

**THE AGREEMENT AT 25:  
A TIME FOR CONSTITUTIONAL CHANGE  
IN NORTHERN IRELAND?  
ALAN WHYSALL**



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# Introduction

In the 25<sup>th</sup> anniversary year of the Belfast/Good Friday Agreement, this short report

Ireland risks being set on a road to nowhere, increasingly unwanted either in Great Britain or in the rest of Ireland.

The paper argues that we need a debate about the future that is realistic and greater emphasis on advancing by consensus, consistent with the principles embodied in much of the Agreement. And meanwhile we need to renew the Agreement so that the institutions established through it can deliver good government to Northern Ireland.

A great deal has been written recently about prospects for unity – though less on the longer term prospects for the Union. This



# 1. The Agreement at 25

The Belfast/Good Friday Agreement (hereinafter, 'the Agreement') stands, on its 25 anniversary, in urgent need of renewal.

Once the foundation of great public hope and enthusiasm, in many ways it has disappointed. Its principal institutions have been in suspension for the last year. Advances that flowed from it, indeed the whole process of reconciliation after conflict, appear to have stalled, if not gone into reverse. And Northern Ireland, which has serious social and economic challenges, has been, on the whole, badly governed since the Agreement.

Brexit was the first significant development in the constitutional environment of Northern Ireland since 1998 that did not have the cross-community support by which the Agreement was concluded. It has been profoundly disruptive to politics there.

Brexit gameplay in London has made matters worse. And the British government, which once worked in close cooperation with its Dublin counterpart to secure political advance in Northern Ireland, has often abandoned the partnership, indeed been at odds with many of the Agreement's supporters, at home and abroad.

The first chapter of Northern Ireland's Political Framework published last spring, summed up the balance sheet of the Agreement. It had brought clear benefits, many of which endured notably, it created the conditions in which political violence had largely ceased; policing by consent had been achieved; there had been economic success, and much international goodwill; relationships within the island had developed to mutual benefit; and much of society had moved on. But, the paper suggested, these gains cannot be seen as permanently guaranteed. Polarisation and political dysfunction in recent years, notably the suspensions of the institutions provoked in 2017 by Sinn Féin and last year by the Democratic Unionist Party (DUP), have cast doubt on their capacity to endure.

Yet there is no prospect of any other generally acceptable foundation emerging for the government of Northern Ireland, and for its wider relationships. The Agreement, for all its faults, as the foundation for government has alone provided the only intervals we have enjoyed of stable politics in 50 years.

So, the paper concluded, urgent action was needed to renew the Agreement, and the ensuing chapters suggested how that could be done. That included a significant change of approach and commitment from London.

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<sup>4</sup> Indeed, it did not even have majority support: Northern Ireland voted Remain by 56% to 44%.

## The last year

We have not, so far, seen this revival. Matters for a time worsened: conflict with the EU over the Northern Ireland Protocol initially intensified. Polarisation in Northern Ireland intensified too. The DUP having withdrawn from the Executive in February after a protest at the Protocol, after which Assembly elections were called, then to prevent a new Executive from being constituted; and it also blocked the Assembly itself from meeting. These measures are apparently popular within the party's own electoral base, but certainly not beyond.

Northern Ireland ministers who had remained in office in a caretaker capacity from February 2022, finally lost their offices in the autumn, and Northern Ireland is once again without effective government. Civil servants run matters from day to day, but are incapable of taking new initiatives. Nothing new, therefore, can be done to tackle the economic, social and public service problems that confront Northern Ireland.

The confidence of Northern Ireland people in London, meanwhile, continued to be notably low in all parts of the community.

But Rishi Sunak once established as Prime Minister, changed course on the Protocol, and negotiated changes to its operation with Brussels, christened the Windsor Framework (with complex machinery intended to address unionist constitutional concerns). The new arrangements secure greater flexibility from Brussels than many had expected.

The ground in Belfast had not been prepared, though perhaps it could not have been, given where the politics stood. The DUP for the moment has not accepted that the Windsor Framework sufficiently addresses its doubts about the Protocol. As would leaders and other luminaries assemble in Belfast to celebrate the 25th anniversary of the Agreement, the institutions it established are in abeyance.

In this atmosphere, constitutional issues have again come to the fore. The Protocol dispute has led some unionists, asserting that the Union is under threat, to demand further guarantees, reinforcing those already set out in the Agreement and the Act of Parliament

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<sup>5</sup> Formally the Ireland Northern Ireland Protocol to the EU Withdrawal Agreement; see NIPF, chapter 6.

<sup>6</sup> See for example polling conducted by LucidTalk in early March 2023, [data for](#) and for [all parties](#)

<sup>7</sup> Alan Whysall, [Northern Ireland: dangers and opportunities for London](#), UCL Constitution Unit blog, 15 November 2022.

<sup>8</sup> In [LucidTalk polling conducted in January](#), the Secretary of State had a performance rating of minus 64, far lower than any Northern Ireland based politician; 67% of unionists thought he was doing a bad or very bad job, as well as 75% of nationalists (only 37% of unionists thought the same of Micheál Martin, who had just stepped down as Taoiseach). [LucidTalk polling in February](#) conducted before the Windsor Framework was agreed, showed that the British government was distrusted as regards handling Northern Ireland's interests over the Protocol by 85% of people.

<sup>9</sup> For explanations of the Windsor Framework's key provisions, see Jess Sargeant, Sachin Savur, and Joe Marshall, [The Windsor Framework](#), Institute for Government, 27 March 2023, and Jess Sargeant and Sachin Savur, [Stormont Brake: The Windsor Framework](#), Institute for Government, 10 March 2023.

giving effect to it.<sup>10</sup> Meanwhile, Irish unity, which the Agreement provides for if majorities support it both north and south, is once again much discussed. The debate has become an unhelpfully binary one between warring camps, very much at odds with the consensus politics the Agreement aimed to promote.

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<sup>10</sup> [Northern Ireland Act 1998](#) At the time of writing, the UK government is apparently contemplating 'reassurances in law that Northern Ireland remains an integral part of the United Kingdom': BBC News, [Windsor Framework: Unionists to get "legal reassurances"](#) 31 March 2023.

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This picture continues: polling published since the Working Group report<sup>12</sup> shows higher levels of support for unity in online polls, but still falling short of overall majorities.

Some polls show a large proportion of don't know<sup>13</sup> (lower with the online polls): the behaviour of these people, and those who do not habitually vote but who might do so on the constitutional question, could be very significant.

A striking finding of recent online polling is in the age divide, with much more support for unity among younger people<sup>15</sup>

Among supporters of the SDLP, 27% would vote for the Union against 51% for unity, with 18% undecided.<sup>17</sup>

So, as with opinion polling, Northern Ireland election results clearly show the pro Union cause declining in popularity, but offer no evidence for the likelihood of an early majority for unity.

## The South

Surveys of attitudes to unification in the South have consistently shown support over 70% (excluding don't knows).<sup>18</sup>

A substantial set of questions were put to people in both Northern Ireland and the South by the ARINS project: the results, published in December 2002, attracted much commentary.<sup>20</sup> The overall result in the South was in line with earlier polls (66% for unity, with only 16% against and 16% don't know/wouldn't vote).

But other questions suggested that this result might change significantly depending on the terms of reunification: for example, almost half of respondents in the South said they would be less likely to vote for unity if it involved a new flag or new national anthem.

There is clearly still a strong aspiration in principle for unity in the South, but there are grounds to suppose that opinion might be subject to significant change if (i)-2 (an)-1 (t)001(845 0

Conservative voters, there was more support for unity (24%) than opposition (15%), and 45% were neutral.

The implication of this –limited– polling may be that voters in Great Britain feel little affinity

# 3. Prospects for the Union

This chapter considers the state of support for Northern Ireland remaining within the United Kingdom, what arguments are being made, to what audiences and with what success; and how the case might develop.

## Is the pro-Union cause in serious decline?

As the previous chapter set out, polls and election results suggest that there remains a majority in favour of maintaining the Union, but that has been reducing. Political unionism in recent years has successively lost overall majorities: in the share of the overall vote received by unionist parties, and in seats in the Assembly and in parliament. In the 2022 Assembly elections, the largest party was not unionist, but Sinn Féin, and accordingly unionism lost the right to nominate the First Minister. Adding to the impression of decline, the 2021 census results revealed for the first time more declared Catholics than Protestants in the population.









Meanwhile, the blank canvas that the concept of a new unified state offers permits it advocates to depict attractive vistas.

As regards people of nationalist outlook (such of them as are still persuadable that ( t)2

conflict, ultimately contributing to the UK's international reputation, may be more effective.

## Who should make these arguments?

Are unionist parties the worst people to make the case for maintaining the Union, when unionism no longer holds an overall majority? Perhaps- but, if so, who should make the case? Polling indicates that most, though not all, of the unionist political class are poorly regarded in the centre and among nationalists. There may be a need to find figures outside politics whose ability to be heard goes wider, but few with substantial pulling power have so far come forward.

## Conclusion

Political unionism has so far largely failed to convince people outside the shrinking

## 4. Prospects for unity

nationalists and others. Debates further intensified since the controversy over the Northern Ireland Protocol, which led the DUP to collapse the Agreement institutions.

The last few years have seen a remarkable upsurge in activity around prospects for unity. Since the Unit's own report, there have been a number of books on the subject, as well as a significant number of studies by academics under the





unity, there would have to be a default unification plan that would take effect in the absence of consensus and referendum approval (that obviously would not be an agreed Ireland).

There is nothing like a perfect process for unification. The two-stage models make for a complex sequence with much opportunity for the politics to go wrong. But in the past, political differences have at times been resolved through such painfully elaborate mechanisms.

### What would a united Ireland look like?

It is also essential well before a border is pulled that there should be a clear idea of the n..-0.8 (d)

considerably less upheaval in both parts of Ireland, but it would introduce significant complications into the government of the Irish state.

Other options considered by the New Ireland Forum in the 1980s included a federal or confederal Ireland, and joint sovereignty.<sup>51</sup> These are barely discussed at all in the current debate. It is hard to square a confederal joint sovereignty with the provisions of the Agreement.<sup>52</sup> But if there were consensus between the governments and the parties, and referendums to endorse the change, that should not be an obstacle.

Michael McDowell, former Tánaiste and Justice Minister, recently raised confederation as a more practical option, given differing attitudes North and South.<sup>53</sup> That mode gives rise to grave practical difficulties. But it is strange that less attention is being given to these issues now, when unity starts to appear a more real prospect, than it was 40 years ago. More work is needed here.

Beyond that, the Working Group identified some of the key specific issues that need to be addressed,<sup>54</sup>

times however, there seems to be an assumption that the UK will make a significant contribution, for example to pensions. It may be unlikely that London would give any such promises at least at an early stage, and particularly while Scottish independence is a live issue.

In due course the improvements in economic performance that the South has seen in recent decades might transfer to the north of a unified state but in the short term there would be a potentially significant financial burden on the new state, imposing difficult choices.

### Is a united Ireland achieved on the basis of a bare majority practicable?

There is no doubt that under the Agreement, 50% plus 1 majorities are sufficient to decide the question. There is no plausible way of reading the Agreement in any other sense. Indeed it would not have been reached if that had not been the understanding of nationalists.

But many may ask, as debate intensifies, about the practicability of bringing about an abrupt change of constitutional status without grave risks to stability. If Northern Ireland were already in political disarray at the point that a poll was called, the implications may become serious. The Ireland state would potentially be taking in three quarters of a million reluctant citizens. It is one thing to regard Northern Ireland as a failed political entity; another to conclude that a successful one could be constructed by incorporating it.

There is no prospect of consensus arising for changing the formula deciding the constitutional question. But fear of the disruptive effects of unity may potentially deter many voters, and perhaps particularly the South, however well disposed towards it they may be in principle.

### Are there other routes to closer relationships within the island of Ireland?

The preoccupation with a border poll and a big constitutional change has left little room for discussion on other routes to closer relationships within the island: indeed to the Agreed Ireland that John Hume saw as the path to Irish unity.

A border poll has a clear branding as a route to Irish unity. As we have seen, the clarity of the branding is illusory. The Agreement provides little more than a trigger for an otherwise largely undefined process, and says almost nothing about the united Ireland that may result.

The SDLP's New Ireland Commission, which has been meeting for several years but only recently offered any public thinking, emphasises reconciliation and inclusion in the Hume tradition. Its proposals so far are of a very general character, but it does appear to be aimed

towards a border poll. This project is aimed at constitutional change, which necessarily mean a referendum in the years to come with opposing propositions on a ballot paper'.

The current Irish coalition government has embarked on a Shared Island initiative which is altogether more nuanced in conception. It aims to enhance cooperation and mutual understanding to build consensus across the island around a shared future, backed by a €1bn fund. Much work has been done under the initiative to bring about engagement especially in border areas, and on infrastructure. The initiative has not been pitched as a gradualist approach to Irish unity, in part perhaps for fear of alienating unionists. But that thinking is implicitly no doubt there: the then Taoiseach, in launching the initiative, acknowledged that for the next five years, a border poll was not on the agenda. The result is that in public perceptions, shared island may be a rather vague concept, lacking a clear objective, and not widely seen as relevant to the Union versus unity debate.

Is there scope for developing a gradualist programme more overtly directed towards an 'Agreed Ireland' or 'Community of Ireland' but without any necessary commitment to constitutional unification?

What might be the elements of the programme? Possibilities include

- the existing Shared Island work, and more initiatives of the same sort
- rights for people in the North to contribute to the southern political process: an example would be the extension of voting rights in Irish presidential elections to citizens in the North which has been the subject of recurrent proposals in recent years
- expansion of the benefits that southern authorities accord to people in Northern Ireland – analogously with the right to an Irish passport already accorded to those people born in Northern Ireland
- further measures to address the lack of understanding between North and South
- more mutually beneficial cross-border cooperation in areas like health – the establishment of cross-border bodies to conduct such cooperation has sometimes been sought by nationalists for symbolic reasons and arouses unionist suspicion; but cooperation itself where there

- amplification by Dublin of Northern Ireland's voice in Europe – though this may be delicate territory

There is scope for much more reflexion around options of this sort, from which might emerge a clearer, gradualist, middle way, focusing on the practical benefits of closer relationships within the island, rather than emphasising constitutional ~~forces~~. favouring unity might hope that from such a programme, greater consensus on constitutional change of some sort might develop ~~but~~ there would be no need for commitment to that from those taking part.

There are political difficulties on both sides: some unionists will warn of slippery slopes, and it is hard for nationalist politicians to be seen putting off the day of Irish unification. But it may be the most satisfactory and successful route to making the different parts of the island work together.

## How will the debate evolve?

### Will we have an early border poll?

There is not yet anything like a majority for unity in most surveys, still less in election results, so for the moment the Secretary of State's duty to call a poll is not triggered.

The current ~~in~~ Fián demand is that ~~a~~ date for a poll is fixed (though it does not say when)<sup>62</sup> The party does not make reference to states of opinion, ~~so~~ appears to be a demand for an exercise of the Secretary of State's discretion. But a UK government facing the prospect of Scottish independence may be unlikely to take any steps involving the potential breakup of the UK as a matter of discretion.

The UK government may also recognise ~~that~~ taking such a step would substantially change the nature of Northern Ireland

It is important at all points that the Secretary of State assesses command trust. The constitutional status provisions are a cornerstone of the Agreement. There is now a head of steam behind the demand for a poll, with a significant number of people apparently believing a poll, and unity, are not far distant. The courts have underlined the need for honesty and propriety in the decision (and appear ready to ensure that these are shown).

But all the evidence the Secretary of State might look at is imperfect, whether election results, opinion polls, or other expressions of political opinion like Assembly debates. As we come to have serious informed debate on many aspects of unity, opinion may be particularly volatile.

It is especially difficult to be confident about opinion polls, given the difference in results that different polling methods produce. Professor Jon Tonge addressed the issue in a submission to the Working Group, as did the Group itself in its report.<sup>65</sup> So far, at any event, as the Group concludes, they offer no basis for belief that a majority for unity would be likely.

Election results are another key indicator. Nearly 50% support for nationalist parties would change the political context markedly. An Assembly vote for unity (or for the holding of a border poll) The Secretary of State might have to conclude in those circumstances that he or she should best call a poll whatever the evidence, or the likely outcome.<sup>66</sup>

In these circumstances the Working Group found it impossible to suggest any simple formula or any precise weighting of the different sorts of evidence the Secretary of State ought to draw on. They need to be assessed in context at the time they become more finely balanced, the Group suggested that a more detailed review process be



decisions on unity. A Sinn Féin government in Dublin would presumably take steps in



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the Irish government when there are no institutions. We may see the best people leaving politics, and talented young people leaving Northern Ireland altogether.

In this context, support for Irish unity may in principle grow. But will it? Some in Northern Ireland may see in such moves the risk of exacerbating the political fractures. And in the South, the dangers of seeking early integration into the state of a chaotic Northern Ireland (already little enough understood there) may seem increasingly unattractive.

Such

It is essential that attention turn to areas that have been neglected. Northern Ireland's Political Future therefore proposed efforts to restore the crumbling underpinnings of the Agreement to ensure that progress be made towards reconciliation, eliminating paramilitarism, sustaining policing by consent, and handling legacy issues sensitively. And it proposed ways in which the good government deficit might be plugged: a returning Executive must, unlike its predecessors, have a clear vision for the future, and from the

comprehensive, exploring all the key issues about Northern Ireland's potential constitutional destiny

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