



SECTION 5

An Coiste um Fhorfheidhmiú
Chomhaontú Aoine an Chéasta

Committee on the Implementation
of the Good Friday Agreement

5.0 Summary

In this section of the Report for the Joint Committee on the Implementation of the Good Friday Agreement we outline the infrastructure of the Good Friday Agreement. The agreement is included in full in the online appendix of this section.

Strand I: The Assembly and Executive with in Northern Ireland

Strand II: The North South Ministerial Council

Strand III: The British Irish Council

The report looks at some of the provisions of the Agreement that have still to be implemented, such as the Bill of Rights, Civic Forum, North South Consultative Forum and the Irish Language Act. We highlight that even with Ireland's membership since 2011 of the International Court of Justice, as Northern Ireland is not covered by the ICJ there are limited avenues to address breaches of the Good Friday Agreement by the British Government or any signatory. This flaw in the Agreement needs to be addressed.

High Court Justice Humphrey's book 'Countdown to Unity' looked at developing and expanding the architecture and infrastructure of the Good Friday Agreement and his analysis is included here. Justice Humphreys looks at the idea of an East-West Parliamentary Body and the Constitutionality or otherwise of it. The concept and again the constitutionality of a judicial branch of government resolving disputes of North-South and East-West Parliamentary Bodies is explored. Justice Humphreys also analyses the opportunity of a North-South Implementation Body, and the possible gains from East-West Administrative Bodies. An All Island Civic Forum to assist the North South structure is also explored. Finally, in this section High Court Justice Humphreys looks at the continuation of the infrastructure of the Good Friday Agreement "into the long term" and after a referendum for a united Ireland.

5.1 Recommendation

Explore potential solutions to resolve disputes that may arise from the implementation of the Good Friday Agreement, as recommended by High Court Justice Kevin Humphreys.

5.2 The Northern Ireland Executive

STRAND I

DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND

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

The Agreement committed different parties to a number of actions on issues central to the conflict. Referred to as ‘confidence-building measures’, they included actions on the decommissioning of paramilitary weapons and effective demobilisation of paramilitary organisations; security and demilitarisation; policing and justice; prisoners’ issues; and the management of civil rights, safeguards and equality of opportunity. The latter included a commitment to “equality and mutual respect as the basis of relationships” and “to the protection and vindication of the human rights of all”. Further, the parties committed to ensure that the decisions of the Assembly do not infringe the European Convention on Human Rights or any Bill of Rights for Northern Ireland, and provided for the establishment of a Human Rights Commission.”³³¹

³³¹ North/South Inter-Parliamentary Association, ‘Impact of Brexit on Cross-Broder Activity’ (2016) <<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2016/northsouth/8816.pdf>> assessed on 6 February 2017, p.19,20.

5.3 The North South Ministerial Council

STRAND II

NORTH/SOUTH MINISTERIAL COUNCIL

1. Under a new British/Irish Agreement dealing with the totality of relationships, and related legislation at Westminster and in the Oireachtas, a North/South Ministerial Council to be established to bring together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation and action within the island of Ireland
- including through implementation on an all-island and cross-border basis - on matters of mutual interest within the competence of the Administrations, North and South.

Importantly for nationalist parties, the Agreement provides for the Council to have executive powers. Importantly for unionist parties, the Council's powers are not full executive powers, in that it cannot make decisions without the approval of the power-sharing Assembly and the Oireachtas.³³²

ANNEX

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

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

³³² North/South Inter-Parliamentary Association, 'Impact of Brexit on Cross-Broder Activity' (2016) <<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2016/northsouth/8816.pdf>> assessed on 6 February 2017, p.20.

9. Inland Fisheries

10. Aquaculture and marine matters

11. Health: accident and emergency services and other related cross-border issues.

12. Urban and rural development.

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

5.4 The British Irish Council

STRAND III

BRITISH-IRISH COUNCIL

1. A British-Irish Council (BIC) will be established under a new British-Irish Agreement to promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands.
2. Membership of the BIC will comprise representatives of the British and Irish Governments, devolved institutions in Northern Ireland, Scotland and Wales, when established, and, if appropriate, elsewhere in the United Kingdom, together with representatives of the Isle of Man and the Channel Islands.
3. The BIC will meet in different formats: at summit level, twice per year; in specific sectoral formats on a regular basis, with each side represented by the appropriate Minister; in an appropriate format to consider cross-sectoral matters.

“Under Strand 3, the British-Irish architecture established under the Anglo-Irish Agreement (1985) was replaced with a new Standing British-Irish Intergovernmental Conference which exists alongside power sharing in Northern Ireland (Section 5, 1-9). Under the Agreement, the Governments do not have the power to override the democratic arrangements established by the Agreement.”³³³

³³³ North/South Inter-Parliamentary Association, ‘Impact of Brexit on Cross-Broder Activity’ (2016) <<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2016/northsouth/8816.pdf>> assessed on 6 February 2017, p.20.

5.5 Good Friday Agreement provisions still to be implemented

There are a number of elements of the Good Friday Agreement which have not been fully implemented.

The position of the Irish Government is that the Good Friday Agreement, and all subsequent agreements, must be implemented in full. All the agreements, including the principals and values which underpin them, are at the centre of the Government's approach to peace, reconciliation and prosperity on the island of Ireland.

5.5.1 Bill of Rights for Northern Ireland

The Good Friday Agreement sets out that a Bill of Rights for Northern Ireland is a central provision. The Bill is to be based on the European Convention on Human Rights inclusive of additional rights to “reflect the principal of mutual respect for the identity and ethos of both communities and parity of esteem”.³³⁴ A Forum on a Bill of Rights was provided for in the St Andrews Agreement to produce agreed recommendations. The Forum was established in late 2006 and consisted of representatives from across the voluntary and community sector as well as each of the political parties. The Forum's recommendations were presented to the NIHRC in March 2008. These recommendations were to inform Northern Ireland's Human Rights Commission's (NIHRC) advice to the Secretary of State. The Northern Ireland Office issued its consultation paper on a Bill of Rights which was narrower in scope than the NIHRC document and was not welcomed by nationalist parties or by civil society groups.

The Irish Government remains committed to the full implementation of all aspects of the Good Friday Agreement, and all subsequent agreements, including the provision for a Bill of Rights for Northern Ireland. At Stormont in 2014 the Irish Government advanced the view that a Bill of Rights could set out formally the rights upon which a shared society for Northern Ireland could be based. There was not sufficient consensus to take this forward, however the final document did provide for the parties to serve the people of Northern Ireland equally, and to act in accordance with the obligations on government to promote equality and respect and to prevent discrimination; to

³³⁴ 'The Northern Ireland Peace Agreement' (1998)

http://www.taoiseach.gov.ie/attached_files/Pdf%20files/NIPeaceAgreement.pdf
assessed on 6 February 2017, p.18.

promote a culture of tolerance, mutual respect and mutual understanding at every level of society, including initiatives to facilitate and encourage share and integrated education and housing, social inclusion, and in particular community development and the advancement of women in public life; and to promote the interest of the whole community towards the goal of reconciliation and economic renewal.

5.5.2 Irish Language Act for Northern Ireland

The Good Friday Agreement recognised the importance of respect, understanding and tolerance in relation to linguistic diversity, which in Northern Ireland includes the Ulster Scot languages, the Irish Language, and other ethnic languages.

The issue of language is a devolved matter and is therefore the responsibility of the Northern Ireland Executive. Following on from the launch of a 20-year strategy for both the Irish and Ulster Scot languages in 2015 a public consultation process on an Irish Language Bill was held.

With the collapse of the executive in 2016 the Irish Government continued to encourage those who support an Act to continue to build the necessary consensus.

At the 2014 Stormont House Agreement, the Irish Government and the British Government endorsed the need for respect and recognition for the Irish Language in Northern Ireland, in line with the Council of Europe Charter on Regional or Minority Languages.

Through its reconciliation fund the Department of Foreign Affairs and Trade gives support to a number of projects promoting the use of the Irish language on a cross community basis within Northern Ireland. The Government also continues to support the work of Foras na Gaeilge who promote the Irish Language on an all-island basis.

The comments by DUP leader Arlene Foster in 2017 were a contradiction to the aims and spirit of the Good Friday Agreement and subsequent agreements in relation to the Irish language.

5.5.3 North South Consultative Forum

STRAND II SECTION 19

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

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The Good Friday Agreement provided for consideration to be given to the appointment by the two Administrations of a North-South Consultative Forum comprised of representatives of civil society and other social partners as well as experts in social, cultural, economic and other areas.

The Irish Government continues to support the establishment of the consultative Forum and the Taoiseach has raised the Forum at successive plenary meetings of the North South Ministerial Council.

³³⁵ ‘The Northern Ireland Peace Agreement’ (1998)
<http://www.taoiseach.gov.ie/attached_files/Pdf%20files/NIPeaceAgreement.pdf> assessed on 6 February 2017, p.15.

5.5.4 Civic forum

STRAND I of the Good Friday Agreement provides for the establishment of a Civic Forum in Northern Ireland as a consultative mechanism with representatives from the business, trade union and voluntary sectors.

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

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Under the Good Friday Agreement, the responsibility for establishing the Civic Forum lies with the Northern Ireland Executive. The Stormont House Agreement provided for the establishment of a civic advisory panel. The panel is to ensure that civic voices are heard, and civic views are considered in relation to the key social, cultural and economic issues.

Work on the Civic Forum is being advanced through the regular Northern Ireland Executive Party Leaders meetings on implementation of the Stormont House and Fresh Start Agreement. At one of the recent meetings of the last quarterly implementation and review of the Stormont House and Fresh Start Agreement held in Belfast, there was a statement to the effect that the Executive advised that membership of the panel is currently under consideration and that a decision is expected shortly.

The Government will continue to support the early establishment by the Executive of the advisory panel, which will allow for stronger representation of civil society voices in policy formation in Northern Ireland.

³³⁶ ‘The Northern Ireland Peace Agreement’ (1998)
<http://www.taoiseach.gov.ie/attached_files/Pdf%20files/NIPeaceAgreement.pdf> assessed on 6 February 2017, p.10.

5.6 Mechanism to ensure compliance with the agreement

High Court Justice Humphreys states:

“The British- Irish Agreement of 10 April 1998, while a binding international legal instrument does not in and of itself contain a mechanism to force the British or indeed the Irish government to comply with the obligations contained therein in the event of a breach. Talk of a breach of the obligations in the agreement might seem far-fetched save for the fact that the official position of the Irish government appears to be that the introduction, by the former secretary of state for Northern Ireland, Peter Mandelson, of the Northern Ireland Act 2000.”³³⁷

“As regards the question of judicial remedies for breach of the agreement, in the wake of issues surrounding failure by former First Minister Trimble to accord full facilities to the Sinn Fein ministers in late 2000, the Sinn Fein president, Gerry Adams, called on the Irish government to make a declaration recognizing the jurisdiction of the International Court of Justice as a means of providing a judicial forum within which this question might be resolved, and this approach appears to provide the simplest and most convenient way forward. Even in the event of establishment of a North South or East West judicial body or both, it might still be appropriate to permit fundamental constitutional disputes regarding the good faith operation of the agreement to be submitted for adjudication of the International Court of Justice, by making a declaration under Article 36(2) of the Statue of the Court annexed to the UN Charter.”³³⁸

“The alternative to a judicial mechanism to resolve a major future difference between the two governments as to the principle of good faith in the implementation of the agreement would be the use of international political mechanisms. The prospects in this regards may not be terribly good. Donncha O’Connell points out that during the 1950’s, the approach of raising the partition issue in the Council of Europe and other supranational fora had proved unsuccessful.”³³⁹

³³⁷ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.164,165.

³³⁸ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.165,166.

³³⁹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.166.

5.7 International Court for Justice

Since the publication of Justice Humphreys' book in 2009, Ireland has joined the International Court of Justice, however as Northern Ireland is not covered by the ICJ there are limited avenues to address breaches of the Good Friday Agreement by the British government or any signatory.

5.8 The international court of justice jurisdiction to include Northern Ireland and the Good Friday Agreement

The Irish Government has become a member of the International Court of Justice since the 15th of December 2011. However there is an exception of any legal dispute with the United Kingdom of Great Britain and Northern Ireland in regard to Northern Ireland Department of Foreign Affairs and Trade.

Northern Ireland is not covered by Ireland's membership of the International Court of Justice and this needs to be addressed. "In the absence of such a declaration," explains Justice Humphreys regarding the Good Friday Agreement, "there may simply not be any international judicial venue to which such a complaint could be brought."³⁴⁰

"The International Court of Justice (ICJ) in The Hague, also known as the World Court, is the principal judicial organ of the United Nations. Although the Court's judgments are binding only on the parties to any particular case, given the caliber of Court's judges and its status as the principal judicial organ of the UN, decisions of the ICJ are themselves often cited as evidence of international law. The Court has given important decisions and opinions on such topics as the law of the sea, boundary disputes, the use of force and the legality of the threat or use of nuclear weapons. It operates under a Statute annexed to the UN Charter. UN Charter and Statute of the ICJ, as published in the Irish Treaty Series."

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³⁴⁰ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.122.

³⁴¹ Department of Foreign Affairs and Trade, 'International Court of Justice', <<https://www.dfa.ie/our-role-policies/international-priorities/international-law/courts-tribunals-dispute-mechanisms/international-court-of-justice>>

Ireland must fully sign up to the International Court of Justice to protect the Good Friday Agreement.

Of particular concern for the issue of unity is in the event of the Secretary of State for Northern Ireland not allowing a referendum on a united Ireland when it is believed that a majority would be in favour, there is no current recourse for the Irish Government.

Full membership of the International Court of Justice could be a new avenue open to protect the Good Friday Agreement.

5.9 Developing & expanding the architecture of the Good Friday Agreement

In his book 'Countdown to Unity' High Court Justice Humphries outlines how the architecture of the Good Friday Agreement can be built upon, some of which is in place.

“Another critical aspect to be considered is the widening and development of the six-county North-South and East-West institutional architecture to strengthen all of the relevant relationships. One might consider all of the sets of possible institutions in the form of a matrix with two axes, one being the different set of relationships and the other consisting of the forms of institutions required, legislative, executive, judicial, administrative and related to civic society. The matrix of relationships can be considered in tabular form as set out below. On this basis it can readily be seen that there is very considerable scope for further institutional architecture to underpin and develop the total of relationship recognised by the Good Friday Agreement.”³⁴²

³⁴² Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.160,161.

Table 1

Matrix of Institutional Architecture by Strand

Type of Institution	Strand 1 NI	Strand 2 N-5	Strand 3 E-W
Legislative	Assembly	None. N-S parliamentary structure envisaged by Joint Framework Document and April 2003 and December 2004 proposals	Pre-existing British-Irish Interparliamentary Body continues – agreement envisages development of this
Executive	Northern Ireland Executive	North-South Ministerial Council – Joint Secretariat.	British-Irish Council (involves devolved institutions and other administrations in the islands). Secretariat to British-Irish council provided by two governments British-Irish Intergovernmental Conference (two governments).
Judicial	No new institutions. Pre-existing courts continue.	None.	None.
Administrative	Some new institutions under Good Friday Agreement: Northern Ireland Human Rights Commission, Equality Commission.	North-South implementation bodies in specified areas Joint Committee bringing together North and South Human Rights Commissions.	None.
Civic Society	Civic Forum	None.	None.

5.10 East –West Parliamentary Body

As far as East-West legislative structures are concerned, there may be a case for putting the British-Irish Inter Parliamentary Body on a treaty basis, and in any event for developing its role as the Good Friday Agreement envisaged.³⁴³

5.11 Constitutionality of North-South East-West Parliamentary Bodies

“One might pose the question as to whether investing the North-South or even east- west bodies with actual legislative power would be constitutionally permissible. Article 29.7.2 of the Constitution would provide a protection for such bodies not otherwise available under Articles 3 or 15 if they were held to be established 'under' the Agreement. While there might be logic in allowing the North-South parliamentary structure to legislate within its area of competence (and indeed a form of all-island subordinate legislation exists in the shape of statutory instruments made by the North-South aquaculture and marine implementation body with the consent of the governments).”³⁴⁴

“There would be resistance to giving an east-west body any legislative power, as to do so would be redolent of turning the clock back to 5 December 1921, even if 'assent' to its bills could be withheld by a sovereign Irish government. As against that, some dimension of east-west legislation might provide the necessary balance to a North-South parliamentary system with actual legislative power. Whether to put in place even an enabling measure for such a power would be a matter for political consideration.”³⁴⁵

³⁴³ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.162.

³⁴⁴ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.162.

³⁴⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.162.

5.12 Judicial Branch of Government

“As far as the judicial branch of government is concerned, no additional structures were proposed by the Good Friday Agreement. An all-island court to deal with security matters had been a feature of previous proposals to deal with issues such as extradition, but in the light of the changed security situation the pressure for such a mechanism has reduced.”³⁴⁶

“However, the absence of North-South and East-West judicial bodies does have certain unfortunate consequences. Such absence means that instruments adopted by, or agreements between, administrations North and South, or east and west as the case may be will fall to be interpreted or assessed for validity, or both, by the courts of two separate jurisdictions, with the possibility of different results. One can see an advantage in having a judicial mechanism to avoid this problem, and as a visible expression of the broader sets of relationships that transcend state sovereignty in this area; and in terms of international law, there may be some arguments in favour of the approach of specialized judicial bodies to deal with this sort of local or regional problem. The establishment of such judicial bodies could therefore reasonably be a matter for consideration, with east-west structures balancing for unionists the North-South structures that would express the all-island perspective for nationalists. Perversely however, much as the old Article 3 copper-fastened partition in its own way, it would appear that the new Article 3 likewise could render such cross-border judicial bodies unconstitutional unless held to be established 'under' the Agreement for the purposes of Article 29.7.2°. Again one view would be that Article 3 is drafted in excessively narrow and limited way, particularly as regards the North-South dimension, and that amendment to cater for shared judicial bodies would create a desirable flexibility.”³⁴⁷

³⁴⁶ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.162.

³⁴⁷ P.163 Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.163.

5.13 North South Implementation Body

“The North-South implementation bodies represent an element of lost opportunity for a much more ambitious programme of cross-border cooperation to mutual advantage. There is a huge economic and social case for much more significant cooperation in a range of areas. Under the Good Friday Agreement this would be a matter for agreement between the two executives.”³⁴⁸

5.14 East West Administrative Bodies

“To balance this exercise politically there can be no absolute argument in principle against putting in place east-west administrative bodies where this would provide joint gains. Again, such bodies could appear to be constitutionally dubious in the absence of amendment of Article 3. Indeed the All-Party Oireachtas Committee on the Constitution rejected a more general enabling clause for inter-state executive cooperation in 2003.”³⁴⁹ “The case for an ongoing role with consultation with the British government can be made for a number of reasons, principally to provide reassurance and protection for the unionist minority.”³⁵⁰

³⁴⁸ P.163 Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.163.

³⁴⁹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.163.

³⁵⁰ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.131.

5.15 Civic Society

“Development of the North-South structure to consult civic society would not require any legal or constitutional change. Such a step might be a valuable addition to the mechanism for cross-border cooperation. The establishment of such a body might, if appropriate be balanced by the simultaneous establishment of an east-west structure for bringing together representatives of civil society.”³⁵¹

The recent All-Ireland Civic Dialogue on Brexit is an example of such an engagement by civic society groups, trade unions, business groups and non-governmental organisations, as well as representatives of all the main political parties on the island.

³⁵¹ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.164.

Below are the details of the layout of the recent Civic Dialogue on Brexit

Appendix 1

All-island civic dialogue on Brexit

The Government has agreed that there will be an all-island Civic Dialogue on Brexit with the initial meeting to be hosted by the Taoiseach and the Minister for Foreign Affairs and Trade on 2 November in Dublin. This is to allow for the widest possible conversation on the implications of the UK referendum result for Ireland, North and South and for North/South relations. The all-day Conference will take place in Dublin on Wednesday, 2 November.

This event will provide an opportunity to hear the voices of the people affected by the vote, both directly and through their representative groups. It will also provide an opportunity to map the challenges presented by Brexit and how they might impact on different elements of society and the economy on an all-island basis.

The main output will be a report and recommendations which will be used to help inform the Government's position on issues related to the UK's exit negotiations.

Participation

Attendance at the Conference will be at the invitation of the Taoiseach and the Minister for Foreign Affairs and Trade. Organisations which will be invited to nominate a maximum of two representatives include:

- Business, employer and trade union organisations, farming organisations, community and voluntary NGOs, North and South
- Organisations who participate in the current EU/UK stakeholder group, such as the British Irish Chamber, IIEA, European Movement Ireland
- Local Authorities in border regions
- Key Government agencies, particularly those with a North/South dimension
- Academic institutions North and South such as Centre for Cross Border Studies

and the Royal Irish Academy as well as universities and Higher Education Institutions.

Representatives of the main political parties, North and South, will also be invited.

Format

The conference programme would broadly cover potential Brexit implications across the main areas of concern for Ireland:

- the economy and trade
- the Peace Process
- the common travel area and the border
- the future of the EU

The format would be highly interactive with each area being initially framed in terms of the key challenges, after which a discussion will take place to tease out the issue further.

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5.16 Good Friday Agreement after Unification

According to High Court Justice Humphreys:

“One of the key features to emerge from this discussion of the Good Friday Agreement is that the agreement expressly imposes obligations on both governments into the long term. In the sense it is intended to apply both to the current United Kingdom and to a possible future United Ireland. In the absence of any amending agreement, it would therefore be a legal obligation on Ireland to continue to give effect to the agreement after Irish Unity. This simple conclusion has profound consequences for the way in which the whole question of reunification is to be approached. In particular it means that the strong protections for which ever community does not command a majority within Northern Ireland would endure in the absence of any further agreement so as to benefit unionism following a united Ireland.”³⁵²

“There was also a pragmatic argument for maintaining the Good Friday Agreement institutions – it would provide certainty and stability and there by assist in making the case for a united Ireland. The SDLP also proposed that a referendum on unity should be held once the agreement intuitions have bedded down and are operating stably a call which has been made at various times by Sinn Fein, the UUP and the DUP the document stated. However in the context of a referendum, the SDLP committed themselves to seeking the agreement of all the island parties that the agreement endures regardless of whether one is in a United Kingdom or a united Ireland.”³⁵³

“The document also envisages that unity would bring changes to the Good Friday Agreement itself but these should be made in the way

³⁵² Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.104.

³⁵³ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.118.

envisaged by the agreement, namely through a review.”³⁵⁴

“Launching the document the SDLP chairperson, Patricia Lewsley put the SDLP proposal in the context of the ‘true republican ideal of uniting Catholic, protestant and dissenter’. The thesis that there would be practical advantages to preserving the Good Friday Agreement post a united Ireland was also advanced by the Unionist Commentator Rory Garland. Reacting to the November 2003 version of the SDLP proposal, he described them as ‘welcome and innovative’ It would fulfil a unionist proposal to insist on Northern Ireland remaining an administrative unit, even if Irish Unity were achieved and therefore “has some potential to appeal to unionists””. Finally describing the agreement as a covenant of honour (surprisingly rather than a law) the SDLP made the point that the best protection for unionists in a united Ireland would be through the mechanism of the agreement.

“For unionists to ‘smash the agreement’ would be to forgo not only their say in Northern Ireland of today but their guaranteed position in a future united Ireland.”³⁵⁵

³⁵⁴ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.119.

³⁵⁵ Richard Humphreys, *Countdown to Unity: Debating Irish Reunification* (Irish Academic Press, Dublin 2009) p.119.

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