

---

### **Abstract**

The fact that the main participants in the Northern Ireland conflict were able to reach a major peace accord in April 1998 surprised many analysts. The Good Friday Agreement was overwhelmingly endorsed by the people of Northern Ireland in a referendum. Ever since, however, a number of post-Agreement problems have beset the Agreement, illustrating that a peace accord is only as strong as the will to implement it. This article also illustrates that a peace process rarely ends with a peace accord. Instead a 'successful' peace process is likely to become an on-going political project which requires constant fine-tuning. This article charts the political and security problems facing post-Agreement Northern Ireland and assesses the Agreement's chances of survival.

---

### **Introduction**

The odds against the emergence and survival of any peace process are immense. Even if a peace process develops, it will face multiple problems. Initial problems may revolve around issues of trust. For example, talks processes can rarely get underway in an atmosphere of continuing political violence. As a result, a temporary or permanent end to violence often needs to be negotiated, agreed and verified before talks begin. Even before substantive issues are discussed, the format of the talks process may be contested. The talks chair, agenda, timetable, deadline and location may all pose problems for the various delegates, as can issues of

Given the abundance of potential problems facing peace processes, the fact that the main participants in the Northern Ireland conflict were able to reach a major peace accord in April 1998 was remarkable. The Good Friday Agreement marked the most significant political agreement in Northern Ireland since the foundation of the state in 1921. Sponsored by the British, Irish and United States governments, a total of eight political parties supported the Agreement, including the two largest constitutional parties, the Ulster Unionist Party (UUP) and the nationalist Social Democratic and Labour Party (SDLP). More remarkably, those parties with links to the main paramilitary organisations, both republican (pro-united Ireland) and loyalist (pro-union with the United Kingdom) also supported the Agreement. In May 1998, simultaneous referendums in Northern Ireland and the Republic of Ireland showed strong, island-wide, popular support for the Agreement.

Despite the Good Friday Agreement, the Northern Ireland peace process remains an active project. A number of problems associated with the implementation of the Agreement are outstanding. It is unclear whether or not these have the capacity to destabilise the peace process. More fundamentally, Northern Ireland remains a deeply divided society. A single political agreement, however comprehensive, well-crafted, and well-intentioned, cannot immediately overcome the legacy of a protracted and multi-dimensional violent ethnic conflict. Nor can a peace accord reconcile conflicting identities and nationalisms.

### **The Conflict**

The modern violent phase of the Northern Ireland conflict began in the late 1960s when agitation for equal treatment by the Catholic nationalist minority destabilised the Protestant unionist government.<sup>ii</sup> The next half-

A low intensity, three cornered conflict was waged by pro united Ireland paramilitary groups (dominated by the Irish Republican Army (IRA)), reactionary loyalist groups (mainly the Ulster Defence Association (UDA) and Ulster Volunteer Force (UVF)) and the British state represented by its army and the local police force, the Royal Ulster Constabulary (RUC). A range of factors meant that the Northern Ireland conflict did not spiral out of control. First, while most of Northern Ireland's citizens were either nationalists or unionists, only a minority in each community actively supported paramilitary violence. Second, the simple presence of the British Army, interposed between both communities, reduced the opportunity for sectarian conflict. Third, increasing levels of residential segregation also limited inter-group conflict. Fourth, with time, security and surveillance measures became more sophisticated, reducing casualty rates among the police and army. Fifth, the dynamics of the violence also changed with time. Horizontal violence, often in the form of mass rioting, gave way to more vertical and target-specific forms of violence in which paramilitary groups acted as violent proxies for communities. The result was a lowering of casualty rates. A sixth control on violence came in the form of the political sensibilities of the protagonists. Each had a 'civilising' restraint, whether in the form of opprobrium from the international community or embarrassment within local communities at violent excesses.<sup>iv</sup>

On the political front, in March 1972 the Northern Ireland parliament was suspended and replaced by direct rule from London. Between 1972-93, there were seven political initiatives to 'resolve' the Northern Ireland conflict. The dominant player in all of the initiatives was London. All seven initiatives attempted to devolve greater powers to Northern Ireland's politicians, and most attempted, by various consociational mechanisms, to foster power-sharing among nationalist and

## The Origins of the Peace Process

It is impossible to pinpoint the precise starting point of the Northern Ireland peace process. Instead, a number of factors came together over an extended period of time to form and sustain the process. Crucially, key actors in Northern Ireland's affairs—the British, Irish and United States governments, the political parties and paramilitary organisations—were all forced by changing internal and environmental conditions to rethink their approaches to the conflict. These attempts at repositioning began in the mid-1980s. Many of the changes were tactical rather than strategic, and many only became gradually apparent. Few of the transitions were smooth.

Key shifts took place within the British government and the republican movement. The British government came to a realisation that any long-term strategy to manage the Northern Ireland conflict must involve the government of the Republic of Ireland. In the late 1980s and early 1990s, a permanent, institutional working relationship developed between the two governments. Working procedures and personal relationships formed in this period were to prove crucial as the peace process developed. British government thinking also shifted beyond notions of simply containing the conflict to more ambitious and long-term ideas of engineering a major, 'once in a generation,' political agreement between Northern Ireland's two traditions. If such an agreement could secure popular support from both communities, then the legitimacy for continued political violence would be severely undermined. Another sea change was the gradual willingness to contemplate a peace process which would involve those linked with political violence. Clearly such a strategy

campaign. First, the IRA campaign was unable to produce a breakthrough to persuade the British government to withdraw from Northern Ireland. Second, the human and life opportunity costs of the campaign, and the resultant security responses, were extremely wearing on the republican community. Third, the armed campaign was proving counterproductive; alienating many potential supporters and useful allies at home and abroad. Republicans were also mindful of the advantages which a more constitutional route offered and the value of building a loose coalition of fellow nationalists and negotiating with the British government and Northern Ireland's unionists from a less isolated position.

Facilitating much of the repositioning by key actors in the conflict were a series of Track Two contacts. By the late 1980s, both the nationalist SDLP and the Irish government had opened secret channels of communication with the IRA's political wing, Sinn Féin. Both were making the point that a major political agreement involving the British government was possible, but that an IRA cease-fire was a necessary catalyst for a peace process. More remarkably, and as the IRA campaign was continuing, republicans and the British government were in secret contact. Messages passing between the two sides clearly showed that a sophisticated and comprehensive peace process was envisaged. Most of this Track Two diplomacy was deniable in nature and facilitated by third-parties; much of it also ran contrary to stated public positions.

More publicly, Track One was also busy. In the late 1980s and early 1990s, the British government had hosted a series of talks processes between Northern Ireland's constitutional parties. Although no formal agreement was reached, these talks constituted useful groundwork for the subsequent peace process. Working relationships were formed between politicians, and shared language, concepts and understandings emerged.

## **Crowding the High Ground**

Ceasefires by the IRA and the main loyalist paramilitary organisations in August and October 1994 gave Tracks One and Two the opportunity to merge. The IRA called for immediate round table talks on Northern Ireland's constitutional future with both governments and all Northern Ireland's political parties. The call met with suspicion from the British government and hostility from many unionists. Few were prepared to immediately trust those political representatives linked with paramilitary organisations. For the British government, the handing over of weapons would signal good faith and expedite entry into a round table talks process. Republicans, and indeed loyalists, were inclined to see this as a diversion which masked an underlying reluctance to engage seriously with those linked with paramilitary organisations.

The ceasefires were popular and ushered in a lessening of security restrictions, modest economic benefits and a space in which a series of issues, previously overshadowed by the immediacy of political violence, could be discussed. The absence of formal negotiations, however, meant that there was little substantive political movement. The British government and Sinn Féin did meet face-to-face from May 1995 onwards in an attempt to get over the hurdle of decommissioning paramilitary weaponry. But neither side was willing to back down, and the British government refused to convene all-party talks. Such talks would have faced enormous practical difficulties anyway, with the unionist political parties refusing to meet with Sinn Féin because of its association with violence.

by sitting down with those linked with violence. The result was a peace process in a curious period of abeyance. Major building blocks for the peace process were in place such as the paramilitary ceasefires and the patronage of the United States President. Moreover, there was an unspoken acknowledgement among many political leaders that the conditions for a landmark agreement were unlikely to be repeated for a generation. Yet, having come thus far, key actors were unwilling or unable to compromise on points of principle to enable the peace process to develop into a more substantive phase.

Such a situation could not continue indefinitely. Internal strains were affecting all of the major players in the peace process. The British government under Prime Minister John Major, for example, had a dwindling parliamentary majority during his tenureship of the peace process which meant that limited attention could be devoted to Northern Ireland matters and that occasionally unionist votes were required to keep his government in power. It was the IRA which blinked first however. Frustrated at the lack of political movement, it called off its ceasefire on 9 February 1996 and exploded a massive bomb in the centre of London. It resumed a limited campaign in England and, from October 1996, in Northern Ireland itself. Yet this did not spell the end of the peace process. The British and Irish governments, the US government, Northern Ireland's largest unionist and nationalist political parties, and the loyalist paramilitaries all calculated that the process retained the potential to forge a landmark agreement. Despite ongoing IRA violence, the republican movement also recognised that there was little alternative to the peace process and tried to reconnect with it. The peace process had become a 'process' in the true sense of the word. Both governments made it clear that if Northern Ireland's political parties were unable to reach an agreement, then they would put proposals on the future governance of

made little headway amid disagreement on the agenda and the proposal that George Mitchell, former US Senate majority leader, act as chair. There was also a growing realisation that major political developments would have to await the outcome of the British general election expected in 1997. The peace process remained stuck until that election delivered a landslide Labour victory in May 1997. Tony Blair's administration immediately set about re-energising the peace process and particularly investigating how Sinn Féin's entry into talks could be managed.

### **Re-Energising the Talks Process**

A number of confidence-building measures, particularly in relation to paramilitary prisoners and an undertaking that the decommissioning of paramilitary weapons would not be a precondition for Sinn Féin's entry into talks, smoothed the way for a renewed IRA ceasefire in July 1997. By September the prospect of round table talks involving the British and Irish governments, all of Northern Ireland's constitutional political parties and those close to the main paramilitary organisations was real. Two unionist parties, the Democratic Unionists (DUP) and the United Kingdom Unionists (UKUP), withdrew from the talks rather than share the negotiating chamber with Sinn Féin. While remaining in the talks, the Ulster Unionist Party refused to meet face-to-face with Sinn Féin.

Under the chairmanship of George Mitchell and guided by the two governments, the multiparty talks followed the three stranded framework which had seen service in earlier talks processes. Few plenary sessions were held, with most discussion taking place in subcommittees. The two largest political parties, the unionist UUP and nationalist SDLP, were able to find substantial common ground. Major sticking points remained however. Unionists were anxious to limit the power of proposed

By February 1998 the British and Irish governments were increasingly determined that a major political agreement was possible and could be put before the people of Northern Ireland in a referendum in May. With Sinn Féin and the UDP re-admitted into the talks, a more intensive phase of negotiations was announced and a deadline of 9 April was set. The imposition of the deadline proved crucial as did the arrival of the British and Irish Prime Ministers to personally mediate in the last days of the talks.

### **The Agreement**

On 10 April 1998, after a marathon talks session, the Good Friday Agreement was reached. The Agreement was extremely comprehensive in nature, and following a user-friendly introduction adopted a phraseology which had been honed in previous talks processes. The 10,000 word text proposed elaborate new institutional structures to help manage and rebuild fractured relationships within Northern Ireland, between Northern Ireland and the Republic of Ireland, and between the islands of Britain and Ireland.<sup>vi</sup> Under the main constitutional provisions of the Agreement, Northern Ireland's status was ultimately to be decided by its citizens. If a majority were to vote to join a united Ireland then the British and Irish governments would facilitate this. For the time being, and reflecting the wishes of the majority of people in Northern Ireland, the region would remain part of the United Kingdom. The different identities in Northern Ireland were also recognised, with people given the right to identify themselves as British, Irish or both. The Irish government also committed itself to changing its constitutional claim on the territory of Northern Ireland; the new constitutional clauses would envisage a single Ireland as a people rather than a territory.

South Ministerial Council was to be established to bring together those with executive responsibilities in Northern Ireland and the Republic of Ireland. The Ministerial Council would discuss functional issues of mutual concern. The third major institution to be established was a British-Irish Council which would facilitate co-operation between elected representatives in the British Isles. Given the wider devolution programme in the United Kingdom, this would include the new Scottish parliament and the Welsh assembly.

On the security front, an accelerated release programme for paramilitary prisoners was put in place. Paramilitary weapons were to be decommissioned within two years and security arrangements were to be normalised. A Commission on Policing was to be established to propose future policing structures and the criminal justice system was to be reviewed. There was also a reference to the victims of violence, with the Agreement recognising their need for support services. The ethos throughout the Agreement was one of equality and inclusion. It contained an extensive list of rights which would be safeguarded by a new Northern Ireland Human Rights Commission and the Equality Commission. Culture heritage was to be protected and a new economic development strategy was to be drawn up.

The Agreement was put to the people of Northern Ireland in a referendum in May 1998. Seventy per cent supported the Agreement; virtually all nationalists and a wafer thin majority of unionists. A simultaneous referendum in the Republic of Ireland showed strong support for the Agreement.

While the Agreement marked a major milestone in the management of the Northern Ireland conflict, severe problems remained.

## Conceptual Problems

The roots of the Northern Ireland conflict lie in two mutually exclusive nationalisms, one loyal to the idea of a unitary Ireland, the other loyal to a sense of Britishness. Although these nationalisms have been refracted and further refined by a number of factors ranging from religion and economic development to historical reality and perception, they remain the essential building blocks of the conflict. The Good Friday Agreement emphasises the need to accommodate both nationalisms in the one political, social, economic and cultural entity. A range of new interlocking and overlapping institutions were planned, some with sophisticated consociational mechanisms, to ensure that the new political dispensation is inclusive. Much of the intellectual energy behind the peace process and the Agreement was based on the notion that concepts of state and nationhood were changing, particularly within the context of the European Union.

Much of the language and phraseology found in the Agreement was used and refined by the British and Irish governments in the late 1980s and early 1990s. It is based on the notion that Northern Ireland is home to two great traditions: Protestant-unionist-loyalist and Catholic-nationalist-republican. The acceptance of loyalists and republicans as legitimate parts of the wider groups was significant and marked a recognition that those on or close to the political extremes had a contribution to make to the management of the conflict. Indeed, their absence from any major attempt to manage the conflict could be destabilising.

At one level this made for a laudably mature peace process and did much to temper notions that one side had to subjugate the other; agreement would be impossible without the consent of the other side. But the approach did pose problems. First, by their very nature, Irish nationalism and Ulster British nationalism are mutually exclusive. Although the Agreement has in-built elements of mutual dependency—now shrouded by the much warmer term ‘sufficient consensus’<sup>viii</sup>—it relies on continued allegiance to two world-views which regard each other as the single greatest impediment to the achievement of their ultimate goal; secure union with Great Britain or unity with the rest of the island of Ireland. Under the Good Friday Agreement, unionists remained unionists and nationalists remained nationalists.

Second, it was argued that the strategy of including those on the political extremes risked polluting, and ultimately destabilising, the entire political process. According to one unionist Member of Parliament, admitting Sinn Féin into talks and government was akin to ‘planting cancer into the integrity of democracy itself.’<sup>ix</sup> Indeed, according to this view, the peace process did much more than merely include those on the political extremes; it re-affirmed and legitimised their position. Equally, this strategy minimised the incentive for political parties to move towards the centre ground. It also sent out a message that the peace process was intolerant towards those not identified with either the broad nationalist or unionist blocs. The long-term result of such a strategy would be a freezing of the conflict, thwarting possible attempts to resolve the conflict in future years.

political violence, and posed severe problems for the Agreement and steered many towards a rejection of the Agreement. Many unionists who had been initially enthusiastic about the Agreement began to have second thoughts; believing that the Agreement involved too many compromises for unionism and too many rewards for those who had engaged in violence.<sup>x</sup> Many of these security linked issues were discussed in emotive terms, and any one of them held the capacity to dissuade substantial sections of the community from supporting the Agreement. The critical mass of issues and the linkage between them created a more serious and potentially destabilising problem.

### **Decommissioning and Delays in Establishing the Executive**

The issue of the decommissioning of paramilitary weapons, unresolved in the peace process and deferred by the Good Friday Agreement, proved to be extremely divisive in the post-Agreement period.<sup>xi</sup> According to one leading UUP negotiator, the failure to resolve the issue meant that some political parties 'who will have private armies at their beck and call' would be admitted into government.<sup>xii</sup> The passages in the Agreement on decommissioning were loosely worded; participating parties agreed to 'use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years' of the endorsement of the Agreement.<sup>xiii</sup> An independent commission, chaired by a Canadian general, was established to oversee the actual decommissioning of weapons, but the main paramilitary organisations showed little willingness to co-operate. Sinn Féin claimed that it was unable to persuade the IRA to disarm. Loyalist groups said that they had little intention of decommissioning if republicans refused to do so. For many unionists it was a sign of extreme bad faith. They could not comprehend why the paramilitaries insisted on retaining their weapons if they were committed

regarded as irredeemable. While the DUP would take their seats in the Assembly, they 'would not be sitting in Cabinet Government with unrepentant and armed terrorists.'<sup>xiv</sup> The larger Ulster Unionist Party were in a more difficult position. Under the leadership of David Trimble they had supported the Agreement and were determined to play a leading role within the newly devolved structures of government. As First Minister, David Trimble would be the Prime Minister of Northern Ireland and he was determined to actively defend unionist goals from within the newly devolved structures. To do so would require some form of co-operation with Sinn Féin in the power-sharing Assembly; no easy matter given the historical enmity between the two sides. Elections to the new Assembly were held in June 1998 and the new body quickly convened. But, in the absence of the decommissioning of IRA weapons, the UUP refused to allow the Assembly's governing, and power-sharing, Executive to be established. In September 1998, David Trimble and Sinn Féin President Gerry Adams held their first face-to-face talks. This and subsequent meetings failed to break the impasse on the decommissioning issue. The devolution of full powers to the Northern Ireland Assembly and Executive was due to take place in April 1999 but was postponed by the British government. The UUP has maintained the position that 'the failure to commence decommissioning and the continued retention of functioning private armies constitute a very real threat' and that they cannot enter into a power-sharing arrangement with Sinn Féin under such circumstances.<sup>xv</sup>

In July 1999 the British government attempted to force the decommissioning versus devolution issue. They triggered the devolution of the power to the Northern Ireland Assembly. The UUP stayed away and an all nationalist SDLP-Sinn Féin government of Northern Ireland was established. It was immediately deemed invalid because it failed to meet the strict cross-community criteria set out in the Good Friday Agreement.

in operational procedure and large cuts in the numbers of police officers. Many unionists regarded the recommendations as a further insult to their sense of Britishness and as further evidence that the Good Friday Agreement was favouring nationalists. The nationalist community broadly welcomed the recommendations, but any changes were put on hold until the political situation became clearer.

In September and October 1999 another attempt was made to persuade the militant organisations to disarm and the Ulster Unionist Party to enter into a devolved government with Sinn Féin. A review of the implementation of the Good Friday Agreement was held under the chairmanship of Senator George Mitchell. While the atmosphere of these talks was reported to be better than previous UUP-Sinn Féin encounters, there seemed little sign of movement. Everyone knew where the compromises had to come from: Sinn Féin had to encourage the IRA to begin decommissioning its weapons and the UUP had to swallow hard and enter into government with Sinn Féin. Everyone knew how the compromise would probably come about: in a phased way with decommissioning and full devolution beginning simultaneously and progressing by stages. No one, however, could make the UUP and Sinn Féin make the first move. All the while, key decisions on the social and economic governance of Northern Ireland were deferred.

### **Violence**

A major threat to the Agreement came in the form of spoiler violence from elements who were dissatisfied with the faith the main paramilitary organisations had in the peace process. Two new republican groups, the Continuity IRA and the Real IRA signalled their intention to continue the armed struggle along traditional lines. British troops were to be driven out

planting bombs in Banbridge, Enniskillen, Moira and Portadown.

Paramilitary fragmentation was not restricted to the republican side. The virulent breakaway Loyalist Volunteer Force, unnerved by the involvement of the mainstream loyalist paramilitaries in the peace process, targeted Catholic civilians from June 1996 onwards. The seemingly random attacks had a deliberate political aim; to goad republicans into breaking their ceasefire and prompting a collapse of the peace process.

While the peace process and Agreement seemed able to withstand spoiler violence, a severe test came in August 1998 when a splinter republican group planted a bomb in the country town of Omagh, killing 28 afternoon shoppers. The bomb had no specific targets, but followed a recent spate of 'Real IRA' bombings in small towns, aimed at derailing the peace agreement. The Omagh bomb struck indiscriminately against both communities. It appeared to spurn the popular feeling expressed in the recent referenda in both parts of Ireland. Public and political outrage created an environment that allowed Sinn Féin to break a taboo and condemn fellow republicans. The British and Irish governments were able to toughen and harmonise their anti-terrorist legislation with virtually no opposition. The UUP leader David Trimble travelled to the Irish Republic to attend the Catholic funeral services of children killed in the bomb. In other words, Omagh licensed a number of actors who had intellectually accepted the need to make changes to do so actually.

The bombing had more concrete effects, in that it prompted most of the breakaway organisations to declare ceasefires. Some violence did continue, particularly from small loyalist groups containing disaffected elements from larger groups. The peace process and post-Agreement period also saw an increase in less structured types of violence, with

A number of peace processes, and South Africa in particular, have been accompanied by significant increases in non-political crime. The pattern in Northern Ireland is more complicated. Conventional (non-political) crime rates have traditionally been low and the incidence of most types of crime fell during the peace process. Some crimes did show increases, particularly drugs related offences and sexual assaults. This may have reflected a lessening of community control by paramilitary organisations and an increasing willingness to report crimes to the police. There was also an increase in public order offences in connection with the parading dispute. Charged with protecting society against any increases in crime was a police force which faced significant reform.

### **Policing**

Difficult decisions on the future of policing had been deferred during the negotiations leading to the Good Friday Agreement. If the issue had been confronted during the main negotiations, the chances of reaching agreement might have been jeopardised. Northern Ireland's police force, the Royal Ulster Constabulary, is overwhelmingly Protestant in religious composition; Catholics comprise no more than 6% of its membership but make up 40% of the Northern Ireland population.<sup>xvi</sup> For many unionists, the police force was the first line of defence against paramilitary violence. They saw a strong police force as integral in upholding their broad political aims: continued union with the United Kingdom and many had strong family traditions of involvement in policing. Many nationalists, on the other hand, regarded the police force as biased and part of the problem rather than a neutral and independent actor. A 1998 survey showed that a majority of Catholics thought that Protestants received better treatment from the police.<sup>xvii</sup> Political opinion on the future of policing in Northern

beginning to policing in Northern Ireland with a police service capable and attracting and sustaining support from the community as a whole.<sup>ix</sup> An independent commission to review policing was to be established and was to report no later than Summer 1999. The commission, which was established under the chairmanship of former Hong Kong governor Chris Patten, had an unenviable task. Northern Ireland's security situation had meant that the region had a police force between three and five times larger than its peace time requirements. Any process of normalisation would require a significant reduction in police numbers. Yet, at the same time, Catholic (and female) representation in the police had to be drastically increased. On top of this mathematical conundrum, a range of issues connected with the public perception of the police force had to be addressed. Increasing the acceptability of the police force among Catholics and nationalists risked eroding those factors which formed a special bond between the police force and many Protestants and unionists. Continuing levels of political violence also meant that significant changes to policing, for example the disarming of the police force, had to be put on hold.

The Patten Commission held a series of public and political consultations on the future of policing in Northern Ireland. The issue was extremely divisive. Many unionists who had supported the Good Friday Agreement began to have second thoughts, especially since there seemed to be little progress on the decommissioning of paramilitary weapons. For them, the down-grading of the forces of law and order, while paramilitary structures and arms dumps remained intact, amounted to a paramilitary victory by stealth. Given the uncertainty surrounding the full implementation of the Good Friday Agreement and the destabilising potential of the parades issue, the Patten Commission has deferred publication of its report until the end of Summer 1999.

nationalists, however, the parades were triumphalist and intimidatory. An increasing Catholic population in certain areas has meant that parades which were once entirely bounded by Protestant populated areas may now pass through mainly Catholic populated areas. From the early 1990s, nationalist protests at certain parades became more vocal. A 1998 survey showed that 89% of Catholics felt that no marches should be allowed through areas which were predominantly of the other tradition unless the residents approved. Only 39% of Protestants agreed.<sup>xxi</sup> Many unionists saw the protests against the parades as a threat to their traditions and cultural heritage and as deliberately orchestrated by Sinn Féin.<sup>xxii</sup>

A number of factors inflated the parading dispute to the extent that it risked destabilising the wider peace process. Although the disputed parades were often linked with specific locations, related public order problems and rioting had the capacity to quickly spread throughout Northern Ireland. The government decision to re-route annual Orange Order parade at Drumcree in County Armagh in 1996 resulted in Northern Ireland-wide violence and a marked deterioration in community relations. Given that the parades are annual events, the pattern was repeated in 1997 and 1998, leaving a storehouse of ill-feeling. The British government attempt to take the parading issue out of the political arena and place decisions on parades routes in the hands of an independent body, the Parades Commission, failed to mollify unionist opinion. In 1998, 61% of people (77% of Protestants and 41% of Catholics) believed that 'the right to march' was 'an important freedom', pointing towards a strong marching culture which is likely to persist regardless of how it is managed.<sup>xxiii</sup> Unresolved, the parading issue has become bound up with general unionist dissatisfaction with the peace process and a sense that wider political developments are necessarily harmful to the unionist cause.

Good Friday Agreement and during the referendum campaign, those parties with links to paramilitaries were given access to the prisons for consultations. The governments were also aware that republicans and loyalists were unlikely to support any peace accord unless it showed generosity towards prisoners. A leading Sinn Féin negotiator spelt out his position before the Agreement was reached, '...prisoners clearly will be getting out of prison as part of the settlement...that's our bottom line.'<sup>xxiv</sup>

The perceived leniency towards prisoners caused massive offence among the victims of paramilitary violence. While the Agreement noted that it was 'essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation,' the five paragraphs which dealt with the issue of prisoners failed to mention victims. The early release of prisoners formed a central plank in the arguments of those unionists who rejected the Agreement. The refusal of the paramilitary organisations to disarm, the prospect of radical reform to the police force and perceived foot-dragging in relation to the needs of the victims of violence all brought the early release of prisoners into sharper relief. Continuing violence, such as punishment beatings or more serious incidents, also raised fears that prisoners were being released while the paramilitary organisations were in clear breach of their ceasefires. According to the Democratic Unionists the British government had clear evidence that the IRA was responsible for murder yet was unwilling to bar Sinn Féin from taking its place in the Assembly.<sup>xxv</sup>

### **Conclusion**

Despite the array of problems facing the Good Friday Agreement, the Agreement itself and the peace process behind it stand as remarkable achievements. For the Agreement to come about, compromises were

issues deferred. The process also had to withstand significant levels of violence, much of it deliberately aimed at destabilising the emergent talks process.

The Good Friday Agreement is only as strong as the will to implement it, with three important groups either blocking or obfuscating full implementation. First is the significant minority who originally voted against the Agreement. Led by the Democratic Unionist Party, this constituency was always uneasy at the prospect of former paramilitaries in government, prisoner releases and a down-grading of the security forces. They have been joined by a second group; unionists who originally supported the Agreement but who have subsequently suffered from 'buyer's remorse.' For them, the Agreement gave too many concessions to nationalists and paramilitaries. Within six months of the May 1998 referendum, only 41% of Protestants, as against 72% of Catholics, felt that the Good Friday Agreement benefited unionists and nationalists equally. The same survey found that 50% of Protestants felt that the Agreement benefited nationalists more than unionists.<sup>xxvi</sup>

A third group who stood in the way of the full implementation of the Agreement were actually keen supporters of it, or rather, parts of it. Both the Ulster Unionist Party and Sinn Féin were pro-Agreement, although for different reasons. The UUP believed that it strengthened the Union with the United Kingdom and Sinn Féin regarded it as a staging post on the road to a united Ireland. The UUP, with their leader David Trimble as First Minister of the new Assembly, blocked the establishment of the power-sharing Executive and the transfer of full powers to the Assembly. Their argument, simplified to the slogan 'No guns, no government,' was that they could not be expected to enter into government with Sinn Féin in the absence of decommissioning by the IRA.

If not technically in breach of the Agreement, and accusations to that effect were common, both the UUP and Sinn Féin contravened the spirit of the Agreement. Remarkable changes had taken place. Northern Ireland still remained deeply divided, but elaborate new mechanisms for the management of the conflict had been put in place. The creation of a new government now seemed to be blocked by a matter of principle. The issue of decommissioning had been inflated beyond an argument about mere weapons into a battle for the moral high ground. It also seemed to be out of sync with the popular mood. When asked to identify the most important issues for the new Assembly to tackle, Catholics and Protestants were united in identifying the issues of health and employment. More 'political' or partisan issues such as reducing discrimination against Catholics or Protestants were rarely mentioned.<sup>xxvii</sup> The message, it seems, is that people want less politics and more government.

---

John Darby is former Director of INCORE (the Initiative on Conflict Resolution and Ethnicity) at the University of Ulster. He is currently a Visiting Professor at the Kroc Institute in the University of Notre Dame.

Roger Mac Ginty, Lecturer at the Richardson Institute for Peace and Conflict Research at the University of Lancaster, was previously a Research Officer at INCORE at the University of Ulster.

1998; Brendan O'Leary and John McGarry, *The Politics of Antagonism: Understanding Northern Ireland*, London, The Athlone Press, 1996; Joseph Ruane and Jennifer Todd, *The Dynamics of the Conflict in Northern Ireland: Power, Conflict and Emancipation*, Cambridge, Cambridge University Press, 1996; and John Whyte, *Interpreting Northern Ireland*, Oxford, Clarendon Press, 1990.

- iii. A detailed analysis of the death and injury toll can be found in Marie-Therese Fay, Mike Morrissey and Marie Smyth, *Northern Ireland's Troubles: The Human Costs*, London, Pluto Press, 1999.
- iv. Controls on violence are discussed in John Darby, 'What's Wrong with Conflict?,' Occasional Paper 3, Coleraine, Centre for the Study of Conflict, 1995.
- v. The term was used by former moderator of the Presbyterian church, John Dunlop, Ulster Television, 10 April 1998.
- vi. The full text of the Agreement can be found at: <http://www.incore.ulst.ac.uk/cds/agreements/belfast.html>.
- vii. The Northern Ireland Agreement, 'Declaration of Support,' p 226.
- viii. Under the Good Friday Agreement, key decisions in the Northern Ireland Assembly are to be taken on a cross-community basis with parallel consent (a majority of both nationalist and unionist representatives) or a weighted majority (60% of representatives including at least 40% of each nationalist and unionists) must endorse legislation.
- ix. Author interview.
- x. A March 1999 BBC opinion poll showed that a majority of unionists would not support the Good Friday Agreement if given the

- xiii. The Agreement (Decommissioning), p 240.
- xiv. From DUP website: [http://www.dup.org.uk/scripts/dup\\_s/election\\_details.idc?article\\_ID=60](http://www.dup.org.uk/scripts/dup_s/election_details.idc?article_ID=60)
- xv. Quotation from UUP 'Decommissioning' statement, 29 March 1999, <http://www.uup.org/index.html>.
- xvi. More in-depth discussions of this issue can be found in A Hamilton, "Policing Northern Ireland: Current Issues," *Studies in Conflict and Terrorism*, 18, 1995, pp 233-242. R Mac Ginty, "Policing and the Northern Ireland Peace Process" in J P Harrington and E J Mitchell (eds), *Politics and Performance in Contemporary Northern Ireland*, Amherst, MA, University of Massachusetts Press, 1999, pp 103-121.
- xvii. The 1998 Northern Ireland Life and Times Survey showed that 32% of Catholics thought that Protestants were treated 'a bit better' by the police and 19% 'a lot better.' Seventy percent of Protestants thought that both sides were treated equally, as against 36% of Catholics.
- xviii. "It's Right to Say 'NO'" DUP election leaflet for 22 May 1998 referendum.
- xix. The Agreement (Policing and Justice), p 241.
- xx. An overview of the marching issue can be found in Neil Jarman and Dominic Bryan, *Parade and Protest: A Discussion of Parading Disputes in Northern Ireland*, Coleraine, Centre for the Study of Conflict, 1996.
- xxi. 1998 Northern Ireland Life and Times Survey.
- xxii. Author interviews with a leading member of the Orange Order and a senior member of the DUP.

# **Northern Ireland Peace Agreement**

## **THE BELFAST AGREEMENT**

**10 April 1998**

### **Selected Extracts**

#### **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.

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.

## **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;

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.

## **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

**(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.

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

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

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.

### 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

## 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.

## **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:

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

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

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.

## **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.

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

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.

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.

5. 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.

## **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:

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.

## **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

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

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:

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

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.

## **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

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.

## **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

(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.

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

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,

### **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

Great Britain and Northern  
Ireland

For the Government of Ireland

## **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.

