The vulnerability of a (quasi-)constitutional settlement: Northern Ireland after 1998 and the British-Irish relationship

Jennifer Todd, School of Politics and International Relations, University College Dublin

Jennifer.todd@ucd.ie

Abstract

The Good Friday Agreement of 1998 is constitutionally innovative not just in its provisions but also in the informal British-Irish mode of oversight and adjudication of disputes. The stability of settlement, therefore, is vulnerable to changes in British-Irish relations and priorities. This article argues that this is at the root of recent crises and political stalemate in Northern Ireland.

Introduction: the present conjuncture.

It was not unrealistic in May 1998 to see the Good Friday Agreement (GFA) – in the words of its Preface – as a 'new beginning' in Northern Ireland, opening up to an agreed politics no longer reducible to ethnic power and ethnic parties.[1] A series of crises ensued between 1998 and 2003 over decommissioning of paramilitary weapons, reform of policing, the formation of the executive and continued IRA activity, leading to sequential failures to form devolved governments and bring the new representative institutions into action.[2] Protestant support for the Agreement, in 1998 just over 50%, plummeted. By 2003 the more extreme parties in each bloc – the Democratic Unionist Party (DUP) and Sinn Fein – triumphed electorally over the more moderate – the Ulster Unionist Party (UUP) and the Social Democratic and Labour Party (SDLP). Yet within three years, strong British and Irish government involvement brought the parties to agreement (the slightly amended St Andrews Agreement of 2006) and they entered a

---

[1] British and Irish Governments, 1998. On the conflict in Northern Ireland which was (at least partially) settled by the GFA, see Whyte, 1991; McGarry and O'Leary 1995; Ruane and Todd, 1996.
[2] For the detailed chronology, see the Northern Ireland reports in Constitution Unit (1999-2011)
[3] See for example the interview with Nancy Soderberg, Irish Times, 28.08.2014; reports of speeches by Irish Minister for Foreign Affairs, Charles Flanagan, Irish Times, 06.09.2014; 12.09.2014.
[2] For the detailed chronology, see the Northern Ireland reports in Constitution Unit (1999-2011)

new phase of devolution, now led by the DUP and Sinn Fein. The implementation of the GFA/St Andrews was declared 'complete' with the devolution of now radically reformed policing to the Assembly in 2010. By all measures, this has been successful conflict regulation. It is common to say that the conflict is 'over' and politicians and peacemakers try to 'export' the lessons of the Irish model world-wide (Wilson, 2010; see also White, 2014).

The re-birth of loyalist street protests in winter 2012, the increased contention over Orange marches, and the failure of the parties – even after intensive consultation and mediation by Richard Haass and Megan O'Sullivan in 2013-4 – to agree a mode of dealing with 'the past', suggests that the judgement is premature (Nolan, 2013; 2014). The politics of Northern Ireland has been stabilised since 1998, but that stabilisation is highly dependent on the inter-state context. Once the British and Irish governments, for different reasons and in different ways, turned their attention away from Northern Ireland, a new phase of political struggle began.

The difficulties of the present – the loyalist protests, the failure of the Haass talks, political inquiries over the 'OTRs' ('on the run' paramilitaries who were permitted by the British government to return home (Nolan, 2014, 167-171)), the seeming paralysis of shared government – are often explained in terms of the failures of leadership in the Northern Ireland political parties.[3] Senior Irish and British officials and politicians have emphasised the wonderfully improved relationship between Britain and Ireland, the important trading relations, the intermingling and interconnections of peoples, the family ties. Paul Gillespie (2014) takes this as indicative of a 'normalisation' of British-Irish relations, and a recognition by the Irish of the fact of 'interdependence' (Keohane and Nye, 2001) rather than either dependence or independence. The changes in the Irish constitution that removed the territorial claim to Northern Ireland are typically seen to help this 'normalisation' (see Coakley 2001). On this British-Irish 'best friends' rhetoric, British-Irish relations are unconditionally positive. It is, Gillespie (2014) argues, the impact of the Scottish referendum of 18 September (Meharg, 2014), and a promised 2017 referendum on UK membership of the EU (IIEA, 2013), that threaten to destablise not just British-Irish but also Northern Irish and North/South relations in Ireland. Indeed there has been destabilisation in Northern Ireland but I argue that the

---

[3] See for example the interview with Nancy Soderberg, Irish Times, 28.08.2014; reports of speeches by Irish Minister for Foreign Affairs, Charles Flanagan, Irish Times, 06.09.2014; 12.09.2014.

causes go deeper. The British-Irish relationship underlay and sustained the Northern Irish settlement, and imbalances in that relationship allow unresolved issues within Northern Ireland to be politicised. While current problems may be overcome, they show the dangers inherent in the informal constitutionalism that has so far sustained the settlement in Northern Ireland.

The GFA: provisions and significance

The GFA is of utmost importance as a foundation stable and peaceful politics in Northern Ireland. Harvey (2001, eg p. 36) argues that it provides the normative foundations, as well as sketching the institutional provisions, for democratic politics there. It is the primary point of political agreement in Northern Ireland, with minor amendments in the St Andrews Agreement of 2006 and it provides both the principles of agreement and a framework of new institutions. It was conceived and negotiated as a complex balance, a 'package' where 'nothing is agreed until everything is agreed' and where gains for one bloc in one area are qualified in another. It was drafted by British and Irish officials, building on fifteen years of intensive British-Irish negotiations and a series of British-Irish agreements and declarations that formed the framework for the GFA (British and Irish Governments, 1985; 1993; 1995; Todd, 2013). It was amended, rather than written, by the Northern Ireland parties in the 1997-8 negotiations. Its provisions were proofed against internal demographic or political change in Northern Ireland, such that there would be a smooth constitutional transition to a united Ireland, with identical rights and safeguards for minorities and majorities as in the United Kingdom, were a majority in Northern Ireland and the Irish state so to decide in referendum. Throughout the Agreement, implicitly and explicitly, sovereignty (whether British or Irish) is distanced from nationality, power and culture with egalitarian political, economic and cultural provisions outlined (for discussion, see Meehan, 2014).

The Agreement is very wide-ranging, comprising normative principles, provisions for new institutions of governance and laws, and an outline of processes that can bring an end to war. The latter, decommissioning, demilitarisation and prisoner releases, were substantially

completed by 2007 and are not further discussed in this article (See Constitution Unit 1999-2011).

Sovereignty

In its single most important constitutional provision (which repeats the language of the British-Irish Downing Street Declaration of 1993, paras 4, 5[4]) the Agreement affirms that while it is for the people of the island of Ireland alone to exercise their right of self-determination 'without external impediment', this must be 'by agreement between the two parts respectively' and 'subject to the agreement and consent of a majority of the people of Northern Ireland' (para 1ii). Whatever choice is made by a majority of the people of Northern Ireland is legitimate (para 1i). The Republic is to acknowledge this by amending Articles 2 and 3 of its Constitution to redefine the Irish nation in terms of people not territory and to remove its claim to jurisdiction over the whole island, replacing it by an aspiration to unity and a recognition of the principle of consent. (Annex B) The British government in turn declares that Northern Ireland remains part of the United Kingdom and will not cease to be so without the consent of a majority expressed in a poll organised for this purpose: in the event of a majority wish for a united Ireland, the British government will introduce appropriate legislation in agreement with the Irish government (para 1iv and Annex A). This section at once affirms the right to national self-determination for the Irish people and redefines it so that it must be exercised by agreement between the two parts of the island. This gives unionists the constitutional recognition that Northern Ireland is a legitimate political entity and that the union will remain as long as that is the wish of a majority of the population of Northern Ireland, while affirming for nationalists the right of Irish self-determination.

The constitutional innovativeness of this resolution is partially achieved by a slippage in the concept of 'people' between the people of the island of Ireland and the people of Northern Ireland and partially by the implicit distinction between the *ground* of sovereignty in self-determination, and the *exercise* of sovereignty (presently by the British state). For nationalists in Northern Ireland and in the Irish state after the Agreement, the legitimacy of the new jurisdiction in Northern Ireland – and more generally the legitimacy of the Union of Great Britain and Northern Ireland - is now grounded on the democratically expressed agreement of the two parts of Ireland

---

[4] British and Irish Governments, 1993.

(McGarry and O'Leary, 2004, 277-81). This is not, however, the unionist or the British understanding which focuses on the unchanged character of sovereignty (strand 1, 33; strand 3, British-Irish Intergovernmental Conference, 4), while in the 1998 Northern Ireland Act, the constitutional innovations of the Agreement are lost (Hadfield, 1999; Harvey, 2001).

Meehan (2014) argues that the GFA represents an innovative and contemporary concept of sovereignty that gradually became accepted by the British political elite over the 1980s and 1990s. That concept, as expressed in the GFA, is far from specified: it has resonances of sovereignty of the people (Constitutional Issues, paragraph 1ii, 1iv) as well as of territory (Constitutional Issues, Annex A, 1 (1)), and spills out into wider concepts of governance (see Morison, 2001). This is more than 'constructive ambiguity' (Bell and Cavanaugh, 1999). It provides a concept open to future specification and precision which can play a role in structuring political contestation (Sunstein, 1996) and driving institutional change (Stone Sweet, 2002) in ways similar to Article 2 of the 1978 Spanish Constitution (see Comas, 2003). In this sense, the GFA defines sovereignty as a basic frame of understanding, as distinct from the actual state (British or Irish) which may happen to exercise sovereignty (see Walker 2013 on these two understandings of sovereignty). If the question of state sovereignty has preoccupied unionist politics, constitutional thinkers in Northern Ireland have found the GFA of much more interest as a frame for future politics (Morison, 2001; Harvey, 2001; Meehan, 2014).

Multi-levelled governance

The agreement outlines British, Northern Irish, British-Irish and North-South layers of governance. While the remit and budget of each layer of government is highly asymmetrical (Coakley and Laffan, 2005), the relative importance of each can increase or decrease either explicitly by agreement, or implicitly in practice.

British sovereignty remains, and Westminster exercises control over a range of non-devolved matters, including the high-political concerns of foreign policy, currency, and taxation. However a wide range of competences rest with a 108 member Northern Ireland Assembly, elected by proportional representation (single transferable vote). The Assembly has legislative devolution in areas dealt with by the existing Northern Ireland departments; policing was initially excluded with provision for later devolution, which occurred in 2010. Governmental power ('executive

authority') is exercised by a First and Deputy First Minister and up to ten ministers with departmental responsibilities. The First and Deputy First Minister are elected by the Assembly which votes by parallel consent.[5] The ministers are appointed by the d'Hondt rule so that ministerial posts are proportionate to party strength. The Assembly is consociational, in that it involves a executive power-sharing, proportionality and bloc vetoes when vital interests are involved (McGarry and O'Leary, 2004, 263-272). The provisions also have strongly egalitarian elements: the voting rules allow each main bloc a veto on contentious issues, and the roles of First and Deputy First Ministers are equivalent. Moreover equality and a rights culture are central to the functioning of the Assembly. Rights at least as strong as those in the European Convention on Human Rights (ECHR)[6] and strong equality principles are to be mainstreamed into all decision-making, and legislation is to be proofed in their terms, with a Human Rights Commission and Equality Commission in existence to monitor this. A duty to act to promote equality and prevent discrimination is part of the Pledge of Office of Ministers.

In addition, the Agreement provides for a North/South Ministerial Council composed of ministers in the Irish government and in the Northern executive with responsibility for selected areas. It functions by agreement, while pledging (in an important phrase which echoes the Anglo-Irish Agreement) to make 'determined efforts to overcome any disagreements' (para 5ii). It is to agree on at least six new cross-border or all-island implementation bodies, each with a permanent secretariat, to implement the policies agreed by the Council: these bodies, InterTrade Ireland, SEUPB, Waterways Ireland, Language Body, Irish Lights, and Food Safety, have exercised important although limited functions since 1999 (Coakley, 2005; Coakley and O'Dowd, 2007). Although limited in terms of its budget (Coakley and Laffan, 2005), its importance lies in terms of the exemplary character of the cooperation and the change in civil service, and perhaps also civil society, culture that it produces. A parallel British-Irish council is instituted and permitted, but not required, to undertake parallel duties. A British-Irish Intergovernmental Conference replaces the Anglo-Irish Intergovernmental Conference which was established by the Anglo-Irish Agreement of 1985 (which is in turn replaced by the new British-Irish Agreement). Like its predecessor, it comprises an intergovernmental conference with a permanent secretariat, and the governments are to make 'determined efforts to resolve disagreements between them', without derogation of the

---

[5] In St Andrews, 2006, this was amended to nomination by the largest parties in each bloc.
[6] Or stronger 'to reflect the particular circumstances of Northern Ireland' (rights, safeguards and equality of opportunity, para 4). See Harvey (ed) 2001.

sovereignty of either. As Coakley (2014) has recently documented, this body has been allowed by the two governments to recede in importance.

Equality

The Agreement commits the parties to 'the mutual respect, the civil rights and the religious liberties of everyone in the community' (rights, safeguards and equality of opportunity, para 1). Rights at least as strong as those in the European Convention on Human Rights (ECHR)[7] and strong equality principles are to be mainstreamed into all decision-making (McCrudden, 1999), and legislation is to be proofed in their terms, with a Human Rights Commission and Equality Commission in existence to monitor this. A duty to act to promote equality and prevent discrimination is part of the Pledge of Office of Ministers. The Northern Ireland Human Rights Commission will advise on the formulation of additional rights 'to respect the identity and ethos of both communities and parity of esteem' (para 4). The Agreement also provides for North-South harmonisation on rights and equality issues. These provisions have been unevenly achieved. No Bill of Rights for Northern Ireland and no consensual definition of 'parity of esteem' has been accepted while there remains significantly weaker rights and equality legislation in the Irish state than in Northern Ireland (O Cinneide, 2005; 2013). In contrast, and continuing the trend since the Fair Employment Act of 1989, the employment positions of Catholics and Protestants have neared equality, although more complex measures of poverty and wealth show continuing Catholic disadvantage (Ruane and Todd, 2012; Hillyard, 2003, 2007 ; Nolan 2013, 2014). Reform of policing to achieve 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' (Policing and Justice, para 1) was outlined in the Report of the Independent International Commission on Policing (1999) and finally implemented with the formation of the Police Service of Northern Ireland (PSNI) with 31% Catholic officers in 2013 (Nolan, 2014, 47). Criminal justice was reformed to the satisfaction of Irish government officials by 2007.

Open future.
The GFA did not resolve the Northern Ireland conflict but provided a democratic frame in which it might be pursued. Whether or not constitutional change to a united Ireland takes place, whether or not prior to this further institutional integration between North and South of

---

[7] Or stronger 'to reflect the particular circumstances of Northern Ireland' (rights, safeguards and equality of opportunity, para 4). See Harvey (ed) 2001.

Ireland takes place is a matter solely for the people of Northern Ireland, in conjunction with the people of the Irish state, to decide. The new institutions are to remove the veto from unionists, paramilitaries and British elites (Ruane and Todd, 2014), allowing a real possibility (but no certainty) of constitutional change to a united Ireland. If the GFA is a 'new beginning' it is because it provides institutions whose remit and status can be changed through democratic discussion (Harvey, 2001).

Much of the intellectual debate on the GFA has centred on the virtues of its representative institutions, and most particularly the proportionality, grand coalition and bloc vetos in the Assembly.[8] It has been common to criticise the institutions as favouring communal segregation and polarisation (Wilson, 2010; Taylor , 2009). Yet this is an inappropriately formal critique: how any institution functions depends not primarily on its form but on the wider configuration in which it is set, and how it channels, confirms and/or changes the expectations, aims and coordination practices of the actors within the institutions. The political stasis and recurrent crises which have followed the Agreement are a product not of a static character of the representative institutions, but of the dynamic character of the wider institutional configuration both in Northern Ireland and in its wider British-Irish context.

The status of the Agreement and the way it is sustained

The GFA was much less than a constitutional agreement. The formulations that put Northern Ireland into a different constitutional position than any other part of the United Kingdom, allowing national self-determination (exercised by agreement between the two parts of the island) to ground the legitimacy of the sovereign government, were part embodied in the Irish constitution and not at all in British law (Hadfield, 1998; Harvey, 2001). And yet it took on quasi-constitutional functions in one important sense. It was the sole point on which the parties in Northern Ireland agreed and as such it framed all future negotiations. Harvey (2001) argues that it provided the normative framework for future politics. In this sense devolution in Northern Ireland was radically different to devolution in Scotland and Wales. In Scotland, for example, devolution

---

[8] Of course, even for McGarry and O'Leary (2004, 260-289) who have partially defined this agenda of discussion, this is only part of the Agreement and leaves out the provisions for segmental autonomy and British-Irish and North-South institutions.

gave autonomy to an existing (Scottish) political community, expanding its institutions. Devolution in Northern Ireland was premissed on an agreement (the GFA) which constituted a new and thin political community united only on its principles and provisions, and disagreeing on their meaning. The institutions that it sketched were intended to protect rights amidst conflicting interests and to help politically to transcend conflict: devolution, in this sense, was a means to an end rather than an end in itself; its effectiveness as a form of governance was a secondary consideration. Legally, this difference was obscured in the fact that devolution in each jurisdiction was established by Act of the British Parliament.[9] Yet the Northern Ireland Act (1998) like any Act of the British Parliament, holds legitimacy for nationalist voters (40% of the voting population in Northern Ireland) only because of the prior GFA.

As with all agreements, all institutional rules, the GFA was open-ended and not just in the set of issues (from policing to justice to the timing of demilitarisation) left unresolved in the Agreement itself, from policing to justice to the phasing of decommissioning and demilitarisation. Also and inevitably it was open to interpretative discretion, magnified by the radically differing interpretations of the parties in Northern Ireland (Ruane and Todd, 2001) and the more subtle differences between the Irish and British governments (Todd, 2013). Finally, and most significantly of all, the functioning of the agreed institutions and laws – their capacity to sustain the 'balance' which legitimated the Agreement - would depend on the anticipations and coordination practices of the actors within them. (Hall and Thelen, 2009 ; Suteu, 2014). Changes in endogenous and exogenous circumstances – the parties voted into government in Northern Ireland, the wider concerns of the British and/or Irish governments, demographic shift – could radically change those anticipations and thus the ways the institutions functioned (cf Romainville, 2014).

Such agreements are never final resolutions of conflict, but always moving balances, their functioning changing with circumstances, and with disputes always needing to be proofed against the principles of agreement. Crucially there was no agreement between the parties to the GFA on the way that key terms and principles would be interpreted. They disagreed profoundly about its overall geopolitical significance and as to what followed institutionally and in particular for the restructuring of security and public culture. Subsequent implementation crises – whether focussed on the procedures to end war and reform policing

---

[9] For the parallels and differences between the provisions of the Northern Ireland Act (1998), the Scotland Act (1998) and the Wales Act (1998) see Hazell, 2000, and for the different outworkings, see Coakley et al (2005)

(1998-2007) or on the proper public symbolism in Northern Ireland (2012-2014) - were at a deeper level struggles to define the significance and trajectory of the GFA. Nor was there any agency or potential agency which could adjudicate on the meaning of the Agreement: there was no Constitutional Court, nor would any such court have had legitimacy unless it comprised British and Irish (and no doubt also Northern Irish) members.

Instead adjudication on the meaning and principles of Agreement took place informally, in precisely the way that the broad terms of the Agreement had themselves been agreed, by British-Irish negotiation. British and Irish elites are clear that the two states differed in their perspectives, perceptions and constraints on their policies with respect to Northern Ireland.[10] Yet they have also detailed how British-Irish cooperation in conflict management in the years between 1985 and 1998 was sustained by informal intergovernmental 'determined efforts' (as outlined in the 1985 Anglo-Irish Agreement) to resolve disagreements (British and Irish Governments, 1985; Lillis, 2010; Goodall 2010; Todd 2011; 2013). These 'determined efforts' continued in the implementation of the Agreement after 1998 and permitted the two governments to overcome serious crises in its implementation.

This informal mode of safe-guarding the principles of the Agreement was initially functional, at least for the two states involved. It suited the *modus operandi* of the United Kingdom which functions without a written constitution, and where the habits of territorial governance have traditionally and to the present involved informal agreements, flexibility, consensus, rather than appeal to law. (Rose, 1982; Bulpitt, 1983; Hazell, 2000). It permitted successive British governments to implement the Agreement with flexibility, where necessary giving different interpretations of their action to different constituencies. It allowed the maintenance of what might be called by analogy to Scotland, the 'Northern Ireland anomaly', where Northern Ireland was seen by unionists in Northern Ireland as part of the asymmetrically devolved United Kingdom, its constitutional position defined by Acts of the British Parliament, and by Irish nationalists as significantly different from the other devolved regions because its legitimacy was assured by the people themselves, not by the British Parliament, whose role was qualified by the place of the Irish state in its governance .[11]

---

[10] The Institute for British Irish Studies at UCD has conducted and archived interviews and witness seminars with well over 100 British and Irish politicians and officials involved in British-Irish negotiations, and this and subsequent paragraphs are based on the author's close reading of these. See Coakley and Todd, 2014. Todd, 2011, 2013, Ruane and Todd, 2014, Meehan 2014, McDermott, 2014.
[11] On the 'Scottish anomaly' see McCormick, 1998. On asymmetric devolution, see Keating, 2001.

It also suited the Irish state. Since the late 1950s, it had embarked on a politico-economic project described by Ruane (2010) as a 'multiple interface periphery' (MIP) project. The state accepted its economic and political peripherality and dependence, but gained a degree of autonomy through its small open economy by skilful political balancing of the influence of and openness to its three large, powerful and significant partners – the UK, the US and the EU. One large neighbor balances the other, and permits an escape from dependence upon it. Meanwhile the Irish interlinkages with any one of these partners is useful to the others. This permits a small flexible open society to advance. Significantly, this model of governance was used by the Irish state elite in the political management of Northern Ireland. The overwhelming political presence of the UK was balanced by a strong diplomatic initiative in the USA which at once reduced US support for violent republicanism and brought in the US on the side of constitutional nationalism (Dumbrell 2000 ; see also interview with Irish official, 23.09.2010), with the EU brought into play as a model of shared sovereignty and a legitimator of Irish aims (Meehan, 2005; Laffan, 2005). The result was a diplomatic triumph for a small state which gradually and through dialogue and persuasion shifted the direction of British state policy in Northern Ireland (Ruane and Todd, 2007, 2014; Todd 2011; 2013). The British did not see it in precisely this way, but accepted the value of Irish influence and advice.[12] In 1998, political elites in each state believed expected that they would continue their successful cooperation in conflict management, and for a period they did.

The crises of implementation and the containment of conflict

If trust is essential as a foundation for democratic legitimacy (Adonolfi, 2014   ), it was lacking both in the making of the Agreement and in its implementation. There was no trust among the parties in Northern Ireland because they were all too aware that they saw the Agreement differently and thus would take it forward in different directions. For the pro-agreement unionists, nationalists had bought into British sovereignty for the sake of equality within it: Paul Bew (1998) wrote that 'the unionists have won, they just don't know it'. Unionists expected that core British norms and institutional practices and public culture would thus remain: '… If Northern Ireland is a legitimate part of the United Kingdom, the symbols of the state should reflect that. There is of course a need to be sensitive… but we do

---

[12] One senior British official (interview, 21 September 2010) saw the Irish as functioning as '*our unpaid consultants on nationalist sensibilities*'.

not accept that Northern Ireland should be a completely neutral state with no symbols ….'.[13]

For nationalists and republicans, however, the GFA was much more than institutional equality within the British state (Ruane and Todd, 2014). It created more permeable boundaries between the Irish and British state, a radically changed public culture and valuation of cultural capital with a marked diminution of the 'British' element and a continuing role for the Irish state in conflict management. There was a change in British governing assumptions about the legitimacy and realism of political demands, in a radically decreasing state tolerance for breaches of civil and human rights in Northern Ireland and in the willingness to use state resources to restructure institutions and enforce new norms of acceptable behaviour in them. This set of changes tackled and part-reformed the biases that made sovereignty so important in the past. In effect, the GFA was changing the national character of Northern Ireland long before constitutional change became possible.[14]

The difference in interpretation carried over into action. From the ratification of the Agreement and the Assembly elections, the UUP Unionists were concerned to secure the gains they had achieved and ensure their interests were met in the issues left unresolved. They initially focussed their attention on decommissioning, representing the long-term unionist concern that the IRA definitively and permanently renounce violence. The UUP refused to enter an executive with Sinn Féin prior to decommissioning. This was not simply or primarily a security concern.[15] It was more importantly 'a litmus test of the Republican movement's commitment to the process',[16] and of their willingness to work within a British constitutional framework. It was not until 29th November 1999, nearly 18 months after the elections to the assembly, that the UUP eventually entered the executive, and the entire set of institutions began to function - on the understanding that decommissioning would begin shortly thereafter.

---

[13] Stephen King, reported by Maol Muire Tynan, *Sunday Business Post* 14.05.00. See also columns by Eric Waugh in the *Belfast Telegraph*, for example, 31.05.00, 04.07.01, 29.08.01.

[14] Brian Feeney commented that 'the SDLP wasn't going to sign up to working an administration in Northern Ireland unless it wasn't Northern Ireland' showing the sense even among political moderates in the nationalist community, that the old form of Union had to end. Brian Feeney, *Irish News,* 22.08.01. Aughey (2005) pp. 136-9, quotes extensively from Feeney's journalism as indicative of the view which unionists strenuously opposed.

[15] In interviews, British and Irish officials, together with many British and almost all Irish politicians, were clear that any group could re-arm.

[16] UUP position paper, 'Implementing the Agreement', October 1999, quoted in Nations and Regions: The Dynamics of Devolution, *Northern Ireland, Quarterly Monitoring Report*, November 1999, p. 29 (<http://www.ucl.ac.uk . >

The UUP leader, David Trimble, indicated that he would resign as First Minister if it had not begun by February 2000. This was to initiate a sequence of entries and exits into government in response to IRA inaction and action and a resulting succession of internal challenges to Trimble's leadership and weakening of his support. By 2003 Protestant support for the Good Friday Agreement was less than 30%. (see figure One below)

Trimble's manoeuvres brought to the surface a conflict of interpretation of sovereignty which in other circumstances might have remained recessive. On February 11th, 2000, despite a last minute IRA offer, the Secretary of State for Northern Ireland (SOSNI), Peter Mandelson (against Irish government, SDLP and Sinn Féin objections) suspended the Assembly rather than accept Trimble's resignation and risk his failure to be re-elected as first minister (see Morison, 2001, for the constitutional implications of the 2000 Act). This was in blatant contradiction to the nationalist and republican understanding that the legitimacy of British rule was now based on Irish self-determination as expressed in the 1998 referenda on the GFA and that the British government could not unilaterally change the GFA provisions. This cast in doubt the basis of republican (and nationalist) strategy and the extent of British good faith. Intensive Irish diplomacy eventually brought a resolution of the immediate problem, but no explicit consensus on the underlying constitutional principle.

Meanwhile the report of the Independent International Commission on Policing in September 1999 revealed the very different significance attributed to the GFA by unionists and nationalists/republicans. The report recommended major changes in the make-up, recruitment, organisation, ethos and symbolism of the police service, including a removal of British names and symbolism from the service, 50% Catholic recruitment aiming for thresholds of 17-19% Catholic officers within four years and between 29-33% Catholic officers within ten years, answerability and accountability to a representative Policing Board and to local communities in District Policing Partnerships (DPPs), a strong human rights ethos, and – given the widespread nationalist distrust of the RUC – a commissioner to oversee the process of reform and an ombudsman.[17] Unionists were deeply shocked at the 'outrageous moral equilateralism' of the report (Godson, 2004, 492). David Trimble is

---

[17] IICP, 1999, p.. 83, 14.10

reported to have 'shaken with emotion' during one Westminster debate.[18] As Trimble's autobiographer (Godson, 2004, 472) puts it 'Patten had not understood that the Agreement was about nationalist Ireland affirming for the first time the legitimacy of Northern Ireland's position within the United Kingdom and determined by the consent principle. This confirmation of Ulster as part of British sovereign territory, Trimble reasoned, would inevitably have consequences for symbols, in the police and elsewhere.' It is of course precisely this notion of sovereignty that nationalists and republicans believed was definitively transcended in the GFA. Very intensive behind-scenes British-Irish negotiations with US input on the side of reform was necessary to ensure that nationalist concerns were catered for in policing, as indeed in issues of parades, demilitarisation and criminal justice.[19] One Irish official described the process as a '*guerilla war*' where Irish officials manoeuvred for the ear of Tony Blair or his aide Jonathan Powell who – once convinced - would take forward the necessary action.

These were serious problems, much compounded by slow pace at which the IRA engaged with decommissioning.[20] Yet finally the diplomatic efforts to sustain the settlement succeeded. In 2006, at St Andrews, the two governments worked effectively together to broker an agreement between the DUP and Sinn Fein. The governments 'would not take no for an answer', and made clear to each party that the alternative ('plan B') to re-entering agreement would differ depending on which party brought down the negotiations.[21] By 2007-8, with devolution restored and with policing and criminal justice reforms completed, the Irish elite believed that institutions were at last in place that would preclude any future return to unionist dominance and would allow a final move away from conflict.

Figure One about here . SEE additional file of graphs
Title Public attitudes to the Agreement 1998-2007[22]

---

[18] Reported in *The Times,* 20.01.00

[19] Embargoed interviews with Irish and British officials, 19.09.08; 27.11.08; 15.07.10 ; 23.09.10.

[20] The IRA did not directly meet with the Independent International Commission on Decommissioning (IICD) until late 1999 and only in September 2005 did the IICD report that it had put arms beyond use.

[21] Unattributable interviews with officials and politicians involved.

[22] Source: Northern Ireland Life and Times surveys, with 1998 from Irish Times/RTE exit poll. Note that the questions from 1999-2006 ask how the respondent would vote (on the GFA or in

 Indeed it appeared that public opinion was slowly and unevenly following. There was a moderation of the policies of the once-extreme and now-dominant parties and of their supporters (Mitchell et al, 2009). Dissident republicans remained marginalised, armed but unable to gain public support on a scale that could destabilise settlement. There was much volatility in public opinion (Morrow et al, 2013). However, unionists and loyalists who had been divided on the Agreement, were by 2007 moving towards acceptance of the status quo: in 2007 58% of Protestants now declared the GFA to have been 'a good thing'. Even those die-hard loyalists, who would fight to prevent a united Ireland achieved by democratic means, seemed to be decreasing in numbers. Between 1998-2002, the percentage of Protestants who would be unable to accept a united Ireland (achieved by democratic means) fluctuated between 22% and 29% with the median 26%; between 2003 and 2010 it fluctuated between 14% and 25% with the median 18.5%. (See figure 2 below).

Figure 2 about here

Title: Protestants who would find a United Ireland impossible to accept.[23]

A changing British-Irish context 2008-2014 and its impact upon Northern Ireland

Just as implementation was completed, events took place that threatened the stability of the settlement. New global and national developments changed the power balance, and a creative reinterpretation of norms of pluralism and equality by unionists (contesting perceived nationalist ideological dominance) brought new conflicts. After 2008 the balance achieved by the GFA came to seem more vulnerable.

The proximate cause of this vulnerability was the collapse of the Irish 'Celtic Tiger' economy in 2008. With this, the Irish 'Multiple Interface Periphery' project became significantly more difficult to maintain, as each of the more powerful partners took on a new role. As the


2006 on the St Andrews Agreement) while the 2007 question asks if the GFA 'was a good thing for Northern Ireland'.
[23] Source, Northern Ireland Life and Times www.

'Troika' [24] were called in, the EU became a manager of the Irish economy rather than a resource to be managed. US economic difficulties led to a renewed focus of attention on the Irish tax rates that were attracting US firms to Ireland. The UK remained a crucially important trading partner, and indeed helped support the Irish economy, but this left the Irish state in a more dependent relationship with less capacity and less desire to press issues in dispute to the wire. Meanwhile Northern Catholics and nationalist voters, reasonably satisfied with the GFA and watching the economic collapse to the South, changed their constitutional preferences away from Irish unity. (See Figure 3 below.) As in Catalonia (Guntermann 2014) it seems that economic judgements are crucial to their constitutional preferences.[25]

FIGURE 3 ABOUT HERE

TITLE : Constitutional preferences of Catholics in Northern Ireland for a United Ireland[26]
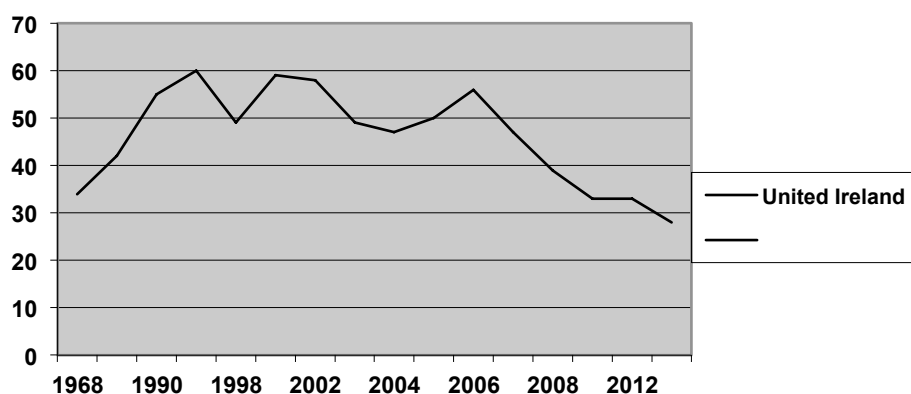
In the UK, a new Conservative-led coalition government took office from 2010: the election of Scottish National Party to government in Scotland in 2011 and a much weakened Irish state, led to British concerns being turned away from Northern Ireland (see Coakley, 2014).

---

[24] The term used to describe the IMF and EU lenders of last resort to the Irish state, whose price for what was called the 'bailout' was to oversee and manage the Irish finances.

[25] The survey question was also changed in 2007 to include a long term preference to remain part of the United Kingdom with devolved government, and this is also highly likely to have affected the results.

[26] Sources, Rose, 1971; Smith and Chambers, 1991; Social Attitudes Surveys; Life and Times surveys. Rose reports only 34% of Catholics who 'disapprove' of the Constitution in 1968 (the figure used in this graph) although 56% would wish to 'abolish the border' of whom 42% leave the alternative vague.

The strengthening of the United Kingdom Independence Party (UKIP) (anti-European, traditionally 'English' nationalist) in the local elections of 2014 further intensified this trend.

Unionism stepped into the vacuum in Northern Ireland, mobilising intellectually and on the streets to push back the principles of the GFA in those areas where it was not already implemented in law. From winter 2012 loyalists protested on the streets against Belfast City Council's decision to fly the British flag from City Hall only on designated days (a compromise following practices in Great Britain brokered by the cross-community Alliance party). Loyalist protests continued, intensifying over bans on Orange marches, and focussing on cultural issues. The DUP in government took note of popular concerns and hardened its policies for example turning back on the agreement on a heritage centre where the Maze/Long Kesh prison had been. Controversy developed over letters sent by the British government to 'on the run' republicans which had permitted them to return home without fear of prosecution. Richard Haass and Megan O'Sullivan were called in to mediate and after extensive consultation, research and discussion failed to win agreement on their proposals on flags, parades and the past (Nolan, 2014, 171-5). Political stalemate spread to other issues – proposed economic cuts – so that both Sinn Fein and the DUP argued that politics had come to a standstill. The slow moderation of opinion noted in the earlier period reversed: by 2012-3 again a quarter of Protestants felt unable to accept a future united Ireland achieved democratically. (see Figure 2 above)

In this context, the Scottish referendum on independence on September 18 2014 produced much anxiety in the Irish government and among unionists in Northern Ireland about its impact on the stability of Northern Ireland. Even more disturbing was the prospect of a further UK wide referendum to leave the EU, which – in the event of Scottish independence – was more likely to be passed by an English-centred rest of the UK. This would disrupt British-Irish trade prospects, and still more the ease and openness of North-South economic – and more generally socio-political – interlinkages (see Gillespie, 2014).

The British and Irish governments responded symbolically. The Irish government announced and carefully managed a 'decade of commemorations' (2012-22). An initial highly choreographed and successful visit by Queen Elizabeth to Ireland in 2011, and a later (2014) highly publicised visit to Britain by the Irish President Michael D. Higgins, were accompanied by an increasing rhetoric of best-friendship (see Gillespie, 2014, 47-50). The

rhetoric was new, apparantly agreed and orchestrated from the highest levels. Was it a new 'normalisation' of relations between the Irish and British states, a recognition of interdependence between them? If so, why did it begin after the period of intensive and fruitful partnership in managing Northern Ireland had ended, and the Irish state was more dependent than it had been for decades? The rhetoric was, I suggest, more performative than descriptive: it was a reactive response to fend off the worst aspects of impending crisis. It signified, first, the British and Irish states standing together symbolically against loyalist attempts to push a divide between them. It signified, second, a desperate attempt by the Irish to keep some influence in Britain, and a reciprocal response by the British concerned to keep their line of contact via Ireland to the North and to the EU. It signified, third, the shared sense that an important Irish-British economic and political relationship would remain even were Scotland to opt for independence.

After the Scottish referendum

The Irish government avoided making any reference to the Scottish referendum. Yet as the prospects of a 'yes' vote appeared to increase in the weeks before the referendum, there was increasing public discussion of the implications of the vote for Northern Ireland. Graham Walker (2014) argued that the most immediate implication of a yes vote in Northern Ireland would be to remove some of the symbolic ground from 'civic' or British-identifying unionists who saw asymmetric devolution in the UK after 1998 as providing a stable and suitable locus for cooperation with nationalists. After a yes vote, the dominance of the UK by England, and the dominance of British politics by a Conservative party threatened on its right by UKIP, would increase. With this, it would become more difficult to define an expansive and culturally pluralist concept of Britishness, particularly for Northern Ireland unionists whose immediate intuitive sympathies might be with Scotland. Similarly, the prospects of further breakup of the rest of the UK would increase, as would nationalist confidence, perhaps with a reopening of the constitutional question and a correlative increase in loyalist fears. That a yes vote would also have put a much richer range of constitutional possibilities and modes of being 'independent' than before onto the (Northern) Irish political agendas was less often noted, at least not in the public sphere.

A 'no' vote, as is now clear, could not mean simply a continuation of the status quo. In the final week of the referendum campaign the three main UK parties – Conservatives, Labour

and Liberal Democrats – pledged to fast-track major new reforms towards greater autonomy for Scotland – 'devo-max' – in the event of a no vote. This too, as Martin McGuinness, Deputy First Minister in Northern Ireland, was quick to comment, would also impact on Northern Ireland: he made clear that he would demand equal tax raising powers and powers of expenditure in Northern Ireland in order to avoid British-imposed welfare cuts. After the vote, First Minister Peter Robinson publically consulted with Welsh First Minister Carwyn Jones on a common strategy. There would be changes all around the UK, announced David Cameron at Downing Street, although his suggestions were immediately criticised by the Labour leader Ed Miliband, and neither Conservative nor Labour strategies appeared likely to meet the promised deadlines of agreement by November 2014 and draft laws by January 2015. Of course if the promise of devo-max that had broken the surge for independence was itself broken there would be more consequences, of which I discuss only those for Northern Ireland.

The no-vote, whether or not the promises of devo-max for Scotland are fully met, may indeed have even greater destabilising effects on Northern Ireland than a yes vote. The power of the Westminster elite to dictate the agenda of politics was clear in the final week of the vote, with a concerted cross-party campaign helped by highly publicised leaks of financial and industrial nervousness about Scottish independence. This will increase unionist and loyalist confidence that constitutional change is difficult if the British government opposes it. It is likely to confirm nationalists in Northern Ireland in their judgement that this is not the time to press for constitutional change. But if indeed the pre-referendum promises of fast-tracked autonomy were false, this will have major effects in Northern Ireland. Republican acceptance of the GFA was based in part on its promise of an open future, a really possible (although far from inevitable) route to a united Ireland. If the constitutional future is closed, an alternative source of change becomes necessary to legitimate republican strategy. The only apparent one is to increase the avenues for North-South cooperation and functional harmonisation and integration which can be done without constitutional implications.

If 'devo-max' is given to Scotland, and perhaps Wales, this too has implications for Northern Ireland, where it cannot mean increasing its devolved powers in isolation from Britain and Ireland. Devolution in Northern Ireland remains primarily a mechanism of conflict-regulation and the needs of conflict-regulation should guide British and Irish policy. Devo-max in Northern Ireland means Agreement-max, and that means at once increasing North-South

linkages and strengthening the mechanisms for adjudicating disputes. If the British-Irish informal mode of adjudication is no longer felt by the governments to be desirable then an alternative must be found – the 'constitutionalising' of the principles of Agreement with agreed avenues of appeal and accountability.

Conclusion

The settlement in Northern Ireland was achieved and later stabilised only in the context of a strong British-Irish relationship. The Irish government (sometimes with US assistance) was able to argue effectively for strongly egalitarian reforms whereby nationalist and republican perspectives could inform not just internal Northern Ireland affairs, but also the British policy agenda on Northern Ireland (Todd, 2013; Ruane and Todd, 2014). This was a conjunctural achievement of the 1990s and early 2000s. There was no reason to expect it to be permanent. International relations are far from stable, and particularly so when the states in question – Britain and Ireland – are so different in their size, power and economic resources. While neither is a tightly bounded nation-state, their openness functions differently: the small Irish national state opens its borders in order to increase its space for autonomy, while the post-imperial British state does so in order flexibly to manage the differing sets of demands from each of its constituent parts. If both states are capable of informal constitutional innovation, agreement on this is far from guaranteed and in the past required very sustained attention from the most senior officials and politicians. As this slips, so the prospects of slippage in the stability of the Northern Ireland settlement increases.

It has become common political wisdom first in Britain, and latterly in the Irish state, to say that devolution in Northern Ireland means that politicians there must sort out their own conflicts without input from the two states.[27] This is misconceived. In the Northern Irish case, devolution takes a radically different form and function than devolution elsewhere in the United Kingdom. In Northern Ireland devolution is a mode of conflict regulation; how it functions depends on how it fits within the wider institutional and constitutional configuration defined by Agreement. If it fails to function as an adequate mode of

---

[27] Charles J. Flanagan, the Irish Minister for Foreign Affairs, is reported to have said this in the British-Irish Association meetings in Oxford, September 2014 (ref Irish Times) and again at the John F. Kennedy summer school in Wexford (reported Irish Times 20 Sept 2014). Whether or not this has become Irish policy remains unclear at time of writing. It has been British Conservative policy for some years.

governance, the fault lies not simply in the political leaders but in the wider configuration which sets incentives, defines opportunities, and gives (or fails to give) a sense of the legitimacy of the political process. That sense of legitimate political balance was hard-won, and it is inevitably cast into question with wider global and national changes. This is all the more likely because it rests on an informal – if 'determined' - mode of resolving ongoing disputes of interpretation and of principle by the Irish and British governments. If that informal mode is deemed by the two governments to be either unnecessary or impossible in present circumstances, an alternative must be found.

In this context, the Scottish referendum debates provide a welcome reminder of the powers of constitutional rethinking. In the days after the narrow defeat of the 'yes' campaign, the inevitability of considerable consitutional remodelling is clear. From an Irish perspective, it is necessary that the principles of the 1998 Agreement be reaffirmed and modes of accountability and adjudicability in areas where they are not already present (not least 'parity of esteem', the past, public symbolism) be clearly put in place. By definition, where the only point of agreement in Northern Ireland remains the Agreement (GFA/St Andrews), the Northern Ireland parties cannot themselves adjudicate differences of interpretation of its principles.

More generally, I have argued that the success of the GFA has rested on an innovative and informal British-Irish 'constitutionalism'. I have argued, too, that the recent political crises show the dangers inherent in this constitutional mode. Radical power-imbalance between the states and new priorities for each allow slippage towards a purely British constitutionalism which undermines the legitimacy and stability of settlement.

References

Adinolfi, Gottfredo, 2014. 'The Discreet Charm of Direct Democracy: Europe and Portugal and the representation crisis' Paper presented at the seminar *After the economic crisis: the small state as a problem or solution?*

Aughey, A. 2005 *The Politics of Northern Ireland*, Abingdon, Oxon: Routledge

Aughey, A. and Gormley-Heenan, C. (2011) 'The Anglo-Irish Agreement: A Constitutional Moment', pp. 1-22 in A. Aughey and C. Gormley-Heenan, eds., *The Anglo-Irish Agreement: Constitutional Concepts in Transition?* Manchester: Manchester University Press.

Bell, C. and K. Cavanaugh 1999. '"Constructive ambiguity" or internal self-determination? Self-determination, group accommodation and the Belfast Agreement' *Fordham International Law Journal*, 22.4 1345-1371

Bew, Paul (1998) 'The unionists have won, they just don't know it', *Sunday Times*, 17 May.

British and Irish Governments 1985. *Agreement between the Government of Ireland and the Government of the United Kingdom* London: Downing Street https://www.dfa.ie/media/dfa/alldfawebsitemedia/ourrolesandpolicies/northernireland/Anglo-Irish-Agreement-1985.pdf accessed 22 Sept 2014

British and Irish Governments, 1993. *Joint Declaration* (Downing Street Declaration) https://www.dfa.ie/media/dfa/alldfawebsitemedia/ourrolesandpolicies/northernireland/peace-process--joint-declaration-1993.pdf accessed 22 Sept 2014

British and Irish Governments 1995 *A New Framework for Agreement* London;Government of the UK, Dublin: Government of Ireland http://cain.ulst.ac.uk/events/peace/docs/fd22295.htm accessed 22 Sept 2014

British and Irish Governments 1998. *Agreement Reached in the Multi-Party Negotiations* https://www.dfa.ie/media/dfa/alldfawebsitemedia/ourrolesandpolicies/northernireland/good-friday-agreement.pdf accessed 22 Sept 2014

Bulpitt, J. (1983) *Territory and Power in the United Kingdom: An Interpretation*. Manchester: Manchester University Press.

Coakley, J. 2001 'The Belfast Agreement and the Republic of Ireland', pp. 223- 244 in R. Wilford, ed., *Aspects of the Belfast Agreement* Oxford: Oxford University Press

Coakley, J. 2005 'The North-South relationship: implementing the Agreement', pp. 110-131 in J. Coakley, B. Laffan and J. Todd, eds, *Renovation or Revolution? New Territorial Politics in Ireland and the United Kingdom*. Dublin: UCD Press

Coakley J and B. Laffan 2005 'Institutions and modes of territorial management: the challenge of British-Irish relations', pp 200-221 in J. Coakley, B. Laffan and J. Todd, eds,

Renovation or Revolution? New Territorial Politics in Ireland and the United Kingdom. Dublin: UCD Press

J. Coakley, B. Laffan and J. Todd, eds, 2005 *Renovation or Revolution? New Territorial Politics in Ireland and the United Kingdom*. Dublin: UCD Press

Coakley, J. & L. O'Dowd (2007) *Crossing the Border: New Relationships between Northern Ireland and the Republic of Ireland*. Dublin: Irish Academic Press

Coakley 2014 'British Irish Institutional Structures: Towards a New Relationship', *Irish Political Studies* 29.1, 76-97

Coakley and Todd, eds 2014 *Breaking Patterns of Conflict in Northern Ireland: 5he British and Irish States*. London: Routledge

Comas, J-M, 2003. 'Spain, the 1978 Constitution and centre-periphery tensions', pp. 38-61 in J. Ruane, J. Todd and A. Mandeville eds., *Europe's Old States in the New World Order*. Dublin: University College Dublin Press

Constitution Unit, (1999-2011) UCL Nations and Regions Devolution Monitoring Programme, 1999- 2005 http://www.ucl.ac.uk/constitution-unit/research/research-archive/archive-projects/devolution-monitoring99-05 and 2005- 2011 http://www.ucl.ac.uk/constitution-unit/research/research-archive/archive-projects/devolution-monitoring06-09 Accessed 22 Sept 2014.

Cox, M., Guelke, A. and Stephens, F. (eds.) (2006) *A Farewell to Arms? Beyond the Good Friday Agreement*. Second edition. Manchester: Manchester University Press Dixon

Dumbrell, John (2000) '"Hope and History": The US and Peace in Northern Ireland' in M. Cox, A. Guelke and Stephens, F. (eds) *From Long War to Long Peace in Northern Ireland*. Manchester: Manchester University Press.

Gillespie, 2014 'The Complexity of British–Irish Interdependence' *Irish Political Studies*, 29.1, 37-57

Godson, D. (2004) *Himself Alone: David Trimble and the Ordeal of Unionism.* London: Harper Collins

Goodall, Sir D. (2010) 'Edging towards peace', *Dublin Review of Books* 13 (Spring)

Gunterman, Eric 2014 'State Preferences in a Time of Crisis: The Case of Catalonia in Spain'. Paper presented at the seminar *After the economic crisis: the small state as a problem or solution?*

Hadden, T. and Boyle, K. (1989) *The Anglo-Irish Agreement: Commentary, Text and Official Review*. London : Sweet and Maxwell.

Hall. P. A. and Thelen, K. (2009) 'Institutional change in varieties of capitalism', *Socio-Economic Review*. 7 (1) 7-34.

B. Hadfield, 'The Belfast Agreement, sovereignty and the state of the union', *Public Law,* winter 1995, pp. 599-616

Harvey, Colin J. 2001. 'The new beginning. Reconstructing constitutional law and democracy in Northern Ireland', pp 9-52 in C. J. Harvey, ed., *Human Rights, Equality and Democratic Renewal in Northern Ireland*. Oxford: Hart Publishing

Hazell Robert, ed., 2000 *The state and the nations: the first year of devoloution in the United Kingdom*. London: the Constitution Unit/Imprint Academic

Hilliard, P. G. Kelly, E. Mclaughlin, D. Patsos, M. Tomlinson (2003) *Bare Necessities: Poverty and Social Exclusion in Northern Ireland*, Belfast: Democratic Dialogue.

Hillyard P., D. Patsios and F. Semillon (2007) 'A Daughter to ELSI – NILSI : A Northern Ireland Standard of Living Index or Problematising Wealth in the Analysis of Inequality and Material Well-Being', *Social Policy and Society*, 6(1): 81–98.

Independent International Commission on Policing (IICP) (1999) *A New Beginning: Policing in Northern Ireland. The Report of the Independent Commission on Policing* (Norwich: Crown Copyright).

Keating, Michael 2001. *Plurinational Democracy: Stateless Nations in a Post-Sovereignty Era.* Oxford: Oxford University Press

Keohane, R. & Nye, J. (2001) *Power and Interdependence.* 3rd edn. (Boston: Little Brown).

Laffan, B. 2005'The European context: a new political dimension in Ireland, North and South' in J. Coakley, B. Laffan and J. Todd, eds, *Renovation or Revolution? New Territorial Politics in Ireland and the United Kingdom*. Dublin: UCD Press

Lillis, M (2010) 'Edging towards peace'., *Dublin Review of Books* 13 (Spring)

McCormick, N. 1998. 'The English Constitution, the British state and the Scottish anomaly', *Understanding Constitutional Change*, special issue of *Scottish Affairs* 129-45

McDermott, Susan, 2014. 'The dimensions of Irish government involvement in pursuit of a settlement in Northern Ireland', *Irish Political Studies*, 29.1, pp, 98-115

McGarry, J. and B. O'Leary (1995) *Explaining Northern Ireland: Broken Images* Oxford: Basil Blackwell.

McGarry, J. and O'Leary, B. (2004). *The Northern Ireland Conflict : Consociational Engagements*. Oxford : Oxford University Press

McHarg Aileen 2014   'What's Wrong with Scotland's Constitutional Status Quo and is Independence the Answer?' Paper presented at the seminar *After the economic crisis: the small state as a problem or solution?*

McCrudden, C. (1999) 'Mainstreaming Equality in the Governance of Northern Ireland', *Fordham International Law Journal* 22(4): 1696–775.

Major, J. (1999) *The Autobiography*. London: Harper Collins.

Meehan, E. 2005 'The European context: changing forms of territorial politics in the United Kingdom', pp 147-165   in J. Coakley, B. Laffan and J. Todd, eds, *Renovation or Revolution? New Territorial Politics in Ireland and the United Kingdom*. Dublin: UCD Press

Meehan, E. 2014 'The Changing British–Irish Relationship: The Sovereignty Dimension' *Irish Political Studies* 29.1 58-75

P. Mitchell, P., G. Evans and B. O'Leary (2009) 'Extremist outbidding in ethnic party systems is not inevitable: Tribune parties in Northern Ireland', *Political Studies*, 57 (2), pp. 397-421

Morison John 2001 'Democracy, governance and governability: Civic public space and constitutional renewal in Northern Ireland. *Oxford Journal of Legal Studies* 21.2, 287-310

Morrow, D. G. Robinson and L. Dowds (2013)   'The long view of community relations in Northern Ireland 1989-2012'   ARK Research Report http://www.ofmdfmni.gov.uk/the-long-view-of-community-relations-1989-2012-dec-2013.pdf accessed 19 January 2014

Nolan, P. (2013) *Northern Ireland Peace Monitoring Report. Number Two* (Belfast: Community Relations Council).

Nolan, P. (2014) *Northern Ireland Peace Monitoring Report. Number Three* (Belfast: Community Relations Council).

O'Cinneide, C. (2005) *Equivalence in Promoting Equality: The Implications of the Multi-Party Agreement for the further Development of Equality Measures for Northern Ireland and Ireland (*Belfast and Dublin: Equality Commission Northern Ireland and Equality Authority

O'Cinneide, C. (2013) A common floor of rights protection? The Belfast Agreement, 'equivalence of rights' and the North-South dimension, in C. McGrattan and E. Meehan (Eds) *Everyday Life after the Irish Conflict*, pp. 135-149 (Manchester: Manchester University Press).

B. Osborne and I. Shuttleworth (eds), *Fair Employment in Northern Ireland: A Generation On*, Belfast: Blackstaff, pp. 24–48.

Romainville, Celine, 2014 'A Plurinational Belgium under endogenous and exogenous pressure', paper presented at the seminar *After the economic crisis: the small state as a problem or solution?*

Rose, R. 1971. Governing without Consensus: An Irish Perspective. London: Faber and Faber

Rose, R. 1982 *Understanding the United Kingdom: The Territorial Dimension* (London: Longman)

Ruane, Joseph (2010) 'Ireland's multiple interface-periphery development model: Achievements and limits' In: Boss, Michael (ed.) *The Nation-State in Transformation: Economic Globalisation, Institutional Mediation and Political Values*. Aarhus: Aarhus University Press.

Ruane, J. and Todd, J. (1996). *Dynamics of Conflict in Northern Ireland : Power, Conflict, Emancipation.* Cambridge : Cambridge UP.

Ruane, J. and Todd, J. (2007) 'Path dependence in settlement processes: Explaining settlement in Northern Ireland', *Political Studies*, 55 (2), 442-458.

Ruane, J. and Todd, J. (2012). 'Beyond inequality: assessing the impact of fair employment, affirmative action and equality measures on Northern Ireland', in G. Brown, A. Langer and F. Stewart (eds,) *Debating Affirmative Action.* London: Palgrave MacMillan,

Ruane J. and J. Todd 2014 'History, Structure and Action in the Settlement of Complex Conflicts: The Northern Ireland Case' *Irish Political Studies*, 29.1, 13-56

Smith. D. J. and G. Chambers 1991. *Inequality in Northern Ireland*. Oxford: Clarendon

Stone Sweet, A. (2002). 'Constitutional Courts and Parliamentary Democracy', *West European Politics* 25 (1) 77-100

Sunstein,   C. 1996. *Legal Reasoning and Political Conflict*. Oxford: Oxford University Press.

Suteu, Sylvia 2014   'Constitutional Conventions in the Digital Era: Lessons from Iceland and Ireland'. Paper presented at the seminar *After the economic crisis: the small state as a problem or solution?*

R. Taylor (ed.) (2009) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. (London: Routledge)

Todd, J. (2011a) 'Institutional change and conflict regulation: the Anglo-Irish Agreement (1985) and the mechanisms of change in Northern Ireland', *West European Politics* 34 (4).

Todd, J. (2013) 'Thresholds of state change: changing British state institutions and practices in Northern Ireland after Direct Rule'. *Political Studies*, online publication http://onlinelibrary.wiley.com/doi/10.1111/1467-9248.12082/abstract

Walker, Graham, 2014 *Cui bono? The Referendum campaign and the implications of possible outcomesfor Scotland, Northern Ireland, the Republic and the EU' Conference on Scotland's Past and Future* organized by the TCD Centre for Irish-Scottish and Comparative Studies, Sept 8 2014 Trinity College Dublin

Walker, Neil, Sovereignty Frames and Sovereignty Claims (March 28, 2013). Edinburgh School of Law Research Paper No. 2013/14. Available at SSRN: http://ssrn.com/abstract=2240941 orhttp://dx.doi.org/10.2139/ssrn.2240941

White, T. J. ed, 2014. *Lessons from the Northern Ireland Peace Process*
Madison: U Wisconsin Press

Whyte, John 1991. *Interpreting Northern Ireland*. Oxford: Oxford University Press

R. Wilford (2001) *Aspects of the Belfast Agreement* (Oxford: Oxford University Press).

Wilson, R. 2010 *The Northern Ireland Experience of Conflict and Agreement: A Model for Export?* Manchester: Manchester University Press