TOWARD A UNITED IRELAND? THE NORTHERN IRELAND PEACE PROCESS AND THE DEVOLUTION OF POWERS FROM LONDON TO BELFAST

Matthew Grigg Rooks*

TABLE OF CONTENTS

I. INTRODUCTION ................................................................................. 243

II. A "TROUBLED" PAST: FROM EASTER SUNDAY TO GOOD FRIDAY .............................................................................. 245
   A. Rebellion and Independence for Southern Ireland ........ 245
   B. "The Troubles" .................................................................. 247

III. THREE STEPPING STONES IN THE NORTHERN IRISH PEACE PROCESS ................................................................................. 249
   A. The Good Friday Agreement ........................................... 249
   B. The St Andrews Agreement .............................................. 253
      1. Acceptance of the PSNI by Sinn Féin .............. 254
      2. Legal Measures Necessary for Continuing Devolution .... 255
      3. The End of the Armed Campaign ...................... 256
      4. Electoral Movement Away From the Middle ....... 258
   C. The Hillsborough Castle Agreement ......................... 259
      1. The Northern Ireland Act 2009 ......................... 260
      2. Identity Crisis for the DUP .......................... 260
      3. The Agreement .................................................. 261
         a. Devolution of the Policing and Justice Powers .... 262
         b. Selection of a Justice Minister ................. 262
         c. Parades and Other Business .................... 263

IV. WHAT PARLIAMENT SHOULD DO TO EFFECTUATE A UNITED IRELAND ................................................................. 264
   A. Work in Concert with Sinn Féin ................................. 264

* J.D., University of Georgia School of Law, 2011; B.S.J.S., Georgia Southern University, 2008.
B. Recognize that the DUP is Vital to Any Meaningful Northern Irish Policy

C. Weighing the Costs and Benefits of Keeping Northern Ireland Part of the United Kingdom

V. CONCLUSION
I. INTRODUCTION

Since the 1970s, the people of Northern Ireland have expressed their political beliefs by painting large murals on the sides of buildings. Some murals serve as paramilitary propaganda, and others are memorials to those whose lives were taken over the past forty years. Regardless of their purpose, all are reminders of the violent, tumultuous history of Northern Ireland. To the residents of Northern Ireland, it was likely incomprehensible that their home would ever be thought of as a land of peace.

Only twelve years ago, the Republic of Ireland and the United Kingdom signed the Good Friday Agreement, formally ending thirty years of violent conflict between Catholics and Protestants known as “the Troubles.” Despite the abandonment of armed resistance by most factions and the endorsement of peaceful progress, the Northern Irish peace process is delicate, wavering between deliberate progress and halting distrust. This Note examines three agreements between the United Kingdom, the Republic of Ireland, and the political parties of Northern Ireland: the Good Friday Agreement, the St Andrews Agreement, and the Hillsborough Castle Agreement. These three agreements represent a change in Northern Ireland from war-torn squalor to burgeoning advancement. They are historical guideposts, and only by reading them in the context of contemporaneous events can one appreciate the tremendous effort that went into the often
excruciatingly slow peace process. The broadly stated, but clearly defined goals contained within these agreements are the result of years of negotiations and concessions on behalf of the Irish government, the British government, and the various political parties of Northern Ireland. These treaties, with all of their ambiguities and social norms, are what govern the peace process in Northern Ireland. Without these three treaties, it is possible that there would cease to be a peace process in Northern Ireland and “the Troubles” would again be upon us.

Part II of this Note examines the recent history of relations between the United Kingdom, Northern Ireland, and the Republic of Ireland. The nature of the relationship between the three countries and the political parties within Northern Ireland results from historical differences and alliances that are explored in Part II. Part II begins with the Easter Rising in 1916 and continues until 1993.

Part III continues the historical narrative, examining the three agreements between the United Kingdom and the Republic of Ireland that have served as the foundation for peace and devolution in Northern Ireland. These include the Good Friday Agreement, which ended “the Troubles;” the St Andrews Agreement of 2006, which ended a nearly five year suspension of the Northern Ireland Assembly and established renewed principles for devolution; and the Hillsborough Castle Agreement, which finally settled a stalemate on the issue of devolution of a justice department and the courts. Part III also discusses the key deals and events that occurred before and after each of these agreements. This Part further discusses the most recent events in the Northern Ireland saga, including the cross-community votes in the spring and summer of 2010, and the May 6, 2010, election of British Parliament.

Part IV recommends what the United Kingdom and, more specifically, the British Parliament in London should do regarding Northern Ireland. As Sinn Féin—the largest Catholic and Nationalist party in Northern Ireland continues to gain strength, representing a more progressive party with interests similar to England, Parliament should recognize that its interests are aligned with those of Sinn Féin. Part IV suggests that continued popular support for Sinn Féin demonstrates some support for a united Ireland.

---

8 Good Friday Agreement, supra note 3.
9 St Andrews Agreement, supra note 6 ("Our discussions have been focused on achieving full and effective operation of the political institutions [of Northern Ireland].").
10 See Hillsborough Castle Agreement, supra note 7, at 4–9 (explaining the logistics of the judiciary).
11 See discussion infra Part IV.A (discussing the relationship between Sinn Féin and Parliament of the United Kingdom).
II. A “TROUBLED” PAST: FROM EASTER SUNDAY TO GOOD FRIDAY

A. Rebellion and Independence for Southern Ireland

This Note begins by reviewing the Easter Rising of 1916, though the animosity between Irish Catholics and Ulster Protestants began much earlier. In 1916, the entire island of Ireland was under the control of the British government. On April 24, 1916, Easter Monday, about 1,250 armed Irishmen managed to take over and occupy key buildings in Dublin, the capital of Ireland. One of the rebel leaders, Patrick Pearse, stood outside the General Post Office in the Dublin City Center and read a proclamation declaring the birth of the Irish Republic. The British government responded by retaking Dublin, trying the leaders in a secret military court, and privately executing them.

Ironically, though the rebellion did not garner the support that the Irish Republicans sought, the revulsion of the Irish people from the British government’s brutality in suppressing the rebellion led to increased support for the previously unpopular Sinn Féin party. The members “set themselves up as a revolutionary parliament, Dáil Éireann, in Dublin.”

The island of Ireland was partitioned in 1921. Pro-British “Ulster Unionists” determined that the maximum amount of the island that they

---

12 Joseph P. Haughton, *Ireland*, in 11 Grolier International Encyclopedia 257, 257 (13th ed. 1992) (“This partition [of the six northeast counties that form Northern Ireland] dates from 1920-22, before which the whole island was under British rule.”). The entire island, which includes the countries of Ireland and Northern Ireland, is also called Ireland. This Note uses the phrase “island of Ireland” when referring to the entire land mass. The Republic of Ireland is the name of the country most commonly known as “Ireland,” which is the southernmost part of the island of Ireland and the majority of the land mass. “Northern Ireland” is a constituent country that is part of the United Kingdom of Great Britain and Northern Ireland, more commonly known as the “U.K.” The other constituent countries in the United Kingdom are England, Scotland, and Wales. Northern Ireland is the northernmost part of the island of Ireland, which remained part of the United Kingdom even after the country now known as Ireland split from the rest of the United Kingdom.


15 The Easter Uprising, supra note 13.


17 Haughton, supra note 12, at 264.

18 An Act to Provide for the Better Government of Ireland, 1920, 10 & 11 Geo. 5, c. 67 (U.K.) (establishing one parliament for “Southern Ireland” and one parliament for “Northern Ireland” on the island of Ireland).
could defend was six counties in the northernmost region—four with significant Protestant majorities, and two more with “Catholic majorities but with substantial Protestant minorities.”19 Thus, those six counties became “Northern Ireland” while the other twenty-six counties remained “Ireland.”20

Dáil Éireann refused to accept the 1921 Act, but negotiated a treaty with the United Kingdom, setting up the Irish Free State (which remained, technically, a part of the British Commonwealth) and conceding that the six northernmost counties were not under their control.21 “[A] civil war broke out between protreaty and antitreaty factions, led respectively by Michael Collins and Eamon de Valera. The antitreaty faction was defeated.”22 However, de Valera ascended to power in Ireland and managed to slowly dismantle the English influence over the southern portion of Ireland.23 He led the Fianna Fáil party (which is still one of the two main parties in the Dáil Éireann), served as Prime Minister, and drafted a new constitution in 1937, in which Ireland was only formally still a part of the British Commonwealth.24

Article 2 of de Valera’s Constitution was particularly inflammatory, claiming that “[t]he national territory consists of the whole island of Ireland, its islands and the territorial seas.”25 Finally, in 1949, when Ireland announced it was becoming a republic, the British Parliament passed the Ireland Act, declaring that Ireland was no longer a part of the United Kingdom.26

The remaining anti-treaty Irishmen and their descendants in conviction called themselves the Irish Republican Army (IRA), but in reality, they were a largely ineffective group of dissidents who still championed the republican cause.27 Despite the declaration of independence in southern Ireland, as well

---

20 Id. at 2–3.
21 See Haughton, supra note 12, at 264 (“Dáil Éireann refused to accept the new legislation, and following a ceasefire in 1921 its representatives negotiated a treaty making the Irish Free State a self-governing dominion within the British Commonwealth of Nations and allowing the Northern Ireland Parliament to take the six northern counties out of the dominion.”).
22 Id.
23 HENNESSY, supra note 19, at 4 (“[From the Treaty, de Valera] removed the Oath of Allegiance in 1932; deleted all constitutional references to the King in 1936; abolished the office of the Governor-General; and introduced, in 1937, a new written Constitution, Bunreacht na hÉireann.”).
24 Haughton, supra note 12, at 265.
25 Id.
26 Id. at 5.
as largely disparate economic and social conditions between Protestants and Catholics in Northern Ireland, the region remained mostly violence-free. The mid to late 1960s, many Catholic communities in Northern Ireland held civil rights demonstrations, which were often followed by violence directed at them. Following this, the IRA grew considerably. The members of the IRA who favored armed and offensive effort directed at the United Kingdom split off from the IRA to form the Provisional Irish Republican Army (PIRA).

B. "The Troubles"

In 1969, following a rash of sectarian violence, the government requested the British Army be brought in to monitor the situation and, ironically, to defend Catholic communities. Thus, Operation Banner—and what the world would come to call "the Troubles"—had begun. The British Army did not leave for thirty-eight years. In 1972, at the peak of the violence, over 25,700 British soldiers were in Northern Ireland. More than 3,000 people lost their lives during "the Troubles"—almost 500 in 1972 alone.

defeated in the Irish Civil War (1922-3), to the IRA of the 1940s and 1950s (whose 'Border Campaign' fizzled out in 1962) . . . was bequeathed the duty to be the vanguard of this sacred destiny in this current age.

29 See id. at 164 ("[N]o major ethno-national or sectarian violence took place for almost 50 years.").
30 See SHANAHAN, supra note 27, at 13 ("Inspired by Dr Martin Luther King Jr's civil rights movement in the United States and by student protests in France, in January 1967 Catholics in the Six Counties organised their own civil rights movement . . . . Their modest demands . . . were viewed by unionists as a threat to their privileged position, who then responded with violence.").
31 See id. at 14 ("A revitalised IRA arose in response to the urgent need to defend the Catholic community . . . .").
32 See id. ("[Some IRA members] emphasised the need to reorganise and rearm in order to first defend Catholics, and to then go on the offensive against the British occupation . . . . The IRA split in December 1969, with the [ ] group [favoring peaceful efforts] becoming known as the Official IRA, and the [violence-oriented] group becoming known as the Provisional IRA.").
33 See Esther Addley, British Troops Leave After 38 Years, GUARDIAN (U.K.) (July 31, 2007, 21:32 EDT), http://www.guardian.co.uk/uk/2007/aug/01/northernireland.military ("Thirty-eight years after 250 soldiers from the First Regiment of Wales marched up the Falls Road in Belfast to quell sectarian disturbances, Operation Banner . . . was declared over.").
34 Id.
35 Id.
36 Id.
37 Malcolm Sutton, An Index of Deaths from the Conflict in Ireland, CAIN WEB SERVICE, http://cain.ulst.ac.uk/sutton/tables/Year.html (last visited Nov. 20, 2010).
On January 30, 1972, fourteen unarmed Catholics were shot dead on the streets of Londonderry—a day that would become known as “Bloody Sunday.”

An attempt to end “the Troubles” was made in 1985 with the Anglo-Irish Agreement. It purported to be a step in the direction of peace by stating that any change in Northern Ireland’s status would come about only with the consent of a majority of the Northern Irish people, that the Northern Irish people wished for no change presently, and that if the people of Northern Ireland wanted a united Ireland in the future, that wish would be supported by all sides. However, the Anglo-Irish Agreement failed to discuss the current constitutional status of Northern Ireland, leading Unionists to claim that Northern Ireland was part of the British government, while Republicans claimed that it belonged to the Republic of Ireland.

Back-channel communication continued between the political party long associated with the PIRA, Sinn Féin, and the British government. Ultimately there was limited success because neither side wished to be seen as soft or yielding to the opposition. Meanwhile, Sinn Féin had slowly begun to shift toward a more peaceful type of resistance that was originally articulated by John Hume and the Social Democratic and Labour Party (SDLP). “Republicans now wanted the British Government to become persuaders for a united Ireland.” Hume, the leader of the SDLP, still believed that getting the PIRA to end their campaign of violence was possible, and continued to talk with Gerry Adams and other leaders of Sinn Féin. The two men released a statement in 1993, further recognizing that Unionist consent was necessary for a lasting peace, but not to the degree that they had veto rights on any progress. This statement reinforced the perception in many Catholic minds that the “armed struggle was undermining the very idea of Irish unity.”

38 Addley, supra note 33.
39 See Hennessy, supra note 19, at 49 (stating the important aspects of the agreement, which include that the majority of the Northern Irish did not desire a united Ireland at the time, but in the event of a change, modifying Northern Ireland’s “status” would require a majority vote by the Northern Irish, and the legislation would be introduced by the respective Parliaments).
40 Id.
41 Id.
42 Id. at 71.
43 Id.
44 Id. at 72.
45 Id.
46 Id. at 75.
47 Id. at 78.
48 Id.
In December 1993, the British and Irish governments jointly announced the Downing Street Declaration.\textsuperscript{49} This Declaration was significant for a number of reasons. First, it announced and declared a "common set of principles" that both the Irish and British governments held.\textsuperscript{50} Secondly, it destroyed the Republicans’ hope of obtaining consent for a united Ireland from the whole population of Ireland and Northern Ireland.\textsuperscript{51} To be united, the majority of the Northern Irish would have to want it, thus enshrining the Protestant veto.\textsuperscript{52} Lastly, it unequivocally declared that paramilitary violence and the support of such violence had to cease before any progress could be made.\textsuperscript{53}

Despite being unhappy with some of the Declaration’s substance, Sinn Féin persuaded the PIRA to declare a ceasefire in the fall of 1993.\textsuperscript{54} It was an opportune time for Sinn Féin to lobby for outside support to strengthen their position, as the recently elected President of the United States, Bill Clinton, became interested in the dispute due to the efforts of several influential Irish-American politicians,\textsuperscript{55} including Senators Ted Kennedy and Pat Moynihan, and Congressional Speaker Tip O’Neill.\textsuperscript{56} Sinn Féin also felt that it was time to reach a consensus on a Republican viewpoint with both the SDLP and the Irish government.\textsuperscript{57}

III. THREE STEPPING STONES IN THE NORTHERN IRISH PEACE PROCESS

A. The Good Friday Agreement

In 1997, the Labour Party’s candidate, Tony Blair, became the British Prime Minister, and he was intent on involving Sinn Féin in the political
process and establishing a permanent ceasefire between paramilitaries.\(^{58}\) Sinn Féin, the Ulster Unionist Party (UUP), and the SDLP all negotiated on the terms of the Good Friday Agreement.\(^{59}\) The Democratic Unionist Party (DUP) refused to participate in the settlement talks once it realized that Sinn Féin would be allowed to participate without cutting any ties to the PIRA.\(^{60}\) Although this contention was valid, the inclusion of Sinn Féin in the negotiations represented “the evolution of conflict regulation based on the necessity of consent and inclusion, rather than exclusion of proponents of violence.”\(^{61}\) Despite its points of contention, Sinn Féin, the SDLP, and the UUP all supported the Good Friday Agreement.\(^{62}\)

The Good Friday Agreement had many aims, addressing largely intangible questions of self-determination and national identity. First, the Good Friday Agreement reaffirmed that the people of Northern Ireland possessed self-determination by allowing them to choose between being a part of either the United Kingdom or a united Ireland upon a majority vote of the populace.\(^{63}\) Second, it stated that Northern Ireland would remain in the United Kingdom for the time being, because that is what a majority of citizens in Northern Ireland wanted.\(^{64}\) Third, it said that in the future, if the people of Northern Ireland choose to be part of a united Ireland, both the Irish and the British governments must acknowledge and accept that decision.\(^{65}\) Fourth, it stated that every citizen of Northern Ireland had the right to identify him or herself as British or Irish or both, and that every citizen retained his or her dual British-Irish citizenship.\(^{66}\) Fifth, the Republic of Ireland agreed to drop its territorial claim to the entire island of Ireland, and instead, to define “the republic” in terms of the Irish people.\(^{67}\)


\(^{59}\) Id.

\(^{60}\) A Decade on, How Is the Deal?, BBC NEWS, http://news.bbc.co.uk/2/hi/uk_news/northernireland/7292812.stm (last updated Mar. 20, 2008, 9:30 GMT) (“The DUP did not sign off on a deal until the IRA disarmed and Sinn Fein accepted the police . . . .”).

\(^{61}\) BRENDAN O’DUFFY, BRITISH-IRISH RELATIONS AND NORTHERN IRELAND 168 (2007).


\(^{63}\) See Good Friday Agreement, supra note 3, at 752 (explaining that both the British and Irish governments agree to recognize the choice of the majority to either stay as part of the United Kingdom or to be part of a united Ireland).

\(^{64}\) Id.

\(^{65}\) Id. at 753.

\(^{66}\) Id.

\(^{67}\) See IR. CONST., 1937, amend. XIX (replacing Articles 2 and 3 of the 1937 Constitution of Ireland with new language, as mandated by Annex B to the “Constitution Issues” section of the Good Friday Agreement). See also Good Friday Agreement, supra note 3, at 754.
The Good Friday Agreement established the 108-member Northern Ireland Assembly.\textsuperscript{68} The formulation in the Good Friday Agreement meant that the members of the Assembly were to vote for the leaders of the executive branch—the First Minister and deputy First Minister.\textsuperscript{69} These two individuals were to be elected on a ticket together—one from each of the two largest political parties in the Northern Ireland Assembly—and serve with equal power (despite the fact that one is considered the "deputy").\textsuperscript{70} The Good Friday Agreement also devised a plan for the appointment of ministers, akin to the cabinet in the United States.\textsuperscript{71} These positions were to be distributed among the parties based upon the proportional amount of seats that each party held in the Northern Ireland Assembly.\textsuperscript{72}

Three intergovernmental councils were also established: a North/South Ministerial Council responsible for moderating discussion between Northern Ireland and the Republic of Ireland;\textsuperscript{73} a British-Irish Council to facilitate the relationships of all devolved governments on the two islands of Britain and Ireland;\textsuperscript{74} and a British-Irish Intergovernmental Conference to encourage cooperation between the governments of the Republic of Ireland and the United Kingdom.\textsuperscript{75}

Lastly, the Good Friday Agreement laid out goals for the devolution of policing and justice powers.\textsuperscript{76} However, it failed to provide specific guidelines, and instead it merely stated that there were serious issues with the current policing system and that the Independent Commission on Policing in Northern Ireland would be enacted to examine these problems and make a recommendation.\textsuperscript{77}

The 1998 Act was passed by the Parliament of the United Kingdom in November 1998, codifying the principles of the Good Friday Agreement into law.\textsuperscript{78} Regarding self-determination, the 1998 Act allowed the Secretary of State of the United Kingdom to hold a poll "at any time it appears likely to him that a majority of those voting would express a wish that Northern

\begin{flushleft}
(providing the authority for the Irish Government to draft legislation to amend the Constitution).
\end{flushleft}

\textsuperscript{68} Good Friday Agreement, supra note 3, at 756.
\textsuperscript{69} Id. at 758.
\textsuperscript{70} Id. at 756.
\textsuperscript{71} Id. at 758.
\textsuperscript{72} Id.
\textsuperscript{73} Id. at 761.
\textsuperscript{74} Id. at 758.
\textsuperscript{75} Id. at 765.
\textsuperscript{76} Id. at 771.
\textsuperscript{77} Id.
\textsuperscript{78} Northern Ireland Act, 1998, c. 47, Introductory Text (U.K.) [hereinafter 1998 Act] ("An act . . . for the purpose of implementing the agreement reached at multi-party talks on Northern Ireland . . . ").
Ireland should cease to be part of the United Kingdom and form part of a united Ireland.”

Shortly afterwards, the Independent Commission on Policing in Northern Ireland, more popularly known as the Patten Commission, was established. After thorough inquiries and investigations, the Patten Commission made 175 recommendations for the reform of the police force that were published in the Patten Report. One of the most important and symbolic recommendations was to change the name from the Royal Ulster Constabulary to the Police Service of Northern Ireland (PSNI). The Patten Report also recommended using symbols and badges that were free of anything that was “too British.” The Patten Commission found that the British imagery, including Union Jack flags flying over police buildings, contributed to the “us-versus-them mentality” held by many nationalists. The Patten Report also recommended a new code of ethics, accompanied by a new oath and a deeply ingrained awareness of human rights. Despite these recommendations, it would be several years before these reforms became law and were universally accepted.

In October 2002, the peace movement suffered a serious blow. The principles of the Good Friday Agreement provided that those participating in the government—including Sinn Féin and, by proxy, the PIRA—would be allowed to participate in the government “as long as they pursued republican objectives solely by peaceful, democratic means.” On October 4, 2002, hundreds of police officers raided numerous Sinn Féin leaders’ homes, as
well as the Sinn Féin offices at the parliament building at Stormont. The police accused certain members of Sinn Féin of gathering intelligence for the IRA. The DUP and the UUP demanded that Sinn Féin be removed from the Northern Ireland Assembly.

British Prime Minister Tony Blair—faced with the unenviable task of either removing Sinn Féin from the Northern Ireland Assembly, or refusing to remove the party and allowing the unionist parties to withdraw—chose to suspend the entire Northern Ireland Assembly, as he was permitted to do under the Northern Ireland Act of 2000. In 2005, charges against the three arrested men were dropped due to a lack of evidence.

**B. The St Andrews Agreement**

Lengthy negotiations preceded the agreement to the terms of the St Andrews Agreement between the British government, the Irish government, and the parties of Northern Ireland. Although the members elected to the 2003 Northern Ireland Assembly elections never took their seats, they did convene in May 2006 to elect the ministers. This meeting only occurred after both the British and Irish governments pressured the political parties of Northern Ireland to reach an agreement and elect their executives.

Northern Ireland’s Secretary of State, Peter Hain, identified two main goals prior to the St Andrews talks: first, the involved parties needed to assert the recognition of the police and the rule of law across the province;

---


89 Id. (“[P]olice raided Sinn Fein’s Stormont offices and arrested a senior party official as part of swoop on an IRA spy ring.”).

90 Left, supra note 87.


94 Id. at 3 (“The Assembly elected in 2003 finally convened in May 2006 solely for the purpose of determining the ministers . . . .”).

95 See id. (explaining that after numerous attempts to force the elections in Northern Ireland, the British government passed an act specifying an election date).
and second, they had to modify certain parts of the Good Friday Agreement in order to further the progress of devolution.96

1. Acceptance of the PSNI by Sinn Féin

The Patten Commission did not go so far as to recommend disbanding the Royal Ulster Constabulary.97 Instead, the Patten Commission suggested reforming it as the PSNI.98 Sinn Féin maintained its criticism of the PSNI, and when the Police Act in 2000 implemented only a partial Patten Commission, Sinn Féin was able to argue for the full implementation of the Patten Commission-rather than opposing the police service generally.99 The SDLP endorsed the PSNI only a year later, which isolated Sinn Féin, but also framed them as the guardian of republican and Catholic interests.100 By labeling the SDLP as having acquiesced too quickly to unionist demands, they were able to increase their appeal to republican voters and in turn draw support from the SDLP members.101 For several years it appeared that Sinn Féin would be able to stall on the policing issue for so long that they would be part of the government without ever having to alienate the most extreme republican members of the party.

However, two events thwarted this stalling tactic. The first event was the Northern Bank robbery that occurred in December 2004.102 The second event was the brutal killing of a Catholic man, Robert McCartney, in a Belfast bar by several PIRA members operating outside the PIRA’s authorization.103 While both Sinn Féin and the PIRA tried to distance themselves from the violence, this solidified their status as, at best, gangsters, and at worst, terrorists.104 These two events drained the PIRA and, by proxy, Sinn Féin, of any bargaining power, because any possibility of moral authority was completely dashed.

96 Id. at 22.
97 PATTEN REPORT, supra note 80, para. 17.6.
98 Id.
99 MARTYN FRAMPTON, THE LONG MARCH 128 (2009) ("[R]epublicans argued [that the SDLP] had, ‘lost the hearts and minds argument within the nationalist community on this issue’ and ‘settled for too little too early.’ ");
100 Id.
101 Id.
104 See FRAMPTON, supra note 99, at 160–61 (explaining that the effect of these incidents was to affirm the charge that republicanism was mired in criminality).
The St Andrews Agreement said that all parties should "endorse[] fully the Police Service of Northern Ireland" and "actively support[] all the policing and criminal justice institutions . . ."); Refusal to accept the Royal Ulster Constabulary, and later, the PSNI, was a policy espoused by Sinn Féin for many years. Many of the more extreme members of Sinn Féin did not trust the police even after reforms and despite the encouragement of the party's leadership. Sinn Féin held a party conference, in January 2007 to debate and vote on whether or not to back the PSNI. Gerry Adams cited the increase in Catholic police officers, from 8% to 20%, in an effort to persuade party members to end their refusal to accept the police as legitimate. On January 28, 2007, the party overwhelmingly voted to support the PSNI.

2. Legal Measures Necessary for Continuing Devolution

Hain's other goal was to effectuate laws necessary to ensure the continuing devolution of power from London to Belfast. First, the St Andrews Agreement mandated that the Northern Ireland Assembly members elected in 2003, but who had not served, would be treated as a transitional Northern Ireland Assembly convened for the purposes of electing the First and deputy First Ministers, as well as the Executive Ministers. If these positions were filled by March 26, 2007, then Schedule 2 provided for the restoration of the Northern Ireland Assembly and its powers. The St Andrews Agreement also modified the way that the First and deputy First Ministers were selected. Clause 8 of the St Andrews Agreement amended portions of the Northern Ireland Act of 1998, which established the nomination of the two posts together. Under the St Andrews Agreement, the party with the most seats in the Northern Ireland

105 St Andrews Agreement, supra note 6, para. 6.
107 Id.
109 Heyck, supra note 106.
110 Quinn, supra note 108.
111 ST ANDREWS RESEARCH PAPER, supra note 93, at 25.
112 Id. at 25-26.
113 St Andrews Agreement, supra note 6, Annex A, cl. 8; ST ANDREWS RESEARCH PAPER, supra note 93, at 27.
114 St Andrews Agreement, supra note 6, Annex A, cl. 9; ST ANDREWS RESEARCH PAPER, supra note 93, at 27.
Assembly following a general election nominates the First Minister.\textsuperscript{115} Likewise, the party with the second-most seats nominates the deputy First Minister.\textsuperscript{116} After the two executive spots have been nominated, the remaining Ministerial posts are filled using the d'Hondt method of seat allocation.\textsuperscript{117}

The St Andrews Act (which enacted the principles of the St Andrews Agreement into law) established the new election date as March 7, 2007,\textsuperscript{118} and modified the schedule for devolution of policing powers.\textsuperscript{119} The St Andrews Agreement also mandated that the Northern Ireland Assembly must provide a report to the Secretary of State for Northern Ireland about the devolution of the policing and justice powers by May 2008.\textsuperscript{120} The First Minister and deputy First Minister had to jointly make a motion in the Northern Ireland Assembly for this report.\textsuperscript{121} With the acceptance of the PSNI by Sinn Féin, the scheduled elections occurred on March 7, 2007.\textsuperscript{122} As expected, the DUP won the most seats and Sinn Féin won the second-most.\textsuperscript{123} In May 2007, the DUP nominated Ian Paisley for First Minister and Sinn Féin nominated Martin McGuinness for deputy First Minister.\textsuperscript{124} They were sworn in on May 8, 2007.\textsuperscript{125}

3. The End of the Armed Campaign

The PIRA's announcement of disarmament stated that members and supporters were to effectuate the goal of a united Ireland by "purely political

\textsuperscript{115} St Andrews Agreement, \textit{supra} note 6, Annex A, cl. 9; \textit{ST ANDREWS RESEARCH PAPER}, \textit{supra} note 93, at 27.
\textsuperscript{116} St Andrews Agreement, \textit{supra} note 6, Annex A, cl. 9; \textit{ST ANDREWS RESEARCH PAPER}, \textit{supra} note 93, at 27.
\textsuperscript{117} St Andrews Agreement, \textit{supra} note 6, Annex A, cl. 9; \textit{see also ST ANDREWS RESEARCH PAPER}, \textit{supra} note 93, at 27 (explaining that the d'Hondt method allocates seats by proportional representation, taking the total number of votes for a given party and applying a mathematical formula to determine which party has the most support after each seat is allocated, with the numbers being recalculated once every seat is assigned).
\textsuperscript{118} Northern Ireland (St Andrews Agreement) Act 2006, c. 53 (U.K.) at Part 1, para. 3(1) [hereinafter St Andrews Act].
\textsuperscript{119} St Andrews Agreement, \textit{supra} note 6, cl. 7; \textit{ST ANDREWS RESEARCH PAPER}, \textit{supra} note 93, at 37–38.
\textsuperscript{120} St Andrews Act, \textit{supra} note 118, Part 1, para. 16(1).
\textsuperscript{121} \textit{ST ANDREWS RESEARCH PAPER}, \textit{supra} note 93, at 30.
\textsuperscript{125} \textit{Id.}
and democratic programmes through exclusively peaceful means."\textsuperscript{126} They reiterated that they still maintained the same goals, and that they still viewed the armed campaign as necessary at the time.\textsuperscript{127} The decommissioning of the PIRA’s stockpile of arms was completed shortly thereafter.\textsuperscript{128} Thus, the PIRA’s credibility was substantially bolstered by these efforts and several independent reports.

The Independent Monitoring Commission (IMC) was established in 2003 “to monitor the activities of paramilitaries.”\textsuperscript{129} After the PIRA’s July 28, 2005, announcement, the IMC published a report in October, saying that it was pleased with the progress made, but was looking for “cumulative indications of changes in behaviour over a more sustained period of time.”\textsuperscript{130} Another report was released by the IMC in February 2006, stating that there were definite signs of peacefulness and a “clear strategic intent to turn the organization on to a political path” despite some worries about PIRA members still involved in crime.\textsuperscript{131} The IMC’s Tenth Report, published on April 26, 2006, was even more positive, claiming, “[I]t remains our absolutely clear view that the PIRA leadership has committed itself to following a peaceful path.”\textsuperscript{132} In October 2006, the IMC reiterated, “We believe that the leadership [of the PIRA] does not consider a return to terrorism as in any way a viable option . . . .”\textsuperscript{133} These reassurances of the end of the PIRA’s violence greatly contributed to progress in the St Andrews negotiations.


\textsuperscript{127} Id. (“We reiterate our view that the armed struggle was entirely legitimate.... The IRA is fully committed to the goals of Irish unity and independence....”).

\textsuperscript{128} See IRA ‘Has Destroyed All Its Arms,’ BBC NEWS, http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/4283444.stm (last updated Sept. 26, 2005, 19:22 GMT) (discussing the independent verification of the decommissioning of a large amount of weapons by the leader of the International Independent Commission on Decommissioning, as well as a member of the Catholic clergy and a member of the Protestant clergy).

\textsuperscript{129} ST ANDREWS RESEARCH PAPER, supra note 93, at 7; see generally Northern Ireland (Monitoring Commission etc.) Act, 2003, c. 25 (U.K.) (providing that the Commission had several functions, including monitoring functions), available at http://www.legislation.gov.uk/ukpga/2003/25/contents.

\textsuperscript{130} INDEP. MONITORING COMM’N, SEVENTH REPORT, Cm. 546, ¶ 3.18 (2005), available at http://www.independentmonitoringcommission.org/documents/uploads/7th%20IMAIC%20REP0rt.pdf.


4. Electoral Movement Away From the Middle

Failed efforts to restart negotiations and continuous movement to the extremes of both republican and unionist sides marked the time period following the Northern Ireland Assembly suspension until the St Andrews talks. In the 1998 Northern Ireland Assembly elections, the two parties receiving the most votes were the more moderate UUP, led by David Trimble, and the more moderate Catholic, nationalist party, the SDLP. The more extreme unionist party, the DUP, led by Ian Paisley, received the third most votes, while the more extreme nationalist party, Sinn Féin, led by Gerry Adams, received the fourth most votes. In 2003, when elections were held despite the suspension of the Northern Ireland Assembly, the DUP gained ten seats and Sinn Féin gained six. The UUP and the SDLP lost one and six seats, respectively. In 1998, the DUP and Sinn Féin combined to win 35.77% of the votes in Northern Ireland. By 2003, the DUP and Sinn Féin combined to win 49.1% of the votes. In merely five years, the DUP and Sinn Féin went from being the third and fourth most popular parties, respectively, in Northern Ireland to being the first and second most popular parties, respectively. Therefore, the conclusion that can be drawn from the election results is that the suspension of the Northern Ireland Assembly only caused a movement toward extremism on both sides. This conclusion is affirmed by the 2007 Northern Ireland Assembly elections where Sinn Féin gained four seats, and the DUP gained six seats. The SDLP lost two seats, while the UUP lost nine. In 1998, the DUP and Sinn

---

135 See id. (showing that the SDLP received 177,963 votes and the UUP received 172,225 votes).
136 See id. (showing that the DUP received the third most votes with 146,989 votes, while Sinn Féin received the fourth most votes with 142,858 votes).
138 Id.
139 See Northern Ireland Assembly Elections 1998, supra note 134 (providing the popular vote percentages for the DUP and Sinn Féin of 18.14% and 17.63%, respectively).
140 See Northern Ireland Assembly Elections 2003, supra note 137 (calculating votes by adding the popular vote percentages for the DUP and Sinn Féin).
141 See id. (showing that the DUP and Sinn Féin received 177,470 votes and 162,758 votes, respectively, totaling more votes than the UUP and the SDLP).
143 Id.
Féin combined to win 35.77% of the vote, and thirty-eight seats. In 2007, these numbers were 56.3% and sixty-four seats.

C. The Hillsborough Castle Agreement

In March 2008, Ian Paisley announced that he would resign as First Minister. It was widely thought that Paisley’s authority and power within the DUP were fading due to both age and, by many, a view that he was too comfortable with McGuinness. In June 2008, the DUP nominated Northern Ireland Assembly member Peter Robinson to the post of First Minister. Sinn Féin also chose to renominate Martin McGuinness to the post of deputy First Minister, despite some talks that he may be replaced. The relationship between McGuinness and Robinson soured quickly and a stand-off ensured over how policing and justice powers would devolve. This conflict was resolved in early August 2008 with the decision to have one minister with cross-community support lead a department of justice; however, it only served as a temporary break from disputes. Sinn Féin threatened to collapse the Northern Ireland Assembly and reassert pressure on London after stalls in the bargaining process. The IMC’s Nineteenth Report, released in early September 2008, further relieved the worry that Sinn Féin might try to interrupt the government by stating, “[T]he Army Council [of the IRA] by deliberate choice is no longer operational or functional.” In November 2008, Sinn Féin and the DUP came to yet

144 See Northern Ireland Assembly Elections 1998, supra note 134 (attaining these figures by adding the number of seats and the percentage of the popular vote for the DUP and Sinn Féin).
145 See Northern Ireland Elections, supra note 142 (reaching these figures by adding the number of seats and the percentage of the popular vote for the DUP and Sinn Féin).
147 Id.
149 Id.
another agreement to continue the devolution of policing and justice powers, ending an impasse in negotiations.\textsuperscript{154}

1. The Northern Ireland Act 2009

The Northern Ireland Assembly passed the 1998 Act to devolve legislative and executive powers, while reserving the devolution of policing and justice powers for a later date.\textsuperscript{155} It was the intention of the St Andrews Act, passed in 2006 to formally make the St Andrews Agreement law, to press for the devolution of certain policing and justice powers.\textsuperscript{156} However, in 2009, "[t]here [was] one important, nay vital, part of the devolution jigsaw still to be achieved. It [was] the transfer of policing and justice powers from Westminster to Stormont."\textsuperscript{157}

Though there were already seven different ways to select a minister for policing and justice powers,\textsuperscript{158} an eighth way was added by the 2009 Act. The new eighth method, as explained in Schedule 1 of the 2009 Act, allows a legislative assembly member to nominate a Minister for Policing and Justice, who must then be approved by the Northern Ireland Assembly.\textsuperscript{159} However, the nomination must also be approved by cross-community support, meaning a majority of those assembly members designated as "Unionists" and a majority of those assembly members designated as "Nationalists" must agree on the nomination.\textsuperscript{160}

2. Identity Crisis for the DUP

The DUP was in a precarious position prior to the Hillsborough Castle Agreement. They had recently lost some of the most "hardcore" members of the Traditional Unionist Voice (TUV) party.\textsuperscript{161} The TUV, founded in 2007,
primarily consisted of former DUP members who had taken an especially hard-line stance against dealing with Sinn Féin at any level. The leader of the TUV attacked the DUP claiming that the DUP would simply “roll over and acquiesce to Sinn Féin’s demands.” The TUV asserted that the DUP was simply compromising because they recognized the possibility of losing their position as Northern Ireland’s most popular party in the upcoming elections.

3. The Agreement

For a while, it appeared as though there may be another stall if the parties could not agree on devolution. In early 2010, the parties convened at Hillsborough Castle in Hillsborough, County Down, to attempt to develop a solution to the parades issue and the devolution of policing and justice powers. British Prime Minister Gordon Brown and Irish Taoiseach Brian Cowen were both in attendance and personally seeking an agreement between Sinn Féin and the DUP. After three days of negotiations, Brown and Cowen gave the two Northern Irish parties two days to formulate an agreement or the British and Irish governments would “publish” their own. When the deadline passed on January 29, 2010, Sinn Féin and the DUP continued to negotiate, and the British and Irish governments held off.

20, 2010) (showing that the TUV polled at 13.66%, while the DUP polled at 18.23%, allowing Sinn Féin to attain the highest percentage at just over 26%).

162 Lesley Fockett, Ulster Justice Deal Edges Closer, EPOLITIX (Oct. 9, 2009), http://www.epolitix.com/latestnews/article-detail/newsarticle/ulster-justice-deal-edges-closer (“Leader of the hard-line Traditional Unionist Voice Jim Allister . . . [said,] ‘For traditional unionists devolving policing and justice . . . is about the much deeper issue of the folly of gifting such vital and sensitive issues to an executive and assembly where IRA/Sinn Féin — the party which still justifies their IRA’s murder of policemen and judges — holds the power of veto,’ he said. ‘Ending British control of policing and justice has long been a strategic republican demand . . . No unionist should be facilitating the attainment of their goal.’ ”).


164 Id. (“A TUV spokesman added: ‘When it comes down to the crunch we in TUV feel the DUP will do absolutely anything to avoid elections to the assembly. They will find a deal to save themselves.’ ”).

165 Parades Issue Is ‘Key to Northern Ireland Breakthrough,’ BELFAST TEL. (Jan. 27, 2010), http://www.belfasttelegraph.co.uk/breaking-news/uk-ireland/parades-issue-is-key-to-northern-ireland-breakthrough-14653068.html.

166 Id.


Finally, on February 4, 2010, both parties agreed to a deal that would save the Northern Ireland government. The deal "chiefly charts a path for creating a new Justice Department in Belfast that will take control from Britain of the province’s police and courts." This agreement became known as the Hillsborough Castle Agreement (HCA).

a. Devolution of the Policing and Justice Powers

Pursuant to the HCA, the First Minister and deputy First Minister agreed to make a resolution in the Northern Ireland Assembly for a cross-community vote on March 9, 2010, to devolve justice functions. If passed, the justice and policing functions would be devolved on April 12, 2010.

Prior to the vote on March 9, 2010, polls showed that 75% of Northern Irish people favored the devolution of policing and legal powers from London to Belfast, and “yes” votes were expected by all of the primary parties in the Northern Ireland Assembly except for the UUP, who refused to support it. The Northern Ireland Assembly, with eighty-eight “yes” votes and seventeen “no” votes, ratified the agreement on March 9, 2010. Even in the face of such monumental progress toward peace, terrorism reared its ugly head—this time in the form of a car bomb planted by the Real IRA terrorist group outside of the MI5 regional headquarters in Northern Ireland that detonated just minutes after midnight—when powers were transferred. Luckily, “no one was seriously injured or killed in the bombing.”

b. Selection of a Justice Minister

The HCA allowed any member of the Northern Ireland Assembly to nominate a minister, and if they received cross-community support, they

---


170 Id.


172 Id. § 1, ¶ 1.

173 Id.


177 Id.
would be named the Justice Minister. It was widely expected that David Ford, the leader of the Alliance Party—a party that identified as neither nationalist nor unionist, neither Catholic nor Protestant—would be selected by the leaders of Sinn Féin and the DUP. As anticipated, David Ford was selected on April 12, 2010, to serve as the first Justice Minister of Northern Ireland since 1972—the most violent year of “the Troubles.” The HCA also declared that the Justice Minister would hold an equal amount of authority as the other ministers, and the Justice Minister would be permitted to make certain “quasi-judicial” decisions without involving the rest of the Executive.

c. Parades and Other Business

The HCA arranged for a new parades commission to be formed to satisfy the demands of unionists. Accordingly, the First Minister and deputy First Minister chaired a six-person committee and developed a mediation process to resolve issues between parade planners and residents. In April 2010, the six-person committee published their proposals. The proposals sought to balance a person’s individual right to be free from harassment, while also making it illegal to prevent a parade that is lawfully allowed. Protestants typically view parading as their right, even through Catholic neighborhoods.

---

178 See Hillsborough Castle Agreement, supra note 7, § 1, ¶ 2.
181 Hillsborough Castle Agreement, supra note 7, § 1(8)–(9).
183 Hillsborough Castle Agreement, supra note 7, § 2.
185 Id.
186 See Shawn Pogatchnik, British, Irish Seek to Save N.Ireland Government, BOSTON GLOBE (Jan. 26, 2010), http://www.boston.com/news/world/europe/articles/2010/01/26/british_irish_hold_talks_to_save_northern_ireland_govt/ (“[T]he Democratic Unionists held out for their own controversial concessions, particularly the right of Protestant groups to resume marching near hostile Sinn Fein districts. Britain has curtailed that explosive tradition over the past decade with a powerful Parades Commission that the Protestants want abolished.”).
Lastly, the HCA stated that the First Minister and deputy First Minister would examine any remaining business that had yet to be addressed from the St Andrews Agreement.\(^{187}\)

IV. WHAT PARLIAMENT SHOULD DO TO EFFECTUATE A UNITED IRELAND

A. Work in Concert with Sinn Féin

Only fifteen years ago, the mere suggestion of working in concert with Sinn Féin would have provoked laughter from everyone outside Parliament and disgust from everyone inside Parliament. However, with time, both parties and people change. Currently, Sinn Féin and the Parliament of the United Kingdom share a common interest, which is the speedy and successful devolution of powers to the Northern Ireland Assembly and Executives.

Sinn Féin has consistently demonstrated that its ultimate goal is a united Ireland.\(^{188}\) Rather than pursue this goal through an armed campaign, the party agreed to the Good Friday Agreement—which states that the decision to be a part of either the United Kingdom or the Republic of Ireland is to be made by the people of Northern Ireland, and them alone\(^ {189}\)—and their decision will be respected by both the United Kingdom and the Republic of Ireland.\(^ {190}\) Sinn Féin has agreed to participate, and in many ways has led the Northern Ireland Assembly. For example, Sinn Féin convinced the PIRA to disarm and successfully banished any thoughts of a return to violence.\(^ {191}\) The party has fought hard for devolution, agreeing to take a return of power in small steps. In short, Sinn Féin has fulfilled all of its commitments and will continue to work for a united Ireland via democratic methods and peaceful processes.

Every Prime Minister of Britain, from John Major to Tony Blair to Gordon Brown has made great strides in the peace process, and it appears that David Cameron will do the same.\(^ {192}\) They have all accepted Sinn Féin

\(^{187}\) Hillsborough Castle Agreement, supra note 7, § 5.


\(^{189}\) Good Friday Agreement, supra note 3, at 752.

\(^{190}\) Id.

\(^{191}\) See INDEP. MONITORING COMM’N, NINETEENTH REPORT, supra note 153, para. 2.8 (reporting that the PIRA has disbanded its “military departments”).

\(^{192}\) See discussion supra Parts II, III (discussing John Major’s role in the Downing Street Declaration, Tony Blair’s role in the Good Friday Agreement, and Gordon Brown’s role in the St Andrews Agreement). See David Sharrock, Cameron Ends Tories’ Long Silence with Sinn Féin, TIMES (U.K.) (Oct. 22, 2009), http://www.timesonline.co.uk/tol/news/politics/article6884640.ece.
as a political party and negotiated with it. The United States government has also devoted a substantial amount of effort to facilitate the peace process and encourage further devolution. President Bill Clinton personally visited Belfast several times and oversaw the Good Friday Agreement talks. President George W. Bush hosted Ian Paisley and Martin McGuiness at the White House in 2007. Similarly, President Barack Obama hosted Martin McGuiness and Peter Robinson on St. Patrick’s Day in 2009 at the White House. Additionally, in 2009, Secretary of State Hillary Clinton visited Belfast to make a speech to the Northern Ireland Assembly in hopes of breaking the deadlock in the negotiations process and to encourage the two parties to complete devolution.

There is popular support for reunification among the people of Northern Ireland as well. In 2009, elections were held for the European Parliament, where Northern Ireland is currently allocated three of the United Kingdom’s seats. In that election, Sinn Féin received 26.04% of the votes, a higher percentage than any other party in Northern Ireland. This exceeded the totals of the DUP, UUP, SDLP, and TUV. The support for Sinn Féin is due, in part, to dissent within the ranks of the various unionist parties that provides Sinn Féin with a claim as the largest party in Northern Ireland as of 2009. This distaste was further reinforced in the British Parliament elections of 2010. While the DUP won three more seats in Parliament than Sinn Féin, Sinn Féin received 25.5% of the popular vote, whereas the DUP received 25% of the total votes cast.

Likewise, Martin McGuinness has enjoyed a better reputation as a deputy First Minister than both Ian Paisley and Peter Robinson ever experienced as

193 See discussion supra Parts II, III (discussing “The Troubles” and the Northern Ireland peace process).
199 Results of the 2009 European Elections, supra note 161.
200 See id. (declaring the vote totals as follows: DUP (18.23%), UUP (17.11%), SDLP (16.2%) and TUV (13.66%).
a First Minister. A recent opinion poll showed that Martin McGuinness is actually viewed as Northern Ireland’s most respected politician.\(^{202}\) This is an exceptional transformation from his early days as a rising IRA man in Londonderry.\(^{203}\) Besides his position as the deputy First Minister of the Northern Ireland Assembly, Martin McGuinness is also a member of British Parliament for the Ulster Mid district of Northern Ireland.\(^{204}\) Martin McGuinness handily retained his Parliament seat,\(^{205}\) as did Gerry Adams.\(^{206}\) However, Peter Robinson lost his seat in British Parliament representing Belfast East to an Alliance Party member by more than seven percentage points.\(^{207}\)

Since the people of Northern Ireland control whether or not their country remains a part of the United Kingdom or becomes a part of the Republic of Ireland, this continuing movement toward Sinn Féin can be viewed as a growing endorsement of the desire for a return to home rule by the people of Northern Ireland. At the very least this can be interpreted as a total repudiation of direct rule from the British Parliament. In a 2008 survey, 71% of Northern Irish people surveyed said they thought the long-term goal of Northern Ireland should be as a united Ireland or as part of the United Kingdom, but with devolved powers.\(^{208}\)

**B. Recognize that the DUP is Vital to Any Meaningful Northern Irish Policy**

While the TUV may be relegated to fringe status, currently the DUP is still arguably the largest Northern Irish party. Groups or individuals working in concert with Sinn Féin must also get the DUP on board for changes. Peter

\(^{202}\) See Noel McAdam & Rebecca Black, *Poll: Sinn Fein’s Martin McGuinness is Northern Ireland’s Top Minister*, BELFAST TEL. (Nov. 30, 2009), http://www.belfasttelegraph.co.uk/news/politics/poll-sinn-feins-martin-mcguinness-is-northern-irelands-top-minister-14580892.html (stating that McGuinness received 27% of the votes, including 11% of the Protestant vote, whereas Peter Robinson received only 7% of the vote overall, and 0% of the Catholic vote).

\(^{203}\) See id. ("[S]ignalling a remarkable transformation from IRA leader to respected political figurehead.").


\(^{208}\) Political Attitudes, N. IR. LIFE & TIMES (June 4, 2009), http://www.ark.ac.uk/nilt/2008/Political_Attitudes/NIRELND2.html.
Robinson has expressed progressive intentions, saying, “I do not pretend that the government we have at Stormont is perfect — no government is — but it is infinitely more preferable to the only alternative: direct rule, with no say for local people in how we are governed.”

The DUP must embrace two positive results from the arrival of the TUV. First, the DUP’s most extreme members are no longer members of the DUP, so appeasing them is no longer a priority. For this reason, the party has become more moderate. Second, the TUV can now be demonized by others as the extreme right-wing unionist party, allowing the DUP to help run the government without being the object of nationalist ire.

Parliament and Sinn Féin can help this process of involving the DUP by seamlessly working with the DUP and its leaders. Sinn Féin and the DUP must portray to the people of Northern Ireland the image that they are the only two parties that can work together. Together, Sinn Féin and the DUP represent a majority of the people in Northern Ireland, so collaboration can prevent the minority parties from gaining power. This strategy was readily apparent in the decision to nominate and vote for Alliance leader David Ford for Justice Minister. Both the UUP and the SDLP put forth their own candidates, but because the DUP and Sinn Féin were able to compromise, each maintained its authoritative position. Perhaps most importantly, this concerted work allowed the DUP to move from its anti-devolution position to a more moderate, progressive position without losing their constituency, which effectively allowed them to save face in the international community and with Parliament. In short, if Parliament adopts a position more in line with Sinn Féin, there will be a greater likelihood of moderating the DUP position in order to hold off the TUV and UUP, which will bring about a more stable government and successful devolution.

C. Weighing the Costs and Benefits of Keeping Northern Ireland Part of the United Kingdom

There is a lack of support within Great Britain for keeping Northern Ireland. The British Social Attitudes Survey, which ran from 1983 to 2007,
poll a random sample of Britons (excluding the Northern Irish), asking
them various questions. Within every survey participants were prompted
to answer a questions that indicated what they thought the long-term policy
be for Northern Ireland should be. Over the years, an increasing number
of British people favored reunification with Ireland as opposed to Northern
Ireland remaining a part of the United Kingdom. The percentage of people
who responded “I don’t know” has also increased from 5.76% in 1983 to
more than 18% in 2007. This question and its responses suggest that the
British favor a United Kingdom sans Northern Ireland at best, and at the very
least, that the British are increasingly apathetic about the issue.

While strong support for a united Ireland may not exist, there seems to be
a waning desire for Northern Ireland to remain a part of Great Britain. This
Note already mentioned the opinion poll showing that 71% of Northern Irish
favored either reunification or a devolved government. The growing
popularity of Sinn Féin can be seen as an endorsement of its central
platform—reunification with the Republic of Ireland.

In Northern Ireland, between the lack of support both inside and outside
of Northern Ireland, as well as encouragement by the international
community, mainly the United States, the time may be approaching when the
costs of maintaining Northern Ireland outweigh the benefits. Currently, the
United Kingdom spends approximately £16 billion (about $24 billion)
annually on Northern Ireland. An obvious, positive effect resulting from a
unified Ireland would be that those £16 billion could be spent within
England. In 1942, in the midst of India’s struggle for independence, the
Labour Party of Britain “recognized [sic] the inevitability of Indian self-
determination . . . .” They also professed that actively promoting Indian

213 Question: Do You Think the Long Term Policy for Northern Ireland Should Be for It . . .
using e-mail “gjiclseniomoteseditor@gmail.com” and Password “international1” and then
clicking “Login”; then follow “Contents List” hyperlink; then scroll down and click the box
next to “NORTHERN IRELAND”; then click the box next to “Long-term constitutional
arrangements”; then follow “Preferences for Years (2007 . . . 1983)” hyperlink) (last visited
Nov. 20, 2010).
214 Id.
215 Id.
216 Id.
217 Political Attitudes, supra note 208.
218 All-Ireland Development and Irish Unity, Sinn Féin, http://www.sinnfein.ie/unity-and-
all-ireland-development (last visited Nov. 20, 2010).
219 Syman Ross, Government Must Make Brave Choices on Northern Ireland Economy,
BELFAST TEL. (Jan. 25, 2010), http://www.belfasttelegraph.co.uk/business/business-news/gove
rnment-must-make-brave-choices-on-northern-ireland-economy-14650924.html.
independence would "transform...a sullen subordinate into a willing partner." Like India, the same sentiment is applicable to Northern Ireland.

For all of these reasons, a separation of the British and Northern Irish governments is inevitable, and the time has arrived for the British government to act as it did with respect to India and turn Northern Ireland from a sullen subordinate into a willing partner.

V. CONCLUSION

Here, the United Kingdom has a unique opportunity to save face on all fronts by taking advantage of a situation that it will likely have to surrender to anyway. While Parliament cannot outright cede Northern Ireland, as the Northern Irish people control their own destiny, Parliament can push for greater devolution and nudge the country toward Ireland. This outcome can be achieved without violence or strife, and would allow the United Kingdom to be the benefactor of a new, united Ireland. With the decommissioning of paramilitary groups, the Protestant residents of Northern Ireland have little, if anything, to fear from a majority Irish Catholic government. Because Sinn Féin made it clear that they will not rest until there is a united Ireland, the United Kingdom will have to battle endlessly if it wishes to keep Northern Ireland. Therefore, now is an ideal time for the United Kingdom to concede gracefully.

In an open letter in 2009, Gerry Adams discussed the importance of establishing a united Ireland. While the violence has ended, the underlying reason for the conflict remains—the British claim of jurisdiction over a piece of Ireland. Gerry Adams identified three "interlinked challenges" that Ireland and Britain must face, including "getting the British government to change its policy from one of upholding the union to one of becoming a persuader for Irish unity; getting the Irish government to begin preparations for Irish unity; and engaging with Ulster unionism on the type of Ireland we want to create." The three agreements were steps in the right direction because they reached out to both sides and established cooperative governing structures. With responsible leaders and parties in control of Northern Ireland, and little chance of a return to violence, Parliament in London should act to fulfill their duties and commitments to completely devolve power to Northern Ireland. This step would fulfill their obligations set forth in the Good Friday Agreement and the St Andrews Agreement, and

221 Id.
223 Id.
224 Id.
would give the people of Northern Ireland true self-determination to decide their own fate, whether it is as part of the United Kingdom or as part of a united Ireland.

In the same letter, Gerry Adams spoke of all of the substantial steps and milestones that have been achieved by all the parties in the Northern Irish peace process. These steps are the very things that most thought impossible only decades ago. To quote Mr. Adams, “All of those difficult and some said, unimaginable goals have been achieved. So — Irish reunification is achievable. With the right strategies and a determined commitment . . . a united Ireland can happen. Join us in that task.”

---

225 See id. (“Some progress has already been made. The Good Friday Agreement has put in place all-Ireland political institutions which can be enhanced and developed. It contains a legislative, peaceful and democratic mechanism to set up a new and democratic Ireland.”).

226 Id.