



IBIS

The UCD Institute for British Irish Studies

Constitutional Futures after Brexit

Introduction

Ireland is facing major political and constitutional choices over the next decade. They arise from changing relations between Ireland and Northern Ireland, the United Kingdom's decision to leave the European Union and its consequences for the UK's own union, and the transformation of the EU itself internally and in response to external pressures. Together these changes amount to a constitutional moment for both Ireland and Northern Ireland in their most significant neighbouring relationships. During such periods, change can accumulate in multi-dimensional and often unanticipated ways, leaving major actors ill-prepared for the sudden shifts of interests, affinities and identities that together define such political transitions. The more effectively these potential changes are analysed, debated and mapped ahead of events by academics and researchers the better prepared political leaderships, decision-makers, interest groups and citizens will be to make informed choices about where developments might go and how they be can influenced and directed.

In this spirit the Institute for British-Irish Studies (IBIS) based at University College Dublin is planning a substantial research project over the next three years on *Constitutional Futures after Brexit*. Over its 20-year lifetime the institute has:

- conducted academic research in the area of relations between the two major traditions on the island of Ireland, and between Ireland and Britain, and all from an inter and multi-disciplinary perspective

- promoted and encouraged collaboration with academic bodies and with individual researchers elsewhere who share an interest in the exploration of relations between different national, ethnic or racial groups and
- promoted contact with policy makers and opinion formers outside the university sector to ensure a free flow of ideas between the academic and the non-academic worlds, contributing to policy making in meaningful ways.

IBIS has identified a need for new perspectives arising from the UK's decision to leave the European Union. IBIS academics have analysed the principles of the Belfast Agreement for over 20 years and related them to longer-term state strategies: their implementation, their paradoxes, their reversals and their lacunae. Overall, the core focus of this research has been on the pursuit of peace in Northern Ireland. In this new project we intend to link IBIS work on North-South relations and Northern Ireland to our colleagues' specialisms on Irish-British relations, comparative unionisms, Brexit, EU principles and law and Irish/British/EU negotiating strategies and imperatives. This will then be linked to best current thinking on constitutional change.

The Constitutional Futures after Brexit project addresses the three principal levels of possible change in Ireland, the United Kingdom, the EU and their inter-connections. It thus encompasses a broader field of relationships than Brexit alone, thinking through and beyond that event and its processes to examine their wider and longer-term constitutional, governmental and political implications. Working with key partners on these islands and elsewhere in Europe, the project will use appropriate social science theories and methods to analyse these possible futures, embedding specific pieces of research within a broader yet targeted research programme.. It proposes extensive engagement with academics, political actors, public servants, media and citizens to develop and analyse plausible scenarios of potential change and their implications. An ambitious outreach programme will publicise research findings, debates and events. The project is structured across three core pillars: analysis, deliberation and public policy. Each of these is in turn situated within analytical, theoretical and empirical research which identifies drivers and plausible scenarios of change and specifies methods and stages of analysis using a wide variety of social science approaches.

The Constitutional Futures Project after Brexit: Analysis, Deliberation and Public Policy

The United Kingdom is facing a dual sovereignty crisis in its external relations with the EU and its internal relations with the rest of its constituent nations. The external and internal dimensions are now explicitly linked in its political discourse and in its debates on possible constitutional futures after the UK leaves the EU. Both dimensions profoundly affect Ireland and are explicitly acknowledged to do so in that discourse. These new UK and EU dimensions transform the classical Irish nationalist case for territorial unity of Ireland, already profoundly changed by the principle of consent built into the Belfast Agreement, by adding to it a crisis in the UK's own political order of which Northern Ireland is a constituent unit, and a deep uncertainty on how both will in the future relate to the EU. By linking constitutional futures to work on Brexit, comparative unionism and nationalist politics this project explicitly extends the usual remit of studies on Ireland to embrace a more inclusive focus on structural change in the UK's union understood in a wider European and global setting.

How Ireland's relations with the United Kingdom will develop after Brexit is an open and intriguing question. We are living through a major historical transition in the UK's relationship with Europe which has profound implications for the island of Ireland. The conjuncture of a crisis in unionism with changing material interests, identities, political opportunities and preferences across the island gives the period its character as a moment of constitutional transition.

As noted, there are three major pillars to the project: analysis, deliberation and public policy. *Analysis* refers to conceptual and evidence-based research using a variety of social science methods carried out by trained academics and professional researchers. *Deliberation* is discussion and decision-making on political and policy options based on inclusive interaction, fair and accurate information and multiple perspectives. Ireland's experience with citizens' assemblies on climate change and abortion are good examples of this practice. *Public policy* refers to political decisions about policies implemented after deliberation and involving civil servants and citizens as well as politicians.

The constitutional transition and potential futures arising from Brexit will be analysed in one major pillar of this project. The analysis will use qualitative, quantitative, historical and comparative methods well established in the social sciences. The analytical pillar will proceed

alongside the deliberative pillar of the project, which will be charted with the help of scenario and modelling techniques developed to analyse periods of identity and political change, including in scenario and futures studies research. This is primarily a mapping exercise rather than one making predictions or forecasts. It involves choices of the more plausible outcomes by identifying the principal drivers of change concerning Brexit and the UK's political order and possible constitutional futures for Ireland emerging from and associated with them. These futures will be developed and refined analytically in workshops and seminars and then used as the basis for the later deliberative pillar. Its purpose will be to discuss and debate the range of potential futures with stakeholders, officials and political actors, with citizens in focus groups, deliberative forums, citizens' assemblies and public opinion surveys. The deliberative pillar will clarify preferences between the futures and possible constitutional shapes they might take to facilitate public policy-making. That in turn will be analysed in a continuing dialogue between the three pillars.

We now explain how a model based on two structural dimensions can generate and justify plausible scenarios of constitutional futures in Ireland, the United Kingdom and Europe in the three pillars of the project, based on the UK's dual sovereignty crisis, in its external and internal relationships. The external dimension ranges from a Brexit outcome which leaves the UK more distant from or closer to the EU, otherwise described as the difference between a harder and a softer Brexit. The internal UK dimension ranges from centralised to dispersed power relationships in the UK's constitutional future.

Table 1 suggests there are four plausible scenarios arising from this analytical exercise: a broken-up, renegotiated, differentiated or federal UK. Each has significant consequences for the island of Ireland which can be explored in its analytical, deliberative and public policy pillars using the various methods outlined in the next section. Here the scenarios are summarily described as a useful way to identify and specify the major potential pathways affecting relations between Ireland and the UK. Under each future scenario the table lists suggested ways in which it might affect the political orders in these islands. These lists are based on a common template dealing with:

- North-South relations on the island of Ireland and East-West relations between Ireland and Britain under the Belfast Agreement;
- the varieties of unionism and Britishness;
- impacts on Scotland, England and Wales; and

- future relations with the European Union.

This two-dimensional model is a hypothetical starting point for the research into constitutional futures and their impact. Table 1 provides an intellectual schema, first for displaying and interpreting the main dimensions of change in these islands and secondly to identify topics (within the four cells) that would be worth exploring further, and to illustrate the relationships between them. A major task will be to explore the impacts of the scenarios under these and other headings that will emerge from the project's three pillars. The impacts suggested here are illustrative only and intended to stimulate that work into plausible futures.

Table 1: The UK's Dual Sovereignty Crisis in its External and Internal Relationships: Four Constitutional Future Scenarios

External dimension: Relationships between UK and EU

	Distant/Hard	Close/Soft
Centralised	Future Scenario 1: Break-up of UK	Future Scenario 2: Renegotiated UK
	<i>Suggested impacts</i>	<i>Suggested impacts</i>
<p>Internal Dimension Power Relationships in the UK</p>	<ul style="list-style-type: none"> • Unity option for NI and RI • Failure of Unionism • Irish-British links renewed • Irish border poll • Scottish independence • English sovereignty • Welsh independence 	<ul style="list-style-type: none"> • BA muddles through/up • Unionism reimagined • Irish-British links renewed • NI + RI debate unity • Scottish discontent • English resentment • Welsh discontent
Dispersed	Future Scenario 3: Differentiated UK	Future Scenario 4: Federal UK
	<i>Suggested impacts</i>	<i>Suggested impacts</i>
	<ul style="list-style-type: none"> • NI in Customs Union/Single Market • Unionism weakens • Britishness erodes • Irish-British links renewed • NI + RI shift to unity • Scottish discontent • English resentment • Welsh discontent 	<ul style="list-style-type: none"> • BA reaffirmed • Unionism inscribed • Britishness reinvented • Irish-British links renewed • NI + RI deepen links • Scottish stability • English satisfaction • Welsh satisfaction

Future Scenario 1 combining a distant relationship to the EU with centralised power from London brings dissatisfaction to a crescendo by ushering in a breakup of the UK. It is expressed through Irish unity after a border poll, Scottish and Welsh independence, along with an assertion of English sovereignty preceded by growing English disenchantment with the state of the UK's union and how it is responding to a hard Brexit. The chronology would not necessarily be in this order; allowing for the contingency of events and how particular effects roll over into another (i.e. Scotland to Ireland or England to Scotland and Northern Ireland); one is rather dealing with a generalised crisis characterised by dissatisfaction and contestation all round. Analysis shows this most radical scenario is fully within the canon of plausibility which is the benchmark for this exercise in thinking about the future. A major overhaul of Irish-British relations would be required, presumably with constitutional ramifications.

Future Scenario 2 combining a close relationship to the EU with centralised power from London suggests the UK governing class and political processes would continue to pursue a devolved UK in the setting of a still-centralised state and a soft Brexit. In that case the Belfast Agreement would need to be renewed along with a fresh negotiation of the Irish-British relationship. A renegotiated and reimagined UK needing to deal with greater subsidiarity arising from the repatriation of powers from Brussels is posited hopefully by liberal unionists in Northern Ireland, Wales and Scotland. It would have a powerful appeal; but the questions it poses about the capacity of the governing class and political processes to deliver it invite scepticism. Dissatisfactions all round with sub-optimal outcomes could see discourse and opinion in both parts of Ireland debating a unity agenda, albeit with more time and opportunity to deliberate what it would mean. In parallel Scottish and English discontent over outcomes which do not resolve resentments about the balance between centralised and devolved powers continues to undermine efforts to muddle towards an acceptable settlement.

Future Scenario 3 combining a distant relationship to the EU with dispersed power internally shifts the UK to a harder Brexit putting it outside the EU customs union and single market but differentiates it to allow Northern Ireland stay in both so the Irish border remains open. That would also require renewal of Irish-British links. It would stimulate moves towards unity in both parts of Ireland but allow time for necessary deliberation and debate on its implications. Scottish and Welsh resentment over this differentiation and English discontent about paying

the price for Northern Irish exceptionalism and Scottish and Welsh ingratitude would stoke dissatisfaction with the UK's constitutional order.

Future Scenario 4 combining a close relationship to the EU with dispersed power internally foresees the UK becoming a federal state with a written constitution specifying rights and relations between its constituent parts during the period of negotiating and implementing a soft Brexit. Driving that process would be an explicit effort to head off disintegration or breakup of the UK's union under the pressure of generalised discontent over a too-centralised state. Such an outcome would see a commensurate reaffirmation of the Belfast Agreement, Irish-British links renewed, deepening of North-South relations in Ireland and a calming effect on demands for Irish unity, Scottish independence and English sovereignty. It might also see moves towards re-joining the EU. The major question to be asked is whether the UK's political and governing class and political processes are capable of such a transformation.

In each of these scenarios Irish-British links would require renewal. The project will as a central task explore what shape that might take under a variety of scenarios. Will it be enough to innovate incrementally within the given framework of the Belfast Agreement or is it more likely to require an overhaul in a new treaty? What would dictate the timescale of that in UK, Irish and EU terms? Similarly, each scenario has a different impact on the varieties of unionism and senses of Britishness. This gives the project a conceptual and empirical link to the associated research on comparative unionism.

There is now more discussion of potential territorial and constitutional unity in Ireland's politics, public sphere and media and this is being noticed by unionists. Their response makes for a fraught discussion of what is involved. Structural change drives this constitutional agenda, not current polling or running nationalist-unionist exchanges. Given Northern Ireland's 56-44% vote in favour of Remain more people there, among nationalists at first, believe NI might get a better deal from Dublin in the EU than from London outside it. Interests pull against and also drive changing political identities in this public debate. It needs far more public discussion and research than it has had so far.

The schema outlined here is an exploratory starting point to be refined and elaborated as analysis, deliberation and discussion of public policy proceed in this constitutional futures project. It is expected to generate a typology of futures specific to Ireland North and South related to the UK ones but with their own drivers, dynamics and potential outcomes. From that

process transitional and hybrid models could also emerge. They could include: joint sovereignty or joint authority over Northern Ireland from London and Dublin; confederal links to Scotland; and an independent Northern Ireland. This discussion would be a more inclusive approach for unionists, since it inserts federalising, renegotiated, differentiated and breakup outcomes for the UK alongside the unitary ones for Ireland assumed discursively in arguments with Irish nationalism. The same applies for nationalists who before Brexit believed they would be better off in a devolved UK than a united Ireland. The unity debate is a largely unanticipated effect of Brexit and not universally welcome politically or economically in both parts of Ireland. Costs both ways would be enormous and are under-researched and mapped.

But such change can accumulate rapidly after turning points are reached. A political agenda embracing such a constitutional moment is a huge challenge as Ireland adjusts to life after its prolonged partnership with the UK in the European Union. Hence in each case the project will examine continuing relationships between the EU, Ireland and the UK and the potential influence differing models of EU development might have on Irish-British relations.

Methods and Stages of Analysis, Deliberation and Public Policy Debate

The IBIS Constitutional Futures after Brexit project has three main pillars: analysis, deliberation and public policy. Each pillar is based on developing plausible scenarios for future constitutional change in Ireland, as it is affected by changes in the UK and the EU; such changes are linked to its long-standing and current research on comparative unionism and its continuing work on identity change, ethnic politics and nationalism in a comparative context. The initiative brings these approaches together in terms of theory and method and suggests how they interact continually in different stages of the project. Building on the scenario research summarised in the previous section this research outlines how such futures studies approaches to constitutional futures will be organised as a step towards the deliberative and public policy pillars of the project and linked back to the analytical pillar.

The scenarios will be developed and refined according to established methods used in futures studies research. These are well described in work on UK constitutional futures (Hazell ed. 2008) and in work on US and European foreign policy (Oppenheimer 2016, *Futures* 2017, Gaub ed. 2019) and will be set out in more detail in an accompanying research paper for this

project. Both draw on a wider research tradition and techniques of futures studies with applications in many disciplines (Burrows and Gnad 2018, Kirby and O'Mahony 2018, Perna 2017).

The work is inspired by a search for tools to anticipate conflict and its resolution by looking at several plausible alternatives, including those that run against the grain of conventional thinking and take account of wild card, grey and black swan events and trends. A spectrum from mitigation to adaptation to finding pathways for desirable change informs the work and debates on its purpose and methods. Forecasting and prediction give way to intelligent anticipation, 'what if' questions, opening minds to hidden and invalid assumptions and informed but non-consensual foresight in these literatures. Control power based on risk analysis and prediction must be considered alongside protean power in which agile actors rely on improvisation and innovation to deal with the radical uncertainty typical of such constitutional moments (Katzenstein and Seybert eds. 2018). Techniques range from road mapping, future simulation to gaming, experimentation and futures wheels. Being wise before the event is one way to describe them. Another refers to "Three Ps and a W" – the possible, the probable, the preferable and wild cards. It is important to bear in mind that the future is inherently politically and socially contested, contingent and not pre-determined. Best practice with these analytic methods disrupts conventional thinking and enables greater resilience and adaptability. It thereby contributes constructively to deliberation and public policy-making.

Typically, in political and social science futures analysis, researchers first identify drivers of change; key factors that singly or in combination are considered by experts to shape the present and future of the issue being examined. This stage of the work draws on established analytic methods in the social sciences. Drivers papers are developed to generate scenarios, like that summarised in the previous section. The technique followed above uses deductive scenarios to create a quadrant using two *critical dimensions*. These are then used to develop scenario narratives. These are brainstormed, explored and refined by expert groups of academics, stakeholders and policy-makers to develop more rigorous and plausible scenarios. Such groups can later include interest groups, public officials and political actors, as the scenarios work makes the transition from analysis to deliberation and public policy. Typically, these deliberative meetings are two day sessions first discussing the alternative scenario concepts, then selecting impacts and effects to concentrate on, for which further narratives are developed under similar headings, including current conditions, behaviour of key actors, wild card and black swan events and implications for relevant interests.

To be successful these meetings must be carefully prepared, chaired, facilitated and serviced (Glover and Hazell 2008, Oppenheimer 2014, Burrows and Gnad 2018). The resulting scenario narratives are written up after the meetings and sent back to participants for further refinement. This deliberative process is like that followed in the theory and practice of mini-publics and constitutional assemblies. One purpose of the research is to establish more clearly the deliberative, ethical and procedural similarities between these two research and practical approaches. Experimental research by psychologists and political scientists shows the related and emerging method of forecasting tournaments make for a more inclusive and less polarising deliberative experience between advocates of highly contested futures (Mellers, Tetlock and Arkes 2018, Harford 2018). That makes for more informed and rational public policy-making.

These scenarios are analytical policy outputs of value in themselves; they can also be a stimulus for more in depth analytical and scholarly studies and for a potentially rich repertoire of concept papers, working documents and briefings for policy practitioners as the work on the project proceeds. They create a template for work with focus groups, mini-publics, deliberative forums and citizens' assemblies. In order to assess public knowledge, attitudes and policy preferences on constitutional futures in Ireland North and South the analytical and deliberative scenarios arising from the first process will be put to such meetings, prepared according to best practice developed substantially in Ireland on major public issues over recent years.

World class expertise is available in UCD and elsewhere in Ireland to conduct such research. It can link up with similar Northern Ireland and British efforts, in keeping with the comparative approach to constitutional futures and unionisms taken by this project. A further research effort would apply the scenarios or variants in survey research on public opinion in Ireland North and South, seeking knowledge, attitudes and preferences on constitutional futures. Such work would be calibrated with similar research in Scotland, England and Wales using the academic and research networks available to IBIS scholars in UCD. They include links to legal scholars raising similar questions to those outlined in this paper within the context of the challenges Brexit presents for the UK's constitutional order (Douglas-Scott 2019). The European dimensions can be similarly calibrated through links with the European University Institute.

Such a graduated approach involving analysis, deliberation and public policy informs the successive stages of this research. It moves from initial scenario-building, refining and testing before moving on to mini-publics and polling. That would be reflected in the publication and publicising outputs from the project, ranging from academic papers, working papers, briefings

and reports to media and social media engagement. In this way a range of expertise will be built up around IBIS and UCD together with formal project partners on these islands and their wider research networks. The aim is to encourage continuous cross-fertilisation between the constitutional futures, comparative unionism and the continuing IBIS research agenda on North-South and East-West links. Within that setting it is expected that special expertise will be built up on each of the main scenarios identified here. Emphasis could and should be placed on the political and constitutional implications for this island, including debates surrounding unification, the forms it might take, its costs and implications and the huge impact it would have. The aim would be to stimulate informed public interest, policy-making, deliberation, debate and analytic research on this subject, in a new setting informed by alternatives, including unionist ones in federal, reimagined or differentiated outcomes of the UK's dual sovereignty crisis, and a similar variety of associated potential outcomes for Irish constitutional futures.

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