

# **The Constitutional Question:**

## **Values and parameters**

Northern Ireland Women's Coalition

Private and Confidential

(Draft 20Oct 97)

### **Contents:**

1. Context

2. Values

3. Working assumptions

4. Strand 1: Relationships within Northern Ireland

a. Key Principles

b. Suggested mechanisms to give principles practical effect

5. Strand 2: Relationships between Northern Ireland and the Republic of Ireland

a. Key Principles

b. Suggested mechanisms

6. Strand 3: Relationships between the United Kingdom and the Republic of Ireland

a. Key Principles

b. Suggested mechanisms

7. Strand 4: Relationships between the UK regions

a. Key Principles

b. Suggested mechanisms

8. Strand 5: Relationships between Northern Ireland and the European Union

a. Key Principles

b. Suggested mechanisms

## 1. Context

All talks processes involving the Northern Irish parties and or the British and Irish governments at various times over the past 25 years seeking a 'historical compromise' have been structured on the same essential formula. While these have taken different formats and given priority to different issues, they have shared a basic three stranded approach which, in its current form, is comprised of :

- a) Relationships within Northern Ireland
- b) Relationships between 'north and south'
- c) Relationships between 'east and west' commonly taken to mean the relationship between the British and Irish governments, and stated as the relationship between Dublin and London.

It is our contention that this framework is Inadequate. We believe an additional two sets of relationships should be considered: those within the—now reconstituted—UK and with the European Union. It seems sensible, given the recent referenda in the UK to take account not only of Dublin-London relationships, but also of relationships between Belfast, Edinburgh, Cardiff, London and Dublin. With sovereignty increasingly being pooled off to supranational bodies such as the European Union it also seems sensible to examine how we might influence that process and its outcomes.

## 2. Underpinning values

Whatever political structures evolve they must be underpinned by strong values of participatory democracy, human rights, inclusion, pluralism, multi-culturalism, justice, fairness. There must be safeguards to ensure these values are upheld

## 3. Working assumptions

Our paper takes the view that Northern Ireland will remain part of the UK for the foreseeable future. What it argues is that a settlement should make the force of the border irrelevant: that Northern Ireland will become 'greener', the border will become more porous, and that new relationships between other regional capitals within the UK will be engaged with and explored.

The settlement process is about the search for the 'honourable draw'. [*or do we want to say something like it is about a search for a mutually beneficial settlement? -- Jane's note: she felt the 'honourable draw implied a confrontational model...*]It will involve both internal(that is, internal to the Northern Ireland region and relationships between Northern Ireland and the rest of the UK) and external (that is, involving Northern Ireland and other sovereign states) components, and will be structured around the 5 sets of relationships referred to above. Effectively, what is currently being negotiated is A New Framework for Agreement, one of the Framework Documents.

Our starting point is that Northern Ireland is internationally recognised as a legally constituted political entity. However, we also acknowledge that others who live in the political region have different aspirations and their political analysis must be recognised in the search for a settlement. We are concerned with the here and now: focusing on the future to help us to solve the problems of the past. In doing so we do not preclude the possibility of Northern Ireland being treated as a special region within the UK and as a special region within the Republic of Ireland. Nor do we think that any one strand should be considered to be of greater importance than another. In fact, there is no reason why they cannot all bear equal weight and influence on the course of our lives. In particular we suggest that that a win win process and outcome is possible: for example, the greater degree of autonomy in Northern Ireland, the greater the degree of north-south relationships.

Thus our paper works along five strands, based around five sets of relationships which require resolution. These are:

- (i) Relationships within Northern Ireland
- (ii) Relationships between Northern Ireland and the Republic of Ireland
- (iii) Relationships between the British and Irish governments
- (iv) Relationships between the UK regions
- (v) Relationships between Northern Ireland and the European Union

We have considered some of these strands in greater depth than others in this draft, and we welcome your comments as to how we could further advance our thinking.

### **Strand 1: Relationships within Northern Ireland**

#### **a. Key Principles:**

- (i) Government should be as close as possible to its people: there should be a regional body of governance
- (ii) Civil Society should have a more formal role in governance
- (iii) The electoral system should encourage maximum diversity
- (iv) All identities should be given full expression

**Mechanisms:** We propose a differentiated approach, in three phases, extending over 30 years:

**Years 1—10 (2000—2009)**

## (I) A new constitution for Northern Ireland

Bill of rights incorporated here; South African constitution;

## (II) Northern Ireland's Preparatory Congress

We note that, in preparation for the Scotland's Parliament, a Scottish Constitutional Convention met to discuss in detail the shape of that body. We take the view that any settlement accord is only the start of the process to peace and stability. There needs to be a well-defined, recognised, transitional period. Below we outline some ideas as to how this concept might be thought about.

One of the risks of increasing Northern Ireland's autonomy is that we would reproduce previous and existing arrangements. A replica Stormont is clearly unacceptable. The NIWC also believes that there are serious problems with the NI Forum as it is presently constituted. Any new arrangements must take on board the positive and negative lessons that existing and previous bodies have to offer. We need to establish institutions which will attract people, particularly women and other excluded minorities, who have shunned public life in Northern Ireland for the past 27 years. Given the active role that many such groups play in civil society, we believe that any new legislature should incorporate a more active role for civil society. We also believe it is crucial for any new body to offer current political parties the space to realign along other axes than that presented by the constitutional conflict.

We believe that there would be significant benefit in providing for an interim body which would facilitate such a reshaping of the political landscape. We suggest that a **Preparatory Congress** with built in provisions for review at the end of a specified period, would, in itself function as a safeguard mechanism, and would inform the process in both directions. The NIPC would be composed of directly elected representatives as well as representatives from the Social Partners and the NGO's. A model for this composition could be the current Northern Ireland Partnership Board, or the National Economic and Social Forum in the Republic. The directly elected representatives could be elected, for example, from a single multi-member Northern Ireland constituency, elected by, list system. This would return 100 seats. Other methods of election, such as 18x5-member constituencies returned from a list system; PR is another possibility. Members returned from this portion of the congress would be

the full-time parliamentarians. Political parties would be responsible for allocating geographical constituency to their members of the Preparatory Congress.

An additional [75] seats would be returned from indirect electoral colleges. These colleges could be drawn from the business community, from the voluntary sector, the community sector, from the cultural and the arts sector, from industrial and technical; from agriculture; from the two universities. It would be the role of members from this sector to partake in and assist decision-making processes, as well as lending expertise to particular elements of governance.

These two sectors might compose two parts of a unicameral body. The distance between them can be deliberated upon, but the role we envisage for the electoral college members would be one of assisting with decision-making.

Some thought might also be given to the ancient Greek idea of a literal 'civic service': a kind of National Political Service something similar to jury service, whereby members of the public would be randomly selected to partake in decisions for say a 6 month period. Such political service should be compulsory???

There would be 2 or 3 co-chairships directly elected from the NIPC (as with FWD?) who would take responsibility for ensuring measures were passed according to the sufficiency of consensus principle, currently applicable at the Talks process. In the case of no agreement being reached, decisions would be referred to the central parliament. (or decided by the two governments??) The NI Secretary of State would advise the Westminster Cabinet, who would retain final say over Northern Ireland's affairs.

In keeping with the separation of powers ethos, members of the Preparatory Congress could not hold any other elected office. This frees up places for new personalities to enter politics, and means that the quality of time and effort directed to a particular position is maximised.

The NIPC would have:

- (a) Powers of scrutiny (for example on appointment to quangos etc.)
- (b) Strategic planning (for example on social and economic development; the allocation of EU structural funds etc.)
- (c) A duty to liaise with regional academic institutions and business to ensure that innovations and technological advances made in universities are exploited by creators of wealth. This should extend to the whole academy in the Atlantic Region of the EU.

- (d) Discuss the nature and scope of its relations with the emerging regional governments in the UK (Edinburgh, Cardiff, London) and with the rest of Ireland (Cork, Galway and Dublin)
- (e) policing
- (f) judicial procedures
- (g) all other powers except those retained by Westminster (more than powers of defence and foreign policy: taxraising, +)
- (h) education policy
- (I) health policy

As with the 1920 Government of Ireland Act, and in addition to the powers to administrate human rights, concerns of foreign policy, defence and taxation should be retained by the central UK government. (Much altered in nature and scope)

#### **Years 10—20 (2010—2019)**

##### **Northern Ireland's Government**

It should be assessed whether or not this arrangement (the Preparatory Congress) has resulted in something close to a normal democracy.. If it has then its powers should be upgraded, and, after this time the NIPC should metamorphose into a exclusively directly elected body: **Northern Ireland's Government (GNI)** with the previously second tier becoming a satellite, advisory group to the government, functioning in the same manner as the e.g. NESF in the Republic. The idea is that, by this time, elected politics should be attracting candidates of high calibre.

We note what Stephen Tindale (IPPR, 1996) says on a similar question: "A directly elected regional council would have the advantage of greater democratic legitimacy, but would be more likely to be acquisitive of power and functions. An indirectly elected body would be less acquisitive, but less legitimate."

We recommend that, as with the earlier body, defence and foreign policy would remain with Westminster. Human Rights responsibility would also be maintained by Westminster. Normally tax raising powers would remain here also: we do not envisage a Northern Ireland's government as having tax raising powers—one of the definitions of a full Parliament. And NI'sG would not be in an economic position to raise taxes. But it may be possible to do this in conjunction with one or more of the other regions in the Islands (for example the Republic of Ireland) for a specific project, for example tourism, or the setting of the level of corporate tax, where it is economically viable and productive to do so. It would have to argue its case with Westminster for doing so.

## Years 20—30 (2020—2030)

Review of structure. Referendum. More powers and responsibilities as appropriate.

### **Strand 2: Relationships between Northern Ireland and the Republic of Ireland**

#### Key Principles:

- \*The relationship between North and South is a 2 way process. Thus if the South is to provide commentary on Northern affairs, then the North should have the opportunity to comment on Southern affairs
- \* A bottom up approach to North South affairs may be valuable
- \*Greater autonomy in the border regions will allow for greater cross border co-operation
- \* Existing examples of North-South co-operation should be built on and supported

#### Mechanisms:

The Framework Document envisages three types of North-South interaction, arranged by the type of power they'd have: executive, consultative and harmonisation. It further envisages a unitary North South body to oversee these interactions. One example of an executive body (having joint administrative power) is the Foyle Fisheries Commission, founded in 1952. There are many examples of co-operation. For example there is joint management of the Tyrone Guthrie Centre in Managhan which has a board appointed by the two Arts Councils; the Royal College of Physicians in Ireland and the UK set the same exams; Trade Unions have a long history of organising on an all island basis. The Student Union organises on a two state basis, with students in Northern Ireland belonging to both the National Unions of Students UK and the Union of Students in Ireland. Unionists tend to take the view that a North South body will herald a slide into a united Ireland. Nationalist representatives feel that for nationalists in the north to be given full cultural and political expression they must have a north south body with executive powers. (i.e. a form of joint authority).

It is possible that, in real terms both of these views are wrong. One North-south body with executive powers would probably turn out to be a giant quango. And, at the time the Council of Ireland was proposed it was estimated that it would take 44,000 civil servants to run it. Because there are so many different areas that north-south relations pertain to, it may be better to conceive of a situation in which the environment is created

whereby cross-border bodies could develop responses to their own needs at their own pace, thus weaving a multi-stranded fabric—a sort of ‘consensual integration’ as opposed to the more elite driven rolling integration—which would make the border less and less relevant. More on this??

We feel that, concomitant to any modernity of the UK, there is also room for movement in the Republic. On this we would highlight two aspects:

(i) The possibility of the NIPC providing commentary on Southern developments. This could happen via various mechanisms, either informally, at a Maryfield level, or possibly, by the reservation of a fixed number of seats in Seanad Eireann which would be appointed by NIPC.

(ii) The Republic might also consider devolving greater power to its regions, developing three regional capitals with greater powers of governance over the provinces.

Possibility that second house in NI would deal with N/S bodies???

### **Strand 3 Relationships between the British and Irish governments**

#### **Key Principles**

#### **Mechanisms**

### **Strand 4: Relationships between regions of the UK**

#### **Key Principles**

#### **Mechanisms**

State something about this being economically beneficial....Belfast and Edinburgh, Belfast and Cardiff, Belfast and London

### **Strand 5 Relationships between the region and the European Union**

#### **Conclusions:**

This paper sets out the basic principle and some suggestions as to how the principles might be conceived of practically. An agreement to do further exploratory work would involve a lot more detail about the interrelationships of various bodies herein proposed, and a more systematic approach to examining federated and non-federated regions in Europe and the US (and elsewhere) would have to be undertaken.

#### **References:**



Hopkins, John *Regional government in western Europe* in Tindale, Stephen (ed.) The State and the Nations: The Politics of Devolution. IPPR, London 1996.

Derbyshire D and Derbyshire I Political Systems of the World. Helicon, Oxford 1996.

Laffan, Brigid (ed.), Constitution Building in the European Union. Institute of European Affairs, Dublin 1996.