

# The Northern Ireland Assembly

by **Brendan O'Leary**

A political rather than a religious miracle occurred in Ireland on Good Friday. An Agreement was reached by the prime ministers of Ireland and the UK, and the leaders of eight political parties in Northern Ireland. Credit for the miracle is being widely claimed, though no one has said that it was God's work. It is, in fact, the product of many hands, and many long and arduous negotiations, and sustaining the miracle will be as difficult as it was to make.

The Agreement could not have happened without the willingness of most republican, and then loyalist paramilitaries, as well as their respective political parties, to change their strategies and shift towards constitutional politics. It could not have happened without a military stalemate in which republicans could not win their long war for Irish unification, and the British Government could not win what it had called its war against terrorism. It could not have happened without the Anglo-Irish Agreement of 1985 that laid the foundations for this new Agreement by establishing 'bi-governmentalism': institutionalised British and Irish co-operation.

That 1985 Agreement spelled a clear message: Northern Ireland could be reformed, and Ulster unionists no longer had a comprehensive veto on the nature of the Union between Great Britain and Northern Ireland, merely a veto on its maintenance as long as they constituted a majority in the region. It also enabled a shift in nationalist politics. Soon after, John Hume, the leader of the largest constitutional nationalist party in Northern Ireland, the Social Democratic and Labour Party, began a dialogue with Gerry Adams, the leader of Sinn Fein, the political party of militant nationalism. Starting in 1988 it eventually bore fruit in 1993, when the British and Irish Governments published a Joint Declaration for Peace in December 1993, paving the way for the IRA's August 1994 cease-fire, soon to be followed by a loyalist cease-fire.

It has taken nearly four years for the local parties and the two governments finally to capitalise on the opportunity opened up the first IRA cease-fire. In the meantime the IRA has broken and renewed its cease-fire, and so has the Ulster Defence Association, the

largest loyalist paramilitary organisation. They were not the only ones who had difficulties in managing the peace process. The largest unionist party forced its leader out of office and elected a hard-liner to replace him, David Trimble, the man who has now done the unthinkable. The UK's Conservative Government, led by John Major dithered, lost its parliamentary majority, and given its right-wing and unionist backbenchers was unable to rise to the challenges of the peace process. It did, however, sign the Framework Documents with the Irish Government in February 1995. These texts, initiated by dynamic Irish officials, provided the intellectual architecture for the Agreement of last week. The role of the New Labour Government in Britain was to pressurise the unionists, as gently as possible, into swallowing the Framework Documents. With minor modifications that has just been accomplished.

The Agreement, as John Hume hoped, addresses three relationships. The first is that between Ulster unionists and Irish nationalists within Northern Ireland. Following the endorsement in referendums in both parts of Ireland on May 22 a local Assembly, with the ability to acquire the same powers as the Scottish Parliament, will be established. It will have multiple imaginative provisions and voting rules to prevent majority tyranny. Its Executive will proportionally represent all political parties pledged to work the Agreement and to support exclusively peaceful political means. It will be a form of what political scientists call 'consociational' or consensus government.

In addition Northern Ireland will become effectively bi-national, British and Irish. The Agreement is accompanied by detailed legal proposals to establish full-scale equality both for individuals and for the two ethno-national communities, the most comprehensive legal provisions yet granted to a national minority in western Europe. It is also accompanied by detailed proposals to release jailed paramilitaries within two years and to reform the Protestant dominated police force so that both communities can benefit from legitimate policing.

The second relationship is that between Northern Ireland and the Republic of Ireland. The Irish government is proposing to its people that they change their constitutional claim to the whole island of Ireland. It will be changed from a claim of right to a goal of unity by the consent of the Northern Irish majority. This change does not mean that the Irish have abandoned the desire to unify the island, or their

conviction that the British partition of the island was wrong. It does mean that they think their Constitution should state that there is only one way of reversing partition: through consent.

In return unionists have agreed to establish a North-South Ministerial Council in which Northern Ministers and Ministers from the Republic will meet in a manner modelled on the Council of European Ministers. The Council will consult, harmonise and implement agreements in functions with both a cross-border and an all-Ireland character. The Council will operate by consensus but will have the capacity to expand its remit, by agreement.

The last relationship is that between Ireland and Britain. There will be a new British and Irish Council of the Isles - linking the new devolved governments of Wales, Scotland and Northern Ireland with the governments of the UK and the Republic of Ireland. It will be less important than the North-South Ministerial Council but will signify an attempt to heal the remaining antagonisms between the two islands. The Dublin and London governments will retain a standing conference to monitor Northern Irish politics and to discuss functions not devolved to the new Assembly.

It is an impressive piece of political architecture, painfully constructed. It establishes equality, proportionality and power-sharing as operative principles of government in the North, and it links both communities to their preferred nation-state. It combines consociation and co-sovereignty. It corresponds to what is required. It is a model for the management of differences rather than their elimination.

Celebrations should, however, be restrained, even though the Agreement has since been endorsed in the referendums. Restraint is required not just in memory of the victims of the long war, and not just because we know some will try to destroy this new Agreement through further political violence. Restraint is required because there are obvious stress points in the new political architecture.

The rapid release on license of the imprisoned paramilitaries belonging to organisations that have sustained cease-fires, and who support political parties that have sought mandates and negotiated a settlement, is an essential precondition of a sustained peace. But it will cause tension with victims and their families. The disbanding of the mainstream

paramilitaries' organisations is also essential, but it is probably best left to themselves or to international observation - and it cannot be expected before there is rapid movement on the release of prisoners. A voluntary and controlled disbanding is also necessary to limit the resources and personnel that might otherwise accrue to the ultras who oppose the settlement - the LVF, the INLA and the Continuity IRA.

The withdrawal of the British Army to its barracks and its return to bases in Great Britain must be accomplished quickly even though there will be accompanying risks. But the security sticking point in managing the miracle will be the RUC rather than the Army. Policing issues are to be handed to an independent commission. Unless this commission recommends means to ensure that Catholics and Protestants are proportionally represented in local policing services, and unless a British Government delivers unequivocally on its recommendations, then Northern Ireland will never be at peace. Northern nationalists have bitter experiences of commissions attached to treaties - the Anglo-Irish Treaty of 1921 was accompanied by promises of a Boundary Commission.

There will be a downsizing of Britain's financial support over time so the region will have to pull together or suffer severe peripheralisation. Unionists on the new power-sharing executive will have some difficulties living with Sinn Fein should its members choose, as I think they will, to take their seats. The executive will be vulnerable to the withdrawal of support in the assembly - if more unionists join the Reverend Ian Paisley's Democratic Unionist Party in refusing the Agreement. The executive and the assembly may deadlock on the development of the North-South ministerial council.

As nationalist support grows through demographic change hard-line unionists will become a minority in the Assembly - and that will require them to learn a new politics. Much responsibility will accrue to the Alliance and other cross-community parties in bridging a shrinking majority and a rising minority. The establishment and management of the North-South body will have to be meaningful to bind most republicans to the settlement, and both jurisdictions will have to live with the likelihood that Sinn Fein will become the fastest growing party in both locations with concomitant ambitions to unify or at least federalise Ireland. The Secretary of State for Northern Ireland Dr Mowlam, or her successor, will

still have a plentiful in-tray in promoting equality and establishing a regime for the protection of human rights. And Irish governments, present and future, will have to prepare their state for the possibility of a federal Ireland in which there will be a very significant British minority.

At the heart of this Agreement lie two calculations by those who have accepted it, or who will accept it. The Unionists calculate it will prevent something worse. They accept it because they fear the demographically expanding minority and they fear alienation from Great Britain and its new government. They accept it because they know it will end the IRA's campaign. They also accept it because they think it the best way, in the long run, to keep the Union safe, and to reconcile Irish nationalists to that Union. The Nationalists calculate that the Agreement offers them an improvement on the status quo. It offers them equality now. But, they also accept it because they believe it opens the door to unification, if not now, later. The new architecture enables both to have good reasons to believe they are right. Whether it can be sustained when we learn who is right no one knows, but that is just as well.

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## Northern Ireland: what next?

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The British-Irish Agreement was put to a simultaneous referendum on 22 May in Ireland, North and South. In Northern Ireland on an 81% turnout, 71% voted in support of the Agreement. In the Republic the Yes vote was 94% on a turnout of 58%.

The next steps will unfold very quickly. Legislation has already been passed for the holding of the first elections to the Assembly, on 25 June. A Northern Ireland Assembly Bill is to be introduced as soon as possible, with the aim of reaching Royal Assent in October. If necessary, it could be the first bill to benefit from the new provisions for carry over to the next session. The North-South Council and the British-Irish Council will begin operating in shadow form. The intention is that the Northern Ireland Assembly, and the North-South Council and the British-Irish Council will all start operating for real from February 1999. The Northern Ireland

Assembly will thus be the first of the devolved assemblies, and should be up and running before the first elections have even been held in Scotland and Wales.

## Government of Wales Bill

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The Bill was amended in the Commons in March to create a cabinet structure for the Assembly, which should produce clearer accountability and quicker decision taking (the need for a cabinet system was first raised in the Constitution Unit's report *An Assembly for Wales*).

Ron Davies, the Secretary of State, announced his candidacy for the Assembly on 30 March. Rival candidates to be first Leader of the Assembly include Wayne David MEP and Rhodri Morgan MP. At its annual conference in May the Wales Labour Party voted by the narrowest margin for 'twinning' constituencies into pairs to ensure the party fields an equal number of male and female candidates at the Assembly elections next year. Similar procedures are proposed in Scotland. The Lord Chancellor has warned that 'twinning' may be unlawful under the sex discrimination legislation, but that could only be tested if a disappointed candidate is prepared to mount a legal challenge.

## Greater London Authority

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In the referendum on 7 May Londoners voted by 72% in favour of the new Authority, but on a turnout of only 34%. A bill will be introduced in 1998-99 to create the new Mayor and Assembly. The Mayor will be elected by the Supplementary Vote under which voters mark their first and second choice of candidates, and if no candidate wins more than 50% the second choices are redistributed. The Assembly will have 25 members elected by the Additional Member System. 14 members will be elected by constituencies, being drawn up by the Local Government Commission, and the remaining 11 will be drawn from a London wide top up list to ensure proportionality. The first elections to the new GLA should be held in autumn 1999 or spring 2000.

## Regulation of political parties

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The law is currently silent about the existence of political parties. This will change with the recent