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The Good Friday Agreement: A Triumph of Substance over Style

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Kate Fearon and Monica McWilliams

Abstract

This Essay consists of five parts. Part I locates the Agreement in a series of constitutional attempts to resolve the “Irish question” from 1971 onwards, arguing that the Agreement is both similar to, yet fundamentally different from, other settlement propositions. Part II introduces the reader to the Northern Ireland Women’s Coalition (or “NIWC”), saying something of its founding rationale and environment before considering its priorities for the political process in which it found itself immersed in May 1996. Part III further outlines the role that the NIWC assumed in that process, and its *modus operandi*, going on to describe the ideas that it inserted in the process and the Agreement itself. Part IV of this Essay offers an assessment of the Agreement, six months later, in both abstract and actual terms. Finally, drawing on contemporary empirical experience in Northern Ireland, as well as models presented by conflict resolution practitioners and theorists, Part V attempts to harvest any lessons that may be transferable from our process to others. To begin, this Essay outlines a whistlestop tour of past proposals, pausing to reflect on the parameters of the question—unionism versus nationalism—in every case until the Agreement.

THE GOOD FRIDAY AGREEMENT: A TRIUMPH OF SUBSTANCE OVER STYLE

*Kate Fearon**
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INTRODUCTION

In offering an explanation of the Agreement reached initially on Good Friday, April 10, 1998, and subsequently ratified by referendum on May 22, 1998—the Good Friday Agreement¹ (or “Agreement”)—this Essay consists of five parts. Part I locates the Agreement in a series of constitutional attempts to resolve the “Irish question” from 1971 onwards, arguing that the Agreement is both similar to, yet fundamentally different from, other settlement propositions. Part II introduces the reader to the Northern Ireland Women’s Coalition (or “NIWC”), saying something of its founding rationale and environment before considering its priorities for the political process in which it found itself immersed in May 1996. Part III further outlines the role that the NIWC assumed in that process, and its *modus operandi*, going on to describe the ideas that it inserted in the process and the Agreement itself. Part IV of this Essay offers an assessment of the Agreement, six months later, in both abstract and actual terms. Finally, drawing on contemporary empirical experience in Northern Ireland, as well as models presented by conflict resolution practitioners and theorists, Part V attempts to harvest any lessons that may be transferable from our process to others. To begin, this Essay outlines a whistlestop tour of past proposals, pausing to reflect on the parameters of the question—unionism versus nationalism—in every case until the Agreement.

Commenting on the signing of the Anglo-Irish Agreement in 1985,² the then Tanaiste and Minister for Foreign Affairs in

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1. Agreement Reached in the Multi-Party Negotiations, Apr. 10, 1998 [hereinafter Good Friday Agreement].

2. Agreement Between the Government of the United Kingdom of Great Britain

the Republic of Ireland, Dick Spring, said that he viewed the effort as something of a process that had started with the "first hands across the border effort" by Sean Lemass in 1965.³ Lemass's visit to Stormont in 1965 marked a watershed in North-South relations, and a reading of recent cabinet papers underlines the loss of twenty-five years of potential development that the Lemass-O'Neill meetings might have made possible.⁴ This denotes the beginning of a period, which Whyte described as being of an "unprecedented pace of change."⁵ It also struck the somber template for all the attempts at progress that were to occur over the next thirty years, culminating in the endorsement of the Good Friday Agreement by referenda, North and South, in 1998. The template was comprised of five phases:

- (i) initial dialogue between governments;
- (ii) involvement of established "constitutional" political parties;
- (iii) development of events on the ground outside governmental control that rendered impossible continuation of discussion;
- (iv) a "cooling off" period of around five years; and
- (v) resumed dialogue close to where prior initiatives had broken down.

The very first round of talks set the pattern. On the day after the first meeting convened by Brian Faulkner, on July 8, 1971, the SDLP, though it commented favorably on the process, found it impossible to return after the Stormont parliament refused to order an inquiry into the controversial deaths of Cusack and Beattie in the midst of four days rioting in Derry.

There followed a series of British government white and green papers, beginning with Harold Wilson's six point plan, announced on September 8, 1971.⁶ All these papers, including the

and Northern Ireland and the Government of the Republic of Ireland, Nov. 15, 1985, U.K.-Ir., Cmnd. 9657, *reprinted in* TOM HADDEN & KEVIN BOYLE, *THE ANGLO-IRISH AGREEMENT* 15-48 (1989) [hereinafter *Anglo-Irish Agreement*].

3. *IRISH TIMES*, Nov. 16, 1985.

4. *State Papers from 1965*, *IRISH TIMES*, Jan. 1-2, 1996.

5. T.W. MOODY & F.K. MARTIN, *THE COURSE OF IRISH HISTORY* 342 (1993).

6. This paper was followed by the GREEN PAPER ON THE FUTURE DEVELOPMENT PARLIAMENT AND GOVERNMENT OF NORTHERN IRELAND (1971). Similar papers—THE FUTURE OF NORTHERN IRELAND (1972), NORTHERN IRELAND: CONSTITUTIONAL PROPOSALS FOR THE FUTURE OF GOVERNMENT (1974), the related NORTHERN IRELAND CONSTITUTION ACT

outcome of the Sunningdale Conference of December 1973, reworked at least one of the proposals in antecedent papers. For example, the Wilson Plan envisioned election by proportional representation, a council of Ireland, and consideration of Irish Unity. These prefigure the Council of Ireland proposed in the White Paper of 1973.

Other proposals that were to become standard in subsequent documents included increased security cooperation, North and South; a joint British-Irish Intergovernmental Council in various forms; a Bill of Rights; a distinction between executive and administrative powers; increased cooperation on economic issues; internal power-sharing of some type; and the recognition of a special relationship between Northern Ireland and the Republic. In the 1980s, other reports would follow, incorporating many of these elements and updating them.⁷

This set of papers might have fizzled out in the same manner as those of the 1970s had it not been both for the perceived need of the Irish government to head off increasing support for Sinn Féin in electoral politics after the hunger strikes of 1981-1982, and to bolster the SDLP, and for an increase in the technological ability of the IRA to inflict real pain upon the British government. A change in status from a "weak but restive minority"⁸ is borne out by the arms acquisition from Libya in 1987, and the strategic and tactical change to a cellular military structure by the IRA.

The Anglo-Irish Agreement was an amalgam of all the proposals offered from the beginning of the conflict. It was hugely ambitious and deeply ambiguous. But it was destined to flounder because of the exclusive process of its imposition.⁹ Mary

(1973), and a further NORTHERN IRELAND ACT (1974)—sealed the "temporary" direct rule.

7. These reports include THE THATCHER-HAUGHEY SUMMIT (May 1980), the ANGLo-IRISH GOVERNMENTAL COUNCIL/JOINT STUDIES (Nov. 1981), the "ROLLING DEVOLUTION" PROPOSALS OF JIM PRIOR (Apr. 1982), the NEW IRELAND FORUM REPORT (May 1984), the KILBRANDON REPORT (Nov. 1984), the WAY FORWARD (1984), the HAGGERUP REPORT AND WHAT FUTURE FOR NORTHERN IRELAND—APNI REPORT (July 1985), IRELAND—A POSITIVE PROPOSAL (Hadden & Boyle, July 1985), and the ANGLo-IRISH AGREEMENT (1985).

8. SELECTIONS FROM THE PRISON NOTEBOOKS OF ANTONIO GRAMSCI 231 (Q. Hoare & G. Nowel Smith eds., 1971).

9. In the run to the signing, the Irish governmental team of elected representatives and civil servants consulted with nationalists in Northern Ireland and gave notice to the Vatican in September 1985. Unionists did not enjoy such a relationship with their "big brother" in the negotiations. It has been suggested by O'Leary and McGarry that Pais-

Robinson, who resigned from the Irish Labour party over the issue, noted that “[t]he Anglo-Irish Agreement might have been all right as far as the two governments were concerned, but I was right to say it would push the two communities further apart . . . [and] time has proved me right.”¹⁰ The Downing Street Declaration¹¹ and Framework Documents,¹² also produced by the political elites, set out updated aspirations, but effectively only tinkered with the system, drawing on many of the earlier structural propositions to do so. These were all gradualist measures of containment, i.e., of management of the conflict. They were not measures that could ever transform the conflict. The London *Independent* leader on the publication of the 1989 review of the Anglo-Irish Agreement illustrates the point, stating that these measures have become “part of the political furniture. Yet no-one has been able to show that [they have] been particularly useful piece[s] of furniture. No transformation of the situation within the province has taken place. It enables London and Dublin to talk to each other without using a megaphone.”¹³

I. THE NORTHERN IRELAND WOMEN'S COALITION: CONTEXT AND CONCEPTION

More talks had been convened by the then Secretary of State, Patrick Mayhew, in 1992, but they broke up without resolution—even though the UUP had travelled to Dublin to negotiate for the first time. The climate after the paramilitary cease-fires of 1994 enabled a new process to be developed. On February 28, 1996, the British and Irish governments issued a Joint Communiqué announcing the convening of All Party Talks (“Talks”) for the purpose of deliberating on the future of Northern Ireland and its relationships with its nearest neighbors. They invited advice as to the method of election or selection of participants to those Talks, viewed almost universally as being of massive importance.

The following month, one of the leading women’s non-governmental organizations (“NGOs”), the Northern Ireland Wo-

ley and Molyneaux were offered the opportunity to see a draft of the agreement, but only under Privy Council, which they refused.

10. SUNDAY TRIBUNE (Dublin), May 28, 1989.

11. Cmnd. 2442.

12. A New Framework for Agreement, Dec. 1994, 34 I.L.M. 946 (1995).

13. INDEPENDENT (London), May 25, 1989.

men's European Platform ("NIWEP"), responded to the government's invitation with a paper¹⁴ detailing how the proposed Talks could be gender-proofed. This paper was also circulated to all political parties. The themes laid out in the NIWEP document were ones constantly revisited by the NIWC in the coming two years; equality of opportunity, treatment, and outcome in political structures and substance were the goals that the paper argued could only come about with meaningful participation of women. The paper also struck the template for the as yet unformed NIWC, and indeed, this principle of inclusion would become a cornerstone of the Agreement. This principle initially pertained to the perspective of women, but later developed to involve other important voices, specifically Sinn Féin, the Ulster Democratic Party ("UDP"), and the Progressive Unionist Party ("PUP").

The paper from the NIWEP did not emerge from a vacuum. It is generally recognized that large numbers of women have for many years involved themselves with grassroots and voluntary sector campaigns, holding the fabric of society together while the conflict threatened to rend it asunder.¹⁵ The competing nationalisms of the conflict reinforced the conservative nature of the society and perpetuated patriarchal norms. "The traditional link between nationalism (both orange and green) and their respective churches has ensured that the ultra-conservative view of women as both the property of, and the inferior of, men, remains strongly entrenched in Irish society."¹⁶ Women's employment patterns, though changing, still reflect traditional roles; women are concentrated in a small number of (usually) lower-paid occupations.

For women, advances in the elected political arena did not follow establishing a foothold in the world of paid labor. Out of eighteen Members of Parliament elected to Westminster, none are women. Out of three representatives sent to the European Parliament, none are women. And only fourteen percent of local government representatives are women. In the late 1980s,

14. NORTHERN IRELAND WOMEN'S EUROPEAN PLATFORM, GENDER PROOFING THE ELECTION SYSTEM AND TALKS (Belfast, Mar. 19, 1996).

15. Carmel Roulston, *Did Women Make a Difference? The Northern Ireland Women's Coalition in the Peace Process 2* (1998) (unpublished conference paper).

16. Monica McWilliams, *The Church, the State and the Women's Movement in Northern Ireland*, in *THE IRISH WOMEN'S STUDIES READER* (Ailbhe Smyth ed., 1993).

some political parties began to establish programs to increase women's representation both within the party and as candidates for elections, but women remain a long way away from having meaningful influence in any party.¹⁷

This situation has contributed in part to women establishing their own networks, within and across communities, as well as region-wide. Since the mid-1970s, women's centers have been established in many communities, initially as a result of feminist groups.¹⁸ The number of women's centers grew exponentially in the 1980s, providing space where women could seek advice and meet other women. In the 1990s, the activities of the women's centers developed to incorporate education and training programs—both labor market, and further and higher education, orientated. Some of these programs also included consideration of women and political life in Northern Ireland. The demand for, and demands of, these centers have diversified in recent years, and women leaders have adapted to the changing demands by seeking new sources of funding: government, the European Union, charitable foundations, and private donations. In these networks, women have proved effective negotiators, influencing policy and drawing down resources directly from the government and other sources to sustain their activities. But, as Carmel Roulston notes:

While women's development is regarded as essential for community development in general, it appears often to be seen as a means of allowing women to become a 'resource', an influence for stability, rather than to encourage women to participate on equal terms in the formulation of goals and strategies for the community.¹⁹

In the wake of the 1994 paramilitary cease-fires, it was not just the governments that were cultivating new political processes. Several consultative conferences were convened, creating the space for women involved in these networks and groups to come together and to give voice to their aspirations for the community as a whole, and to try to find ways in which these aspirations could be impressed on decision-makers. Shortly after

17. See Roulston, *supra* note 15. Among parties that have made special, if currently ineffective, provision for women are the SDLP, the PUP, the APNI, and Sinn Féin.

18. *Id.*

19. *Id.*

this point, the window of opportunity for women opened with the two governments' Joint Communiqué.

When the British Government published its proposals²⁰ based on the consultation exercise, the NIWEP responded with another paper,²¹ circulating it again to the governments and all political parties. But the other parties were not interested in profiling women, or even acknowledging the "stabilizing resource" role that women had played in the community over the years. They did not respond to the NIWEP position papers.²² The NIWEP had more success with lobbying the British Government, which agreed to space for a woman's caucus to contest the elections should women wish to make a formal intervention in the political arena. For many of the women activists who had been involved for many years in informal politics, in communities, across networks, and in the workplace, this would be a completely new departure, and one of which many were fearful. At a large meeting of over 100 activists on April 17, 1996, however, the NIWEP decided to participate formally in this political system that many mistrusted, or feared, over the past quarter century. The failure of political parties to respond to the NIWEP briefing papers demonstrated a lack of appreciation of the value of a woman's perspective in the Talks process, the value of bringing and building on the experiences of the many years of cross-community work directly into the Talks. And so, the women who had navigated and negotiated grassroots politics for many years took matters into their own hands. They were not the first group of women to embark on such a gender-specific intervention into the formal arena in advance of political talks about their future, and they may not be the last,²³ but, uniquely in the

20. There were two papers: *THE FRAMEWORK FOR A BROADLY ACCEPTABLE PROCESS LEADING TO ALL PARTY NEGOTIATIONS AND DESIGNATION OF PARTIES FOR THE FORTHCOMING ELECTION IN NORTHERN IRELAND* (HMSO, Belfast, Mar. 26, 1996). The papers favored a complex system with designated political parties and a two-tiered party list system. The holding of an election to determine participants would be of key importance, and it is worth noting that elections were an unpopular route for established parties, particularly nationalists.

21. BRONAGH HINDS, *NORTHERN IRELAND WOMEN'S EUROPEAN PLATFORM, DESIGNATION OF PARTIES FOR THE FORTHCOMING ELECTION IN NORTHERN IRELAND: A RESPONSE BY NIWEP ON BEHALF OF WOMEN IN NORTHERN IRELAND* (Apr. 10, 1996).

22. The only two parties to acknowledge receipt were Democratic Left and Sinn Féin.

23. In other peace processes, women have drawn on an identity as women to pursue a common political agenda, most notably in South Africa, and also in Nicaragua.

history of Irish or British politics, they constituted a cross-community group of women that intervened in the previously male-dominated process by contesting the election for delegates to the Talks as an all-women's coalition, the NIWC.

The NIWC had a deliberate cross-community base. In the Northern Ireland context, this means that the NIWC has women from both nationalist and republican traditions, in the main, but not exclusively Catholic, and from unionist and loyalist communities, in the main, but not exclusively Protestant, as well as women who hover between these cultures, rejecting either identity. In its infancy, the NIWC agreed to three core principles: inclusion, equality, and human rights. Taken together, these principles formed an "ethical framework" by which internal and external business was conducted. They proved strong tools by which to navigate and to accommodate the internal and external political interests of the women who came together; what happened internally in the ranks of the NIWC was a microcosm of what had to happen externally.

This "Do It Yourself" brand of politics did work out for the women involved. The election system, designed by the British Government to secure an electoral outcome that would be inclusive of the smaller loyalist parties who had proved instrumental in securing and maintaining the paramilitary cease-fires, also found a place for the NIWC.

II. PRIORITIES FOR THE PROCESS

From the outset, the NIWC declared that it was not going into talks in defense of a fixed constitutional position. It was concerned with both the interests, not the positions, of others and how these interests might be accommodated within the NIWC's own ethical framework of human rights, equality, and inclusion. In the view of all the other parties, this position was novel, if not naïve. For the NIWC, it was better to have a different view of the possible in the given political norm and to work towards it than to declare the probable and to wait for others to share that view. From its core principles of human rights and

Shelia Meinjtes, *Gender, Nationalism and Transformation: Difference and Commonality in South Africa's Past and Present*, in *WOMEN, ETHNICITY AND NATIONALISM—THE POLITICS OF TRANSITION* (Rick Wilford & Robert Miller eds., 1998); KATE FEARON, *WOMEN'S WORK—THE STORY OF THE NI WOMEN'S COALITION BLACKSTAFF* (forthcoming 1999).

equality, the NIWC argued that any political settlement must recognize the realities of governing a divided society—and not a society that just happened to endure an aggravated twenty-eight-year crime wave.²⁴

Parties to the Northern Irish negotiation had a tendency to spend most of their time and effort determining *if* any agreement was possible, rather than trying to devise a comprehensive and creative agreement. Membership of the “Talks Club” was expected to fluctuate, and did so. When the DUP and UKUP were participants, Sinn Féin was debarred.²⁵ But they left in advance of Sinn Féin’s admittance in September 1997. The UDP was expelled for a short time in early 1998,²⁶ as were Sinn Féin. The process was continually questioned and undermined, both by present and past participants.

One of the roles that the NIWC engaged in very seriously was as advocates and protectors of the process. The NIWC placed an unequalled emphasis on getting the process right and believing in it. While patently process should never impede progress, the NIWC always raised the issue. In fact, when parties were asked to offer the values and principles that they believed should be adhered to for each of the agenda items, the NIWC was the only party to propose additional collective principles for the process. For the NIWC, there was never a question of *if there is* an agreement. It was always *there will be* an agreement, even in the face of much negativity from all the political commentators and, in late 1997-early 1998, a fearful and dangerous climate on the streets as a consequence of the UDA/LVF murder campaign.

The NIWC exercised its belief in the possibility of an outcome both inside and outside the Talks process. By constantly engaging in an elliptic loop that involved the British and Irish governments, the Talks chairs, the other participants, and members of civic society, from grassroots community organizations to business and trade unionists, the NIWC was always well ap-

24. These positions represent an essential cleavage in negotiating approaches during much of the Talks process. In the main, Unionism approached the problem from a law and order perspective, and nationalism from a conflict resolution perspective.

25. This was due to the collapse of the 1994 IRA cease-fire with the Canary Wharf bombing in February 1996.

26. They were expelled when the Talks moved to Lancaster House, London in February 1998 because of the UDA/LVF murder campaign that ran from approximately December 1997-January 1998.

praised of what was, or might be, “the acceptable” on any given question.

This constant communication with the external community allowed the NIWC to provide resources for the Talks on two planes. First, members of the NIWC became a trusted source of information and advice for the independent Talks chairs and assisted them both to take judgment calls on specific issues and to present general options for the participants. Second, the NIWC submitted for change and refinement the ideas of the NIWC to those persons likely to be most affected by the particular aspect of any outcome for critique. Many members of the NIWC had come from, or were working in, the vibrant community and voluntary sectors, and these contacts were optimally utilized. Many of these groups had been successful lobbyists, dealing directly with the British and European parliaments for many years. But there were limits on lobbying for ideas to be inserted into the Talks process. In making the leap from the informal to the formal political arena, the NIWC was able to be a more effective agent of change in that environment. This new situation, with all its potential for efficacy, also has limits, in the degree of dilution of sound ideas and in the compromises necessary for agreement. Nonetheless, by straddling the tension between the informal and formal arena, the NIWC was able to generate many options on the multifarious aspects of the Agreement, without being wed to one in particular.

What the NIWC lacked in size, it made up for by forming and maintaining strategic alliances both inside and outside the formal process. This may have been possible because its party structure, such as it was, more closely followed the looser U.S. system, which allows for a wide spectrum of conservatism and liberalism in both the Republican Party and the Democratic Party, rather than the Northern Ireland system. The Northern Ireland party system environment is tightly closed and fiercely competitive, and there is a strong linear relationship between the constant assertion of the primacy of the ballot box, any subsequent mandate, and a concomitant “party line” in seeking support for, or confirming continued support of, that mandate. This is not to say that the “party line” is never traversed—it is—but to note that much value is placed on party loyalty, often to the detriment of conscience or external influence.

The NIWC was able to evade or at least to elude the stunting

effect of group-think because of its heterogeneity, and the core-principles framework that guided its participation. There are, of course, limits to what one party can do, even given an instinctive bent for innovation, but the NIWC, in attempting to broaden ownership of the political process and to clarify and communicate the process to the public, laid the ground for the work that was to come in the wake of the accord: signposting symbols and substance in the Agreement that offered everyone an opportunity to be a stakeholder in the future. Apart from concern about, and being protective of, the process, the NIWC, because of its links with different and diverse communities, was able to propose enough tangible ideas and options into which people could buy.

III. *INSERTED IDEAS*

For most observers, the kernel of the problem, when it was defined, was the reconciliation of the two broad constitutional blocks, unionism and nationalism. At the end of the day, though, arguably it was not these two blocks that were reconciled with one another, but rather constitutionalism and a culture of rights—the embedding of a culture of rights that did not discriminate. Each traded off the other to make it easier to swallow. Thus, the rights agenda enabled Sinn Féin to accept and to sell what is technically, and in the old idiom, a partitionist solution. So too, the continued existence of the Northern Ireland region in the United Kingdom enabled the UUP to accept and to sell the rights agenda in an environment in which they have denied the need for such rights for many years. It was into this area that the NIWC was able to propose and to insert successfully some of its more radical ideas. It was also its analysis that the eventual deal could not be a deal of the center.

Specifically, the deal would not work if it were cut between the UUP, the SDLP, with a veneer of cross-community legitimacy lent by the Alliance Party (“APNI”). All parties to the conflict had to be included in the process, and each party to the conflict should be able to point to something of their own reflected in the outcome. (Politics notwithstanding, there is a logic in this approach in terms of having something in a document that different factions can sell to their followers. In the Cartesian world of votes, the math dictates that it all adds up).

The equality debate, the NIWC argued, not only should be viewed in terms of the religious divide, but also should apply to gender, race, disability, and sexuality. It was the principle of inclusion, though, that proved to be most controversial for the NIWC. It argued that a peace settlement stood little chance of success if one or more of the other parties from the negotiating table excluded any party. Hence, while some called for their exclusion, the NIWC valued the presence of the PUP, Sinn Féin, and the UDP.

The notion of a civic forum also originated from the principle of inclusion. We felt that it was important to extend the range of citizen involvement in politics by creating a completely new body that would complement the work of the elected representatives through participation and representation from the various sectors of civil society—community activists, trade unions and employer bodies, youth groups, and the educational sector. The NIWC also called for an inclusive electoral system—one that would cultivate a burgeoning democracy, allowing representation of newer, smaller voices, and stave off sclerosis of any new system. The NIWC was the only party proposing to acknowledge and to seek to redress the rights of victims in the reconciliation process. With the aim of seeding a culture of tolerance, the NIWC was the only party to place issues like integrated education and the right of women to full and equal political participation on the agenda. Similarly, it introduced clauses in the Agreement that recognized the positive role that mixed housing can play in reconciliation; the particular difficulties that young people from areas directly affected by the Troubles will continue to face, and the resources for community based initiatives to address these difficulties; the link between community development and social inclusion; and the link between women's involvement in public life and social inclusion.

The NIWC also argued that the early release and reintegration of politically-motivated prisoners is a necessary part of any settlement, that solid community infrastructure combats social exclusion, and that there should be a comprehensive independent review of the police service. All of these, with the exception of the electoral system, made it into the final draft document. While the NIWC had listened to the voices from the Northern Ireland communities and NGOs, many of the ideas that articu-

lated these concerns came from international papers and processes.

The notion of the Civic Forum had its origin and was proposed as a part amalgam of the French Regional Economic and Social Committees, the Irish Economic and Social Forum, the Irish Senate, and the Northern Irish Partnership Boards. The inclusion of gender participation echoed the South African constitutional accord, while the language in the Agreement articulating it came from the Report of the U.N. Fourth Conference on the Status of Women, held in China in 1996. The idea for recognizing and providing for community development came from local experience. The language came from the Guatemalan peace process, accessed online.

IV. *THE REFERENDUM CAMPAIGN*

The Agreement offers the greatest potential for contemporary and historical resolution of “the Irish question” since the Act of Union. It is not a panacea for all of our ills, but it gives us the chance to construct a new, inclusive society for this generation and generations to come. Very few societies have such a *tabula rasa* presented to them. And the referendum that was put to the people six weeks after the deal was delivered was a fiercely contested affair. Despite the best efforts of political parties and a conglomerate of NGOs and individuals to mount a collaborative, collective “Yes” campaign, the fissures of old had not dissipated sufficiently, and the broad “Yes” vote struggled to get its message heard.

The media was of particular difficulty, preferring to report the best efforts of the “No” campaign—largely run by dissident UUP members, the DUP, and the UKUP, designed to stir up fear, hurt, and resentment.²⁷ While the parties who subscribed to the deal were struggling to produce it, those who had left the process were setting the agenda in the media—effectively, the “No” campaign began long before there was any agreement, and when it became more pronounced, the emotional manipulation was manifest in their slogan: “Have a heart for Ulster.”

It was thus an uphill struggle to consolidate and to campaign on the “Yes” ground, but in the end it came together. The

27. See QUINTIN OLIVER, *WORKING FOR YES* (The Yes Campaign, Dec. 1998).

Agreement posed real difficulty for particular groupings in Northern Ireland. For all the constitutional complexities that it addressed, these complexities were not the issues that the campaign was fought on. The issues were, as ever where treaties involve people, of human concern. Prisoner release and victims became the debating faultlines. The release on parole of prominent prisoners like Michael Stone, who aligned with the UDA in prison and appeared at the UDP "Yes" rally in the Ulster Hall, and the Balcombe St. Gang, who appeared at the Sinn Féin Ard Fheis (conference) in Dublin, shook the "soft no" unionist voters—those who did not really like the agreement, but who were prepared to give it a go because there was nothing else—to the core. The "No" campaign played on these fears and had prepared a series of scaremongering negative newspaper advertisements for the final week of the campaign. The Stone and Balcombe St. Gang appearances, and lauding of prisoners who had been involved in violent criminal acts, were presented in the media as triumphant returns. But there were other available explanations. The UDP did not want Stone at their "Yes" rally, fearing that he would damage the campaign.²⁸ But that apart, the crowd did. They briefly celebrated his presence, yes—but not in triumph. In a sense, this was their prisoner, coming home from the war. The corollary of which is, of course, that the war was over. The same explanation fits the Balcombe St. Gang appearance at the Sinn Féin Ard Fheis. The war was over. Prisoners were coming home. It confirmed for the NIWC its view, on receipt of the first draft of the Agreement, that "no one is going back to war over this document."

There was real dismay after these events, that the referendum would not pass by a substantial enough majority. But it was the NIWC's conviction that to achieve resolution of any problem, you had to understand it, and often this meant you had to wear another's shoes. It was difficult to campaign for "Yes" in these circumstances, just as it had been difficult to argue for the inclusion of the UDP in talks at a time when the UDA was conducting its horrific street campaign. But it had to be done. In a curious way, these big events somewhat took the wind out of the sails of the "No" campaign's negative advertising. The boil had

28. And arguably it played a factor in the UDP's subsequent unsuccessful election bid.

been lanced, people had gone into and through the worst parts of the agreement a week before the vote, not, as the “No” campaign planned, in the week of the vote. And they voted “yes”²⁹ in hundreds of thousands: 71.12%.

V. *SIX MONTH ASSESSMENT*

In looking to our future, it was important to the NIWC that we should be careful not to lose sight of our past—not to be bound by it, but to do right by it. One of the areas most neglected in the years of conflict was the whole areas of victims, and their rights and needs, both physical and emotional. It was important to the NIWC that the people who had suffered because of the Troubles could say that there was “something in it for me, too.” That acknowledgment turned out to be a thin but firm sinew for many people who the “No” campaign hoped would be susceptible to the charge that the Agreement was a “terrorist’s charter.” As with other provisions that the NIWC wrote into the Agreement, information for the clauses on victims came from NGOs who worked outside the process.

It may seem somewhat strange to use an “old-fashioned” term like “victim.” In most feminist and liberal political discourse, the notion of “survivor” is a strong and recurrent theme. So too, though, is the notion of identity politics, autonomy, and allowing space to self-define. In Northern Ireland, many victims groups, in all their diversity, had just begun to get off the ground. The Agreement gave license to their existence and validated their experience publicly for the first time. Most of these groups used the term “victim” to describe their particular situation.

This terminology is something that must be respected, though it can be exploited. Many people have physical wounds that continue to require treatment. At one recent gathering there was a youthful looking man accompanied by his wife. He was obviously in great pain, constantly shifting position in search of relief. Neither his crutches nor the pharmaceutical painkillers that he constantly pressured his partner for appeared to bring any. The pain was so obviously great, we assumed that he was the victim of a recent punishment attack. But we learned he

29. 676,966 people in Northern Ireland voted “yes.”

had been attacked almost twenty years ago. Dealing with that level of pain requires enormous emotional reserve, not just from the victim, but also from their families. We need, and are beginning to acquire, trauma centers that can treat these wounds medically. But what we also need, and what the Agreement provides for, is for the community-based groups that provide support and counselling on either a shoestring budget or purely with volunteers to be supported by themselves.

Communities have dealt with these problems for many years themselves, and it is only right that their autonomy, and methodologies, should be supported now. This support is happening, along with other developments, such as the establishment of educational bursaries for children who have lost parents or other relatives. While it is not inconceivable that these would have happened, in any event, the acknowledgment and resource commitment in the Agreement has already made a difference to the lives of many victims and survivors.

Other provisions in the Agreement have attracted much attention since the elections to the new Assembly. Including people in the process of governance will be an important way of sustaining the faith that was expressed so explicitly in the May referendum. The Civic Forum offers great opportunity to develop a participative democracy. Significantly, it has been the one part of the Agreement that has captured the public's imagination and generated more unsolicited submissions and ideas than any other.

The Civic Forum, which will complement the work of the Assembly, will be a vehicle for, among other things, researching and presenting the best practice to the Assembly. It should seek to promote reconciliation and to dedicate itself to ensuring that the voices of those most disadvantaged and marginalized are heard. It should seek to harness the creative energies of the communities in Northern Ireland. This body will be comprised of sixty people, drawn from various nominating bodies—the umbrella bodies of business, trade union, and voluntary interests. The method of the Police Commission, in moving around Northern Ireland to hear the views of people with regard to the future of the Royal Ulster Constabulary, has been welcomed in many quarters as a useful first step. It has been suggested that the Civic Forum could operate in a similar way—moving around the region and participating in its operation.

While the Civic Forum does not have any executive powers, its influence will come from the inclusivity of its process and the quality of its output. The Civic Forum will provide a bridge between past and future practices. In the past, because Northern Irish elected politicians were not involved in immediate matters of policy and governance and had virtually no control over budgets—the infamous “democratic deficit”—Northern Ireland’s civil society enjoyed a direct relationship to British government ministers. They are used to dealing directly with those who hold the reins of power. Civil society will thus have to adapt to new rein holders, and the temptation may be not to value their potential. It is true to say that Northern Ireland’s politicians have many skills to acquire; they have been unaccustomed to the cut and thrust of what is recognized as everyday politics in other polities. Many have little appreciation of bargaining and playing for the long-term, yet they are cognizant of the skills and values necessary for good governance; the ballot box produces results based on message, not merit. Many of these skills have been incubating in civil society throughout the conflict, and there may be a reluctance to give back what has been hard won.

At the same time, elected politicians need to recognize the resource that civil society in Northern Ireland has to offer them. The Civic Forum offers opportunity for a two-way dialogue on governance and on the manner in which it is administered. It also offers new ways of thinking about democracy, exemplifying in part what Paul Hirst has termed “associational democracy,” whereby more power is formally devolved to voluntary organizations, supplementing the more linear, representative democracy. Hirst envisages:

[t]hat supplement would involve a growth in the scope of government through associations . . . ; associational government would lessen the tasks of central government to such an extent that greater accountability of both the public power and of the devolved associational agencies would be possible. . . . Associationalism, however, treats such self-governing voluntary bodies not as ‘secondary organisations’ but as the *primary* means of organising social life.³⁰

Partnership, like that envisaged between the Civic Forum

30. Paul Hirst, *Associational Democracy*, in *PROSPECTS FOR DEMOCRACY* 116-17 (David Held ed., 1993).

and the elected Assembly members, is not a new concept in Northern Ireland—the distribution of the European Special Program for Peace and Reconciliation (the “Peace Package”) money relies on a partnership of elected representatives and members of community, voluntary, trade union, and private sector concerns. The Agreement stretches the concept even further. Taking account of our divided past, it institutionalizes interdependence between all parties to the conflict, an aspect that this Essay will comment on further below. Further, the Agreement takes account of our close neighbors, not just on the island of Ireland, but, through the British-Irish Council, Scotland, Wales, the Isle of Man, and the Channel Islands. The Nordic Council signposts the powerful potential of collaborating in such a way, and the potential of a “Celtic Crescent” on the edge of Europe must surely be recognized.

It would be foolish not to recognize, though, that there are a number of current blockages. Decommissioning is one such focal point. In our view it is not necessary for decommissioning to begin in advance of the formation of an executive. And, at the time of this writing, there is an almost tangible need for people to begin realizing the fruits of their historic vote in May. Demands for prior decommissioning cannot be allowed to hold up the full implementation of the Agreement. The Agreement cannot be rewritten or renegotiated. If it is suggested that it can, it contributes to mistrust, further marginalizes those holding arms together with their political affiliates, and thus reduces the likelihood of any decommissioning. Decommissioning requires the fostering of trust. It will take until May 2000 for this to happen.

Other political developments add to this climate. Just as the NIWC argued that the deal could not be a deal of the center, so too, in our view, the process of implementation should not be conducted by the big “center” parties, even though, technically, the Agreement provides for specific parts to be brought forward by particular actors. It tasks, for instance, the British and Irish governments to bring forward some parts, an Independent Commission on Policing to bring forward others, and the First and Deputy First Ministers designate to implement other areas of the multi-faceted document. The penchant for the parties of the center to embark on bilateral implementation courses leads to an actual and perceived sense of exclusion. Asserting the primacy of the center lends to the further marginalization of those

political groupings whose members have close links or associations with paramilitary groupings and undermines the complexity of the nationalist and unionist communities.

The recent, post-Agreement discussion over the number and nature of the new departments is a case in point. After preliminary consultations with the other parties, the SDLP and UUP set off together to come up with a deal on the nature of the new administration. There are conflicting reports about what was actually agreed, or not agreed, between them before an eventual joint position was reached. The process point is that if other parties had been privy to the discussions, the veracity of any one party's claims could have been attested, the quality of the decision might have been improved, and, importantly, it would have been more difficult for any one party to walk away from such a deal.

This also raises the issue of implementation of any accord. In the middle of the final week's negotiations that eventually produced the Agreement, we recall bumping into a woman delegate from one of the unionist parties. "God," she commented, "this is like being in the middle of a really long labor with no epidermal!" We laughed, and rushed on, enjoying the lightness of the moment in an otherwise austere atmosphere. On reflection, it was a perfect analogy, and one that still rings true. If we develop it, we can identify where the care gaps are. You don't give birth to anything and then expect the offspring to be able to care for itself. So it is with the Agreement. There has not been the same care and attention invested in the nurturing and embedding of the Agreement as there was in its production. Negotiation does not end at the signing, the referendum result, or at the elections. The Agreement was like getting a twenty-gear racer as a first bicycle. We need some sustained assistance in learning to ride—stabilizers of some kind—and when we know the basics, in learning how to operate the gears. It is only then that we should discard the stabilizers. Thus, the continuing interest and interventions of President Clinton, Prime Minister Blair, Secretary of State Mowlam, and Taoiseach Ahern have proved critical in implementing the Agreement, but the realities of how much dedicated time and energy they can commit have to be raised.

This points to greater malaise in the wake of the Agreement. It is all very well making political calls about how many

portfolios of government there should be, and establishing the type of institutional interdependence of the Agreement, but the transition process needs to be tackled more broadly and deeply than at an institutional level alone. Richard Jay notes that “democratic structures which merely appear to circulate political leaders without addressing substantial social concerns will not only fail to incorporate the dispossessed into the political community, but encourage others to drop out and pursue methods inimical to the democratic spirit.”³¹

The NIWC supports the explicit incorporation of the two major traditions in certain voting procedures and implementation elements, though we would have argued for the triple lock that applied in the Talks process—not just a majority in both traditions, but also a majority of parties around the table. It is only right that we acknowledge the conflict that continues to fester in our structures. The NIWC believes that there needs to be a holistic management of this society out of conflict and division into real democracy. We need to build the capacity in our communities to build peace in parallel with the discussions on the structural components such as the Assembly and accompanying administrative concerns, the North/South Ministerial Council, the British-Irish Council, or the incorporation of the European Convention on Human Rights.

Power-sharing has to happen within and outside the political elites, otherwise one runs the risk of a political version of Galbraith’s “culture of contentment.”³² In a political vacuum, or even political uncertainty, sectarianism fomented, and the weekly riots and nightly skirmishes in Portadown—the backdrop to the Drumcree marching crisis—is providing evidence of, and prime conditions for, such growth at the moment. Crude crisis management will not progress us far; we need to begin managing this transition in a broad based and inclusive way. One of the findings from the research conducted by the “Yes” campaign was that, paradoxically given our rigid voting patterns, people responded very positively to politicians acting collectively—collaborating for the common good. An exclusive implementation

31. Richard Jay, *Richard Democratic Dilemmas*, in *SOCIAL EXCLUSION, SOCIAL INCLUSION* (Robin Wilson ed., Democratic Dialogue, Nov. 1995).

32. *The Good Society Considered: The Economic Dimension*, J. L. & Soc’y (Cardiff 1994).

process at the structural level will not engender the same confidence that an inclusive one would.

What about the areas of the Agreement that have no named sponsor in terms of implementation? These tend to be the non-structural elements—the padding—but are important because they relate to strengthening the work of people on the ground who have been holding communities together for many years. The provisions on resourcing community development, on following economic policies that combat social exclusion and engender active participation, on planning, building, and maintaining mixed housing developments, and on the participation of women—these all require a champion or champions and are in danger of neglect. The impact of such neglect would have serious political ramifications, not just for the areas neglected, but for the greater political infrastructure established by the Agreement.

The new glamor of high politics must not blind us to the realities of our situation—that of a small region emerging from a conflict that will take many years to put behind us. Whereas interpersonal relationships will be crucial at the Assembly level, their sustenance will depend on the state of intercommunal relationships on the ground. Politicians have the power, if they have the courage, to address sectarianism and to develop policies for tackling it.

The Good Friday Agreement, in its structural components, does not differ substantially from many of the ideas presented since the early 1970s.³³ But there are three main differences be-

33. This assertion is best illustrated by a consideration of the constitutional guarantee that accompanied every major drive to effect change or to preserve the status quo in the Northern Ireland region. Prior to the Good Friday Agreement, unionists have been issued with guarantees regarding the safety of their sovereign state in 1949, 1972, 1973, 1974, 1985, 1990, 1993, and 1995. For example, in 1972, the question of consent and the relationship of the U.K. government to Northern Ireland was housed in these terms: "No UK government for many years has had any wish to impede the realisation of Irish unity if it were to come about by genuine and freely given mutual agreement and on conditions acceptable to the distinctive communities." *Future of Northern Ireland NIO*, para. 77 (1972), cited in JOHN WHYTE, INTERPRETING NORTHERN IRELAND 140 (1990). The White Paper of March 1973 (Northern Ireland: Constitutional Proposals) advanced Faulkner's powersharing initiative a little further, affording official U.K. government recognition of the idea of consociational democracy over the majoritarianism of the Stormont regime. The Northern Ireland Constitutional Act, which followed, contained a change in the definition of who could change the constitutional status of Northern Ireland. This was now to rest with the majority of the Northern Ireland popu-

tween it and the earlier proposals: one, the process by which it was produced; two, the inclusion of extra-structural components addressing the impact of the conflict; and, three, the public endorsement of the product. These combined offer the capacity to truly transform the society in which we live. It is difficult to place these in any hierarchy, but the following observations may be useful.

The process that produced the Agreement went outside the political elites for participants. Holding elections to determine participants marked a radical departure for both the British and Irish governments and for those who had been used to being invited as of right to political discussions—the most recent being the 1992 Mayhew Talks. Once established, the process defied all the odds by flying in the face of theoretical writings on conflict resolution and negotiating. Parties continually assigned blame to other parties; many never acknowledged that they contributed in any way to the current situation—it was always someone else's fault; there was very little exploration of interests and much stating and rigorous defense of positions, with an allied reduced range of options; very little listening, and much advocacy. To top it all, tight negotiating teams fed a number of similar group dynamics that reinforced self-perceptions and supported prejudices. But the process was invaluablely helped by the presence of the international independent chairs and both governments, who managed the mandated participants with seemingly bottomless reserves of patience, skill, and commitment.

In relation to the many other documents that have attempted to resolve the Irish question, the reason why this Agreement will work is because it presented and utilized space in which to create multiple options for mutual gain. The Massachusetts-based Conflict Management Group suggests that it is prudent to prepare for negotiation by generating as many options as possible. "It is in the interests of each side to be 'splitting a larger pie.'"³⁴ By including extra-structural components—broadly the "rightsism," the basket of measures that address the human impact of the conflict—the Agreement

lation, as opposed to the Northern Ireland Parliament (the only agent of change identified by the 1949 Act). This shift in power to consent to the state from the parliament has not changed since 1973. The Good Friday Agreement does not alter the status or nature of this agent who could redefine the territory of the United Kingdom.

34. Boston College, Conflict Management Group, *Options*, Mass. (1992).

broadened the parameters of the question, created additional value, increased the size of the pie, and then split it so that everybody got more and bigger pieces. We suggest that it is precisely these elements of the Agreement that set it apart from other settlement proposition and that afford the ability to address the sectarianism endemic to our society.

Because it paid attention to process, product, and public involvement at every stage, the Agreement has the ability to truly transform our conflict and to guide us to a wholly democratic, fair, and equitable society in which all our citizens have a stake.