of the Assembly serving as shadow Ministers shall affirm their commitment to non-violence and exclusively peaceful and democratic means and their opposition to any use or threat of force by others for any political purpose; to work in good faith to bring the new arrangements into being; and to observe the spirit of the Pledge of Office applying to appointed Ministers.

#### **Review**

36. After a specified period there will be a review of these arrangements, including the details of electoral arrangements and of the Assembly's procedures, with a view to agreeing any adjustments necessary in the interests of efficiency and fairness.

## **ANNEX A PLEDGE OF OFFICE**

To pledge:

- (a) to discharge in good faith all the duties of office;
- (b) commitment to non-violence and exclusively peaceful and democratic means;
- (c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;
- (d) to participate with colleagues in the preparation of a programme for government;
- (e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;
- (f) to support, and to act in accordance with, all decisions of the Executive Committee and Assembly;
- (g) to comply with the Ministerial Code of Conduct.

## **CODE OF CONDUCT**

Ministers must at all times:

- observe the highest standards of propriety and regularity involving impartiality, integrity and objectivity in relationship to the stewardship of public funds;

- be accountable to users of services, the community and, through the Assembly, for the activities within their responsibilities, their stewardship of public funds and the extent to which key performance targets and objectives have been met;
- ensure all reasonable requests for information from the Assembly, users of services and individual citizens are complied with; and that Departments and their staff conduct their dealings with the public in an open and responsible way;
- follow the seven principles of public life set out by the Committee on Standards in Public Life;
- comply with this code and with rules relating to the use of public funds;
- operate in a way conducive to promoting good community relations and equality of treatment;
- not use information gained in the course of their service for personal gain; nor seek to use the opportunity of public service to promote their private interests;
- ensure they comply with any rules on the acceptance of gifts and hospitality that might be offered;
- declare any personal or business interests which may conflict with their responsibilities. The Assembly will retain a Register of Interests. Individuals must ensure that any direct or indirect pecuniary interests which members of the public might reasonably think could influence their judgement are listed in the Register of Interests;

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## **STRAND TWO**

### **NORTH/SOUTH MINISTERIAL COUNCIL**

1. Under a new British/Irish Agreement dealing with the totality of relationships, and related legislation at Westminster and in the Oireachtas, a North/South Ministerial Council to be established to bring together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation and action within the island of Ireland - including through implementation on an all-island and cross-border basis - on matters of mutual interest within the competence of the Administrations, North and South.
2. All Council decisions to be by agreement between the two sides. Northern Ireland to be represented by the First Minister, Deputy First Minister and any relevant Ministers, the Irish Government by the Taoiseach and relevant Ministers, all operating in accordance with the rules for democratic authority and accountability in force in the Northern Ireland Assembly and the Oireachtas respectively. Participation in the Council to be one of the essential responsibilities attaching to relevant posts in the two Administrations. If a holder of a relevant post will not participate normally in the Council, the Taoiseach in the case of the Irish Government and the First and Deputy First Minister in the case of the Northern Ireland Administration to be able to make alternative arrangements.
3. The Council to meet in different formats:
  - (i) in plenary format twice a year, with Northern Ireland representation led by the First Minister and Deputy First Minister and the Irish Government led by the Taoiseach;
  - (ii) in specific sectoral formats on a regular and frequent basis with each side represented by the appropriate Minister;

- (iii) in an appropriate format to consider institutional or cross-sectoral matters (including in relation to the EU) and to resolve disagreement.
4. Agendas for all meetings to be settled by prior agreement between the two sides, but it will be open to either to propose any matter for consideration or action.
5. The Council:
- (i) to exchange information, discuss and consult with a view to co-operating on matters of mutual interest within the competence of both Administrations, North and South;
  - (ii) to use best endeavours to reach agreement on the adoption of common policies, in areas where there is a mutual cross-border and all-island benefit, and which are within the competence of both Administrations, North and South, making determined efforts to overcome any disagreements;
  - (iii) to take decisions by agreement on policies for implementation separately in each jurisdiction, in relevant meaningful areas within the competence of both Administrations, North and South;
  - (iv) to take decisions by agreement on policies and action at an all-island and cross-border level to be implemented by the bodies to be established as set out in paragraphs 8 and 9 below.
6. Each side to be in a position to take decisions in the Council within the defined authority of those attending, through the arrangements in place for co-ordination of executive functions within each jurisdiction. Each side to remain accountable to the Assembly and Oireachtas respectively, whose approval, through the arrangements in place on either side, would be required for decisions beyond the defined authority of those attending.
7. As soon as practically possible after elections to the Northern Ireland Assembly, inaugural meetings will take place of the Assembly, the British/Irish Council and the North/South Ministerial Council in their transitional forms. All three institutions will meet regularly and frequently on this basis during the period between the elections to the Assembly, and the transfer of powers to the Assembly, in order to establish their modus operandi.
8. During the transitional period between the elections to the Northern Ireland Assembly and the transfer of power to it, representatives of the Northern Ireland transitional Administration and the Irish Government operating in the North/South Ministerial Council will undertake a work programme, in consultation with the British Government, covering at least 12 subject areas, with a view to identifying and agreeing by 31 October 1998 areas where co-operation and implementation for mutual benefit will take place. Such areas may include matters in the list set out in the Annex.
9. As part of the work programme, the Council will identify and agree at least 6 matters for co-operation and implementation in each of the following categories:
- (i) Matters where existing bodies will be the appropriate mechanisms for co-operation in each separate jurisdiction;
  - (ii) Matters where the co-operation will take place through agreed implementation bodies on a cross-border or all-island level.
10. The two Governments will make necessary legislative and other enabling preparations to ensure, as an absolute commitment, that these bodies, which have been agreed as a result of the work programme, function at the time of the inception of the

British-Irish Agreement and the transfer of powers, with legislative authority for these bodies transferred to the Assembly as soon as possible thereafter. Other arrangements for the agreed co-operation will also commence contemporaneously with the transfer of powers to the Assembly.

11. The implementation bodies will have a clear operational remit. They will implement on an all-island and cross-border basis policies agreed in the Council.

12. Any further development of these arrangements to be by agreement in the Council and with the specific endorsement of the Northern Ireland Assembly and Oireachtas, subject to the extent of the competences and responsibility of the two Administrations.

13. It is understood that the North/South Ministerial Council and the Northern Ireland Assembly are mutually inter-dependent, and that one cannot successfully function without the other.

14. Disagreements within the Council to be addressed in the format described at paragraph 3(iii) above or in the plenary format. By agreement between the two sides, experts could be appointed to consider a particular matter and report.

15. Funding to be provided by the two Administrations on the basis that the Council and the implementation bodies constitute a necessary public function.

16. The Council to be supported by a standing joint Secretariat, staffed by members of the Northern Ireland Civil Service and the Irish Civil Service.

17. The Council to consider the European Union dimension of relevant matters, including the implementation of EU policies and programmes and proposals under consideration in the EU framework. Arrangements to be made to ensure that the views of the Council are taken into account and represented appropriately at relevant EU meetings.

18. The Northern Ireland Assembly and the Oireachtas to consider developing a joint parliamentary forum, bringing together equal numbers from both institutions for discussion of matters of mutual interest and concern.

19. Consideration to be given to the establishment of an independent consultative forum appointed by the two Administrations, representative of civil society, comprising the social partners and other members with expertise in social, cultural, economic and other issues.

## **ANNEX**

Areas for North-South co-operation and implementation may include the following:

1. Agriculture - animal and plant health.
2. Education - teacher qualifications and exchanges.
3. Transport - strategic transport planning.
4. Environment - environmental protection, pollution, water quality, and waste management.
5. Waterways - inland waterways.
6. Social Security/Social Welfare - entitlements of cross-border workers and fraud control.
7. Tourism - promotion, marketing, research, and product development.
8. Relevant EU Programmes such as SPPR, INTERREG, Leader II and their successors.
9. Inland Fisheries.
10. Aquaculture and marine matters

11. Health: accident and emergency services and other related cross-border issues.
12. Urban and rural development.

Others to be considered by the shadow North/ South Council.

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## **STRAND THREE**

### **BRITISH-IRISH COUNCIL**

1. A British-Irish Council (BIC) will be established under a new British-Irish Agreement to promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands.
2. Membership of the BIC will comprise representatives of the British and Irish Governments, devolved institutions in Northern Ireland, Scotland and Wales, when established, and, if appropriate, elsewhere in the United Kingdom, together with representatives of the Isle of Man and the Channel Islands.
3. The BIC will meet in different formats: at summit level, twice per year; in specific sectoral formats on a regular basis, with each side represented by the appropriate Minister; in an appropriate format to consider cross-sectoral matters.
4. Representatives of members will operate in accordance with whatever procedures for democratic authority and accountability are in force in their respective elected institutions.
5. The BIC will exchange information, discuss, consult and use best endeavours to reach agreement on co-operation on matters of mutual interest within the competence of the relevant Administrations. Suitable issues for early discussion in the BIC could include transport links, agricultural issues, environmental issues, cultural issues, health issues, education issues and approaches to EU issues. Suitable arrangements to be made for practical co-operation on agreed policies.
6. It will be open to the BIC to agree common policies or common actions. Individual members may opt not to participate in such common policies and common action.
7. The BIC normally will operate by consensus. In relation to decisions on common policies or common actions, including their means of implementation, it will operate by agreement of all members participating in such policies or actions.
8. The members of the BIC, on a basis to be agreed between them, will provide such financial support as it may require.
9. A secretariat for the BIC will be provided by the British and Irish Governments in co-ordination with officials of each of the other members.
10. In addition to the structures provided for under this agreement, it will be open to two or more members to develop bilateral or multilateral arrangements between them. Such arrangements could include, subject to the agreement of the members concerned, mechanisms to enable consultation, co-operation and joint decision-making on matters of mutual interest; and mechanisms to implement any joint decisions they may reach. These arrangements will not require the prior approval of the BIC as a whole and will operate independently of it.
11. The elected institutions of the members will be encouraged to develop interparliamentary links, perhaps building on the British-Irish Interparliamentary Body.
12. The full membership of the BIC will keep under review the workings of the Council, including a formal published review at an appropriate time after the Agreement comes

into effect, and will contribute as appropriate to any review of the overall political agreement arising from the multi-party negotiations.

### **BRITISH-IRISH INTERGOVERNMENTAL CONFERENCE**

1. There will be a new British-Irish Agreement dealing with the totality of relationships. It will establish a standing British-Irish Intergovernmental Conference, which will subsume both the Anglo-Irish Intergovernmental Council and the Intergovernmental Conference established under the 1985 Agreement.
  2. The Conference will bring together the British and Irish Governments to promote bilateral co-operation at all levels on all matters of mutual interest within the competence of both Governments.
  3. The Conference will meet as required at Summit level (Prime Minister and Taoiseach). Otherwise, Governments will be represented by appropriate Ministers. Advisers, including police and security advisers, will attend as appropriate.
  4. All decisions will be by agreement between both Governments. The Governments will make determined efforts to resolve disagreements between them. There will be no derogation from the sovereignty of either Government.
  5. In recognition of the Irish Government's special interest in Northern Ireland and of the extent to which issues of mutual concern arise in relation to Northern Ireland, there will be regular and frequent meetings of the Conference concerned with non-devolved Northern Ireland matters, on which the Irish Government may put forward views and proposals. These meetings, to be co-chaired by the Minister for Foreign Affairs and the Secretary of State for Northern Ireland, would also deal with all-island and cross-border co-operation on non-devolved issues.
  6. Co-operation within the framework of the Conference will include facilitation of co-operation in security matters. The Conference also will address, in particular, the areas of rights, justice, prisons and policing in Northern Ireland (unless and until responsibility is devolved to a Northern Ireland administration) and will intensify co-operation between the two Governments on the all-island or cross-border aspects of these matters.
  7. Relevant executive members of the Northern Ireland Administration will be involved in meetings of the Conference, and in the reviews referred to in paragraph 9 below to discuss non-devolved Northern Ireland matters.
  8. The Conference will be supported by officials of the British and Irish Governments, including by a standing joint Secretariat of officials dealing with non-devolved Northern Ireland matters.
  9. The Conference will keep under review the workings of the new British-Irish Agreement and the machinery and institutions established under it, including a formal published review three years after the Agreement comes into effect. Representatives of the Northern Ireland Administration will be invited to express views to the Conference in this context. The Conference will contribute as appropriate to any review of the overall political agreement arising from the multi-party negotiations but will have no power to override the democratic arrangements set up by this Agreement.
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# RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY HUMAN RIGHTS

1. The parties affirm their commitment to the mutual respect, the civil rights and the religious liberties of everyone in the community. Against the background of the recent history of communal conflict, the parties affirm in particular:

- the right of free political thought;
- the right to freedom and expression of religion;
- the right to pursue democratically national and political aspirations;
- the right to seek constitutional change by peaceful and legitimate means;
- the right to freely choose one's place of residence;
- the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity;
- the right to freedom from sectarian harassment; and
- the right of women to full and equal political participation.

## **United Kingdom Legislation**

2. The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency.

3. Subject to the outcome of public consultation underway, the British Government intends, as a particular priority, to create a statutory obligation on public authorities in Northern Ireland to carry out all their functions with due regard to the need to promote equality of opportunity in relation to religion and political opinion; gender; race; disability; age; marital status; dependants; and sexual orientation. Public bodies would be required to draw up statutory schemes showing how they would implement this obligation. Such schemes would cover arrangements for policy appraisal, including an assessment of impact on relevant categories, public consultation, public access to information and services, monitoring and timetables.

4. The new Northern Ireland Human Rights Commission (see paragraph 5 below) will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and - taken together with the ECHR - to constitute a Bill of Rights for Northern Ireland. Among the issues for consideration by the Commission will be:

- the formulation of a general obligation on government and public bodies fully to respect, on the basis of equality of treatment, the identity and ethos of both communities in Northern Ireland; and

- a clear formulation of the rights not to be discriminated against and to equality of opportunity in both the public and private sectors.

### **New Institutions in Northern Ireland**

5. A new Northern Ireland Human Rights Commission, with membership from Northern Ireland reflecting the community balance, will be established by Westminster legislation, independent of Government, with an extended and enhanced role beyond that currently exercised by the Standing Advisory Commission on Human Rights, to include keeping under review the adequacy and effectiveness of laws and practices, making recommendations to Government as necessary; providing information and promoting awareness of human rights; considering draft legislation referred to them by the new Assembly; and, in appropriate cases, bringing court proceedings or providing assistance to individuals doing so.

6. Subject to the outcome of public consultation currently underway, the British Government intends a new statutory Equality Commission to replace the Fair Employment Commission, the Equal Opportunities Commission (NI), the Commission for Racial Equality (NI) and the Disability Council. Such a unified Commission will advise on, validate and monitor the statutory obligation and will investigate complaints of default.

7. It would be open to a new Northern Ireland Assembly to consider bringing together its responsibilities for these matters into a dedicated Department of Equality.

8. These improvements will build on existing protections in Westminster legislation in respect of the judiciary, the system of justice and policing.

### **Comparable Steps by the Irish Government**

9. The Irish Government will also take steps to further strengthen the protection of human rights in its jurisdiction. The Government will, taking account of the work of the All-Party Oireachtas Committee on the Constitution and the Report of the Constitution Review Group, bring forward measures to strengthen and underpin the constitutional protection of human rights. These proposals will draw on the European Convention on Human Rights and other international legal instruments in the field of human rights and the question of the incorporation of the ECHR will be further examined in this context. The measures brought forward would ensure at least an equivalent level of protection of human rights as will pertain in Northern Ireland. In addition, the Irish Government will:

- establish a Human Rights Commission with a mandate and remit equivalent to that within Northern Ireland;
- proceed with arrangements as quickly as possible to ratify the Council of Europe Framework Convention on National Minorities (already ratified by the UK);
- implement enhanced employment equality legislation;
- introduce equal status legislation; and
- continue to take further active steps to demonstrate its respect for the different traditions in the island of Ireland.

### **A Joint Committee**

10. It is envisaged that there would be a joint committee of representatives of the two Human Rights Commissions, North and South, as a forum for consideration of human rights issues in the island of Ireland. The joint committee will consider, among other matters, the possibility of establishing a charter, open to signature by all democratic political parties, reflecting and endorsing agreed measures for the protection of the fundamental rights of everyone living in the island of Ireland.

### **Reconciliation and Victims of Violence**

11. The participants believe that it is essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation. They look forward to the results of the work of the Northern Ireland Victims Commission.

12. It is recognised that victims have a right to remember as well as to contribute to a changed society. The achievement of a peaceful and just society would be the true memorial to the victims of violence. The participants particularly recognise that young people from areas affected by the troubles face particular difficulties and will support the development of special community-based initiatives based on international best practice. The provision of services that are supportive and sensitive to the needs of victims will also be a critical element and that support will need to be channelled through both statutory and community-based voluntary organisations facilitating locally-based self-help and support networks. This will require the allocation of sufficient resources, including statutory funding as necessary, to meet the needs of victims and to provide for community-based support programmes.

13. The participants recognise and value the work being done by many organisations to develop reconciliation and mutual understanding and respect between and within communities and traditions, in Northern Ireland and between North and South, and they see such work as having a vital role in consolidating peace and political agreement. Accordingly, they pledge their continuing support to such organisations and will positively examine the case for enhanced financial assistance for the work of reconciliation. An essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education and mixed housing.

## **RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY**

### **ECONOMIC, SOCIAL AND CULTURAL ISSUES**

1. Pending the devolution of powers to a new Northern Ireland Assembly, the British Government will pursue broad policies for sustained economic growth and stability in Northern Ireland and for promoting social inclusion, including in particular community development and the advancement of women in public life.

2. Subject to the public consultation currently under way, the British Government will make rapid progress with:

(i) a new regional development strategy for Northern Ireland, for consideration in due course by the Assembly, tackling the problems of a divided society and social cohesion in urban, rural and border areas, protecting and enhancing the

- environment, producing new approaches to transport issues, strengthening the physical infrastructure of the region, developing the advantages and resources of rural areas and rejuvenating major urban centres;
- (ii) a new economic development strategy for Northern Ireland, for consideration in due course by the Assembly, which would provide for short and medium term economic planning linked as appropriate to the regional development strategy; and
- (iii) measures on employment equality included in the recent White Paper ("Partnership for Equality") and covering the extension and strengthening of anti-discrimination legislation, a review of the national security aspects of the present fair employment legislation at the earliest possible time, a new more focused Targeting Social Need initiative and a range of measures aimed at combating unemployment and progressively eliminating the differential in unemployment rates between the two communities by targeting objective need.
3. All participants recognise the importance of respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland, the Irish language, Ulster-Scots and the languages of the various ethnic communities, all of which are part of the cultural wealth of the island of Ireland.
4. In the context of active consideration currently being given to the UK signing the Council of Europe Charter for Regional or Minority Languages, the British Government will in particular in relation to the Irish language, where appropriate and where people so desire it:
- take resolute action to promote the language;
  - facilitate and encourage the use of the language in speech and writing in public and private life where there is appropriate demand;
  - seek to remove, where possible, restrictions which would discourage or work against the maintenance or development of the language;
  - make provision for liaising with the Irish language community, representing their views to public authorities and investigating complaints;
  - place a statutory duty on the Department of Education to encourage and facilitate Irish medium education in line with current provision for integrated education;
  - explore urgently with the relevant British authorities, and in co-operation with the Irish broadcasting authorities, the scope for achieving more widespread availability of Teilifis na Gaeilge in Northern Ireland;
  - seek more effective ways to encourage and provide financial support for Irish language film and television production in Northern Ireland; and
  - encourage the parties to secure agreement that this commitment will be sustained by a new Assembly in a way which takes account of the desires and sensitivities of the community.
5. All participants acknowledge the sensitivity of the use of symbols and emblems for public purposes, and the need in particular in creating the new institutions to ensure that such symbols and emblems are used in a manner which promotes mutual respect rather than division. Arrangements will be made to monitor this issue and consider what action might be required.

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## DECOMMISSIONING

1. Participants recall their agreement in the Procedural Motion adopted on 24 September 1997 "that the resolution of the decommissioning issue is an indispensable part of the process of negotiation", and also recall the provisions of paragraph 25 of Strand 1 above.
2. They note the progress made by the Independent International Commission on Decommissioning and the Governments in developing schemes which can represent a workable basis for achieving the decommissioning of illegally-held arms in the possession of paramilitary groups.
3. All participants accordingly reaffirm their commitment to the total disarmament of all paramilitary organisations. They also confirm their intention to continue to work constructively and in good faith with the Independent Commission, and to use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years following endorsement in referendums North and South of the agreement and in the context of the implementation of the overall settlement.
4. The Independent Commission will monitor, review and verify progress on decommissioning of illegal arms, and will report to both Governments at regular intervals.
6. Both Governments will take all necessary steps to facilitate the decommissioning process to include bringing the relevant schemes into force by the end of June.

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## SECURITY

1. The participants note that the development of a peaceful environment on the basis of this agreement can and should mean a normalisation of security arrangements and practices.
2. The British Government will make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat and with a published overall strategy, dealing with:
  - (i) the reduction of the numbers and role of the Armed Forces deployed in Northern Ireland to levels compatible with a normal peaceful society;
  - (ii) the removal of security installations;
  - (iii) the removal of emergency powers in Northern Ireland; and
  - (iv) other measures appropriate to and compatible with a normal peaceful society.
3. The Secretary of State will consult regularly on progress, and the response to any continuing paramilitary activity, with the Irish Government and the political parties, as appropriate.
4. The British Government will continue its consultation on firearms regulation and control on the basis of the document published on 2 April 1998.
5. The Irish Government will initiate a wide-ranging review of the Offences Against the State Acts 1939-85 with a view to both reform and dispensing with those elements no longer required as circumstances permit.

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## POLICING AND JUSTICE

1. The participants recognise that policing is a central issue in any society. They equally recognise that Northern Ireland's history of deep divisions has made it highly emotive, with great hurt suffered and sacrifices made by many individuals and their families, including those in the RUC and other public servants. They believe that the agreement provides the opportunity for a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole. They also believe that this agreement offers a unique opportunity to bring about a new political dispensation which will recognise the full and equal legitimacy and worth of the identities, senses of allegiance and ethos of all sections of the community in Northern Ireland. They consider that this opportunity should inform and underpin the development of a police service representative in terms of the make-up of the community as a whole and which, in a peaceful environment, should be routinely unarmed.

2. The participants believe it essential that policing structures and arrangements are such that the police service is professional, effective and efficient, fair and impartial, free from partisan political control; accountable, both under the law for its actions and to the community it serves; representative of the society it polices, and operates within a coherent and co-operative criminal justice system, which conforms with human rights norms. The participants also believe that those structures and arrangements must be capable of maintaining law and order including responding effectively to crime and to any terrorist threat and to public order problems. A police service which cannot do so will fail to win public confidence and acceptance. They believe that any such structures and arrangements should be capable of delivering a policing service, in constructive and inclusive partnerships with the community at all levels, and with the maximum delegation of authority and responsibility, consistent with the foregoing principles. These arrangements should be based on principles of protection of human rights and professional integrity and should be unambiguously accepted and actively supported by the entire community.

3. An independent Commission will be established to make recommendations for future policing arrangements in Northern Ireland including means of encouraging widespread community support for these arrangements within the agreed framework of principles reflected in the paragraphs above and in accordance with the terms of reference at Annex A. The Commission will be broadly representative with expert and international representation among its membership and will be asked to consult widely and to report no later than Summer 1999.

4. The participants believe that the aims of the criminal justice system are to:

- deliver a fair and impartial system of justice to the community;
- be responsive to the community's concerns, and encouraging community involvement where appropriate;
- have the confidence of all parts of the community; and
- deliver justice efficiently and effectively.

5. There will be a parallel wide-ranging review of criminal justice (other than policing and those aspects of the system relating to the emergency legislation) to be carried out by the British Government through a mechanism with an independent element, in consultation with the political parties and others. The review will commence as soon as possible, will include wide consultation, and a report will be made to the Secretary of State no later than Autumn 1999. Terms of Reference are attached at Annex B.

6. Implementation of the recommendations arising from both reviews will be discussed with the political parties and with the Irish Government.

7. The participants also note that the British Government remains ready in principle, with the broad support of the political parties, and after consultation, as appropriate, with the Irish Government, in the context of ongoing implementation of the relevant recommendations, to devolve responsibility for policing and justice issues.

## **ANNEX A**

### **COMMISSION ON POLICING FOR NORTHERN IRELAND**

#### **Terms of Reference**

Taking account of the principles on policing as set out in the agreement, the Commission will inquire into policing in Northern Ireland and, on the basis of its findings, bring forward proposals for future policing structures and arrangements, including means of encouraging widespread community support for those arrangements.

Its proposals on policing should be designed to ensure that policing arrangements, including composition, recruitment, training, culture, ethos and symbols, are such that in a new approach Northern Ireland has a police service that can enjoy widespread support from, and is seen as an integral part of, the community as a whole.

Its proposals should include recommendations covering any issues such as re-training, job placement and educational and professional development required in the transition to policing in a peaceful society.

Its proposals should also be designed to ensure that:

- the police service is structured, managed and resourced so that it can be effective in discharging its full range of functions (including proposals on any necessary arrangements for the transition to policing in a normal peaceful society);
- the police service is delivered in constructive and inclusive partnerships with the community at all levels with the maximum delegation of authority and responsibility;
- the legislative and constitutional framework requires the impartial discharge of policing functions and conforms with internationally accepted norms in relation to policing standards;
- the police operate within a clear framework of accountability to the law and the community they serve, so:
  - they are constrained by, accountable to and act only within the law;
  - their powers and procedures, like the law they enforce, are clearly established and publicly available;
  - there are open, accessible and independent means of investigating and adjudicating upon complaints against the police;

- there are clearly established arrangements enabling local people, and their political representatives, to articulate their views and concerns about policing and to establish publicly policing priorities and influence policing policies, subject to safeguards to ensure police impartiality and freedom from partisan political control;
- there are arrangements for accountability and for the effective, efficient and economic use of resources in achieving policing objectives;
- there are means to ensure independent professional scrutiny and inspection of the police service to ensure that proper professional standards are maintained;
- the scope for structured co-operation with the Garda Síochána and other police forces is addressed; and
- the management of public order events which can impose exceptional demands on policing resources is also addressed.

The Commission should focus on policing issues, but if it identifies other aspects of the criminal justice system relevant to its work on policing, including the role of the police in prosecution, then it should draw the attention of the Government to those matters.

The Commission should consult widely, including with non-governmental expert organisations, and through such focus groups as they consider it appropriate to establish.

The Government proposes to establish the Commission as soon as possible, with the aim of it starting work as soon as possible and publishing its final report by Summer 1999.

## **ANNEX B**

### **REVIEW OF THE CRIMINAL JUSTICE SYSTEM**

#### **Terms of Reference**

Taking account of the aims of the criminal justice system as set out in the Agreement, the review will address the structure, management and resourcing of publicly funded elements of the criminal justice system and will bring forward proposals for future criminal justice arrangements (other than policing and those aspects of the system relating to emergency legislation, which the Government is considering separately) covering such issues as:

- the arrangements for making appointments to the judiciary and magistracy, and safeguards for protecting their independence;
- the arrangements for the organisation and supervision of the prosecution process, and for safeguarding its independence;
- measures to improve the responsiveness and accountability of, and any lay participation in the criminal justice system;
- mechanisms for addressing law reform;

- the scope for structured co-operation between the criminal justice agencies on both parts of the island; and
- the structure and organisation of criminal justice functions that might be devolved to an Assembly, including the possibility of establishing a Department of Justice, while safeguarding the essential independence of many of the key functions in this area.

The Government proposes to commence the review as soon as possible, consulting with the political parties and others, including non-governmental expert organisations. The review will be completed by Autumn 1999.

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## PRISONERS

1. Both Governments will put in place mechanisms to provide for an accelerated programme for the release of prisoners, including transferred prisoners, convicted of scheduled offences in Northern Ireland or, in the case of those sentenced outside Northern Ireland, similar offences (referred to hereafter as qualifying prisoners). Any such arrangements will protect the rights of individual prisoners under national and international law.
2. Prisoners affiliated to organisations which have not established or are not maintaining a complete and unequivocal ceasefire will not benefit from the arrangements. The situation in this regard will be kept under review.
3. Both Governments will complete a review process within a fixed time frame and set prospective release dates for all qualifying prisoners. The review process would provide for the advance of the release dates of qualifying prisoners while allowing account to be taken of the seriousness of the offences for which the person was convicted and the need to protect the community. In addition, the intention would be that should the circumstances allow it, any qualifying prisoners who remained in custody two years after the commencement of the scheme would be released at that point.
4. The Governments will seek to enact the appropriate legislation to give effect to these arrangements by the end of June 1998.
5. The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education.

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## VALIDATION, IMPLEMENTATION AND REVIEW

### VALIDATION AND IMPLEMENTATION

1. The two Governments will as soon as possible sign a new British-Irish Agreement replacing the 1985 Anglo-Irish Agreement, embodying understandings on constitutional issues and affirming their solemn commitment to support and, where appropriate, implement the agreement reached by the participants in the negotiations which shall be annexed to the British-Irish Agreement.
2. Each Government will organise a referendum on 22 May 1998. Subject to Parliamentary approval, a consultative referendum in Northern Ireland, organised under

the terms of the Northern Ireland (Entry to Negotiations, etc.) Act 1996, will address the question: "Do you support the agreement reached in the multi-party talks on Northern Ireland and set out in Command Paper 3883?". The Irish Government will introduce and support in the Oireachtas a Bill to amend the Constitution as described in paragraph 2 of the section "Constitutional Issues" and in Annex B, as follows: (a) to amend Articles 2 and 3 as described in paragraph 8.1 in Annex B above and (b) to amend Article 29 to permit the Government to ratify the new British-Irish Agreement. On passage by the Oireachtas, the Bill will be put to referendum.

3. If majorities of those voting in each of the referendums support this agreement, the Governments will then introduce and support, in their respective Parliaments, such legislation as may be necessary to give effect to all aspects of this agreement, and will take whatever ancillary steps as may be required including the holding of elections on 25 June, subject to parliamentary approval, to the Assembly, which would meet initially in a "shadow" mode. The establishment of the North-South Ministerial Council, implementation bodies, the British-Irish Council and the British-Irish Intergovernmental Conference and the assumption by the Assembly of its legislative and executive powers will take place at the same time on the entry into force of the British-Irish Agreement.

4. In the interim, aspects of the implementation of the multi-party agreement will be reviewed at meetings of those parties relevant in the particular case (taking into account, once Assembly elections have been held, the results of those elections), under the chairmanship of the British Government or the two Governments, as may be appropriate; and representatives of the two Governments and all relevant parties may meet under independent chairmanship to review implementation of the agreement as a whole.

#### **Review procedures following implementation**

5. Each institution may, at any time, review any problems that may arise in its operation and, where no other institution is affected, take remedial action in consultation as necessary with the relevant Government or Governments. It will be for each institution to determine its own procedures for review.

6. If there are difficulties in the operation of a particular institution, which have implications for another institution, they may review their operations separately and jointly and agree on remedial action to be taken under their respective authorities.

7. If difficulties arise which require remedial action across the range of institutions, or otherwise require amendment of the British-Irish Agreement or relevant legislation, the process of review will fall to the two Governments in consultation with the parties in the Assembly. Each Government will be responsible for action in its own jurisdiction.

8. Notwithstanding the above, each institution will publish an annual report on its operations. In addition, the two Governments and the parties in the Assembly will convene a conference 4 years after the agreement comes into effect, to review and report on its operation.

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# AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF IRELAND

## **The British and Irish Governments:**

Welcoming the strong commitment to the Agreement reached on 10th April 1998 by themselves and other participants in the multi-party talks and set out in Annex 1 to this Agreement (hereinafter "the Multi-Party Agreement");

Considering that the Multi-Party Agreement offers an opportunity for a new beginning in relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands;

Wishing to develop still further the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Union;

Reaffirming their total commitment to the principles of democracy and non-violence which have been fundamental to the multi-party talks;

Reaffirming their commitment to the principles of partnership, equality and mutual respect and to the protection of civil, political, social, economic and cultural rights in their respective jurisdictions;

Have agreed as follows:

## **ARTICLE 1**

### **The two Governments:**

(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;

(v) affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos and aspirations of both communities;

(vi) recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.

## **ARTICLE 2**

The two Governments affirm their solemn commitment to support, and where appropriate implement, the provisions of the Multi-Party Agreement. In particular there shall be established in accordance with the provisions of the Multi-Party Agreement immediately on the entry into force of this Agreement, the following institutions:

- (i) a North/South Ministerial Council;
- (ii) the implementation bodies referred to in paragraph 9 (ii) of the section entitled "Strand Two" of the Multi-Party Agreement;
- (iii) a British-Irish Council;
- (iv) a British-Irish Intergovernmental Conference.

## **ARTICLE 3**

(1) This Agreement shall replace the Agreement between the British and Irish Governments done at Hillsborough on 15th November 1985 which shall cease to have effect on entry into force of this Agreement.

(2) The Intergovernmental Conference established by Article 2 of the aforementioned Agreement done on 15th November 1985 shall cease to exist on entry into force of this Agreement.

## **ARTICLE 4**

(1) It shall be a requirement for entry into force of this Agreement that:

- (a) British legislation shall have been enacted for the purpose of implementing the provisions of Annex A to the section entitled "Constitutional Issues" of the Multi-Party Agreement;
- (b) the amendments to the Constitution of Ireland set out in Annex B to the section entitled "Constitutional Issues" of the Multi-Party Agreement shall have been approved by Referendum;
- (c) such legislation shall have been enacted as may be required to establish the institutions referred to in Article 2 of this Agreement.

(2) Each Government shall notify the other in writing of the completion, so far as it is concerned, of the requirements for entry into force of this Agreement. This Agreement shall enter into force on the date of the receipt of the later of the two notifications.

(3) Immediately on entry into force of this Agreement, the Irish Government shall ensure that the amendments to the Constitution of Ireland set out in Annex B to the section entitled "Constitutional Issues" of the Multi-Party Agreement take effect.

In witness thereof the undersigned, being duly authorised thereto by the respective Governments, have signed this Agreement.

Done in two originals at Belfast on the 10th day of April 1998.

Tony Blair Marjorie ('Mo') Mowlam For the Government of the United Kingdom of Great Britain and Northern Ireland	Bertie Ahern David Andrews For the Government of Ireland
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**ANNEX 1**

The Agreement Reached  
in the Multi-Party Talks

**ANNEX 2**

Declaration on the Provisions of  
Paragraph (vi) of Article 1  
In Relationship to Citizenship

The British and Irish Governments declare that it is their joint understanding that the term "the people of Northern Ireland" in paragraph (vi) of Article 1 of this Agreement means, for the purposes of giving effect to this provision, all persons born in Northern Ireland and having, at the time of their birth, at least one parent who is a British citizen, an Irish citizen or is otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.

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