

## Northern Ireland: the End of the Story? The Peace Process and the Brexit

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# **Northern Ireland: The End of the Story?**

The Peace Process and the Brexit

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## Summary

The prospect of the United Kingdom leaving the European Union (EU) in 2019 casts a shadow on the already unstable peace in Northern Ireland, the British exclave in the northeast of the island of Ireland. This report outlines the approach, framework conditions and course of the Northern Irish peace process – as well as the signs of its impending collapse. It also outlines the challenges that a “Brexit” poses for continued peaceful relations in Northern Ireland.

Some twenty years ago, Northern Ireland was basking in the glory of a unique peace process that culminated in the Belfast Agreement of 1998. The accord regulated opposing traditions and mutually exclusive political goals in a society and political landscape that had suffered 30 years of violent conflict. It rendered violence unnecessary and permitted democratic governance. However, implementing the peace plan proved to be more arduous than anticipated. Nevertheless, time and again, the peace process and expectations that peace was possible created the dynamism needed to overcome obstacles placed by local adversaries. In addition to the financial aid, expertise and political pressure from outside, EU membership offered a favorable context.

As the process of transforming the violent conflict into a consolidated peace dragged on, however, the glory faded. Over the years, the radical unionist and nationalist factions marginalized moderate forces. The two camps became more entrenched, and the old slogans about winning the peace through democratization were forgotten. Instead, the former conflict parties got used to doing business with each other without resolving the root causes of the conflict. The fact that starting in 2007, state institutions managed to function for ten years under the unionist-nationalist executive imposed by the Belfast Agreement was construed as success. Then, in January 2017, following an election marathon between 2015 and 2017 that polarized the two camps, the power-sharing arrangement collapsed. Since then, Northern Ireland has had no functioning legislative assembly or administration. Even worse, the country is again being governed by London, and Northern Ireland has no say in the Brexit negotiations.

The impending Brexit has paralyzed the disintegrating peace process. It has also re-prioritized the issue of the border between Northern Ireland and the Republic of Ireland, which the Brexit will transform into an external border between the United Kingdom and the EU. Thereafter, cross-border movement of persons, goods and services will have to be controlled, effectively destroying a fundamental advantage of the peace process in which the border disappeared from everyday life. The basic principles of the peace agreement have been undermined. Unionists share the British government’s wish to turn its back on the EU – despite knowing that the majority of the population in Northern Ireland are not behind them – while nationalists consider that London’s focus on England robs them of the hope of overcoming the island’s division through its opening to the EU.

The Brexit does not only reveal rifts in the British-European relationship; it also exposes the latent discord in Northern Ireland. The peace process has gone to the dogs. Established procedures can no longer help maintain the peace. A fresh start is needed and

future uncertainties must not lead to the dismantling of institutions and mechanics set out in the Belfast Agreement. Attention should be given to eventually redesigning the political map of the British Isles – although that has little chance of short-term success because of the current lack of ideas and political assertiveness in Northern Ireland. The rest of the world gives no sign of any inclination to invest more energy there.

## Contents

1.	Enchantment and disenchantment	1
2.	A conflict and its settlement	2
2.1	The configuration of the conflict	2
2.2	Contours of the peace process	4
2.3	Implementation phases	6
3.	A slowdown in the peace process	7
3.1	The price of a long drawn-out transformation phase	7
3.2	An election marathon's paralyzing effect	9
4.	Destabilized by the Brexit	11
4.1	Borders and status	11
4.2	Doubts about the future of the Agreement	14
5.	Conclusion: Sowing strife	15
5.1	Irritations	15
5.2	Making something new with the broken bits	17
	References	19



## 1. Enchantment and disenchantment

On 29 March 2017, the British government duly informed the EU of its wish to terminate its membership in accordance with Article 50 of the Treaty on European Union (the Prime Minister's letter to the European Council President). It now has two years to agree on the terms and settle the related costs and legal issues. The anticipated Brexit puts Northern Ireland back on the European agenda. The EU has made the clarification of future relations between the two jurisdictions on the island of Ireland, EU citizens' future status in the United Kingdom and a cost accounting for the Brexit the preconditions for negotiating its altered relationship with the United Kingdom (European Council, 2017, Section 11). Old disputes have resurfaced despite the stable relations that had developed in Northern Ireland over the last decade. In fact, the "normality" resulting from the peace process masked persistent societal and political fault lines. Once again the "Irish question" is a stumbling block for British politics; it is also a challenge to the success of the European project. In 1890, the British Chief Secretary for Ireland Arthur Balfour, remarked, "It does not rest with one individual, with one government completely to solve so ancient a controversy, so old an historic difficulty as ... the Irish Question" (quoted in Fanning 2013: 361). British politicians argued about home rule for the island of Ireland 120 years ago. Between 1920 and 1922, it was partitioned. Then the South and Northwest became the Republic of Ireland while the Northeast remained part of the United Kingdom. Once again, the relationship between the larger and smaller parts of the terrain termed the "British" islands and the status of the British polity in the northeast of the island of Ireland is an issue. The current debate centered on the future border on the island involves internal and external problems of its societies and countries.

Thirty years ago things looked very different. At that time, a distinctive event captured the world's attention: Politicians, journalists, artists and researchers from around the world were watching the incredible developments in the backyard of Europe's oldest democracy.<sup>1</sup> Northern Ireland was the site of a real civil war followed by a one-of-a-kind peace process. In the middle of a highly militarized territory convulsed by murders and bomb attacks as well as the collapse of the state of law, ideas had been explored that, in 1998, were finally put together in a peace agreement. International awards such as the Nobel Peace Prizes<sup>2</sup> of 1976 and 1998 and two German tributes, the Hessian Peace Prizes<sup>3</sup> of 1995 and 1999, honored those efforts. The tangible results in Northern Ireland were regarded as a model for peace processes – from the cautious approach to talks, through the negotiations and signing of the peace agreement, and the individual steps of imple-

1 Northern Ireland accounts for 5.7 percent of British territory; its 1.8 million inhabitants represent 2.9 percent of the British population.

2 In 1976, to the two peace activists Betty Williams and Mairead Corrigan, and in 1998, the political leaders David Trimble (unionist) and John Hume (nationalist).

3 In 1995, John Hume, and in 1999, the American politician George J. Mitchell for his negotiating.



mentation. The way was marked by setbacks, standstills and disturbances as well as the joy of progressing toward a comprehensive and lasting peace (Darby/MacGinty 2003: 256; Moltmann 2011; Tonge 2014: 7, 11).

Since then, however, the politicians, journalists and researchers have shifted their attention to new places, conflict configurations and issues: Many war zones around the world need help. Current attempts to create and consolidate peace are proceeding on smaller scales that are also more context-specific (MacGinty: 2010); now there is less inclination to try to apply the models of one peace process to another. In Northern Ireland, the prominence once accorded its peace agreement and actors is at most revived on notable anniversaries or when former heroes are brought to their graves.

Interest in Northern Ireland has been revived in connection with studying the trajectories of peace processes<sup>4</sup> because its case allows conclusions to be drawn about why hopes are fading and daily difficulties increasing, as well as why approaches to peace processes lose their appeal and utility for policy-making. Here I first outline the Northern Irish conflict configurations and then describe the structure of the once eulogized peace process. Its practical application to Northern Ireland's reality did not follow the conceptual flights of fancy. Far from it: In the face of difficulties, the motto "We've got to keep the peace process going!" was often repeated. Or, in the words of Jonathan Powell, a longtime adviser to British Prime Minister Tony Blair (1997–2007), one has to keep the bicycle moving because once it falls over it is hard to pick it up (Powell 2008: 322). The impending Brexit has brought the wobbling Northern Irish bicycle to a halt and it now threatens to fall over. The question mark in the title of this report hints that the Northern Irish peace process may well be over. This is indicated by a state of inner exhaustion on one hand and developments beyond the reach of the Northern Irish protagonists, especially the British decision to leave the European Union in 2019, on the other. The history of the Northern Irish conflict and the peace process color my view of a Brexit.

## **2. A conflict and its settlement<sup>5</sup>**

### **2.1 The configuration of the conflict**

In the "Northern Ireland conflict," two population groups identified by background and religious affiliation are pitted against each other. While living in the same state territory, they pursue politically contrary aims and fight over their shared statehood. The two groups are generally assigned to the "protestant" or "unionist" and "catholic" or "nation-

4 This report includes events up to 4 December 2017.

5 The next two chapters summarize and update the analyses of Moltmann (2013) and Moltmann (2016) which includes additional references.

alist-republican” camps. The unionist side invokes its English and Scottish ancestors who settled the northeastern part of Ireland four hundred years ago, and insists that Northern Ireland must remain part of the United Kingdom. For that reason, their political parties operate under the banner of “unionism.” The nationalist-republican camp asserts its descent from the original inhabitants of the island of Ireland and is committed to its political unification. It rejects the British monarchy and sovereignty and supports Irish nationalism or republicanism and the corresponding “nationalist” or “republican” parties. Until the turn of this century, unionists comfortably constituted the majority of the population in Northern Ireland. However, the 2011 census revealed that their lead had shrunk to just 54,000 in a total population of 1.8 million. On average, the nationalist population is younger than the unionist (McWilliams 2017), which means that in Northern Ireland a shrinking majority is faced with a growing minority. Denominational differences are used to cloak rivalries regarding collective identities, access to power and resources, and a political community’s efforts to protect its specific traditions and goals. The conflict in Northern Ireland displays many characteristics of a conflict over “identity.” It is the major factor in socialization (Brubaker 2004: 39).

Until the 1970s, the politically dominant unionists refused to grant the nationalist-minded population respect or the right to participate. Their daily experience of discrimination and repression mobilized a nationalist civil rights movement, whose repression led to violent protests against the state and its security forces, and escalated into a civil war that has left many signs of violence in its wake. Some 300,000 soldiers were stationed in Northern Ireland in the largest British military operation since World War II. Between 1969 and 2001, more than 3,600 people lost their lives through politically motivated violence. Over 47,000 people – or one in 20 – were injured, and one in five experienced death and injury in their immediate vicinity. Some 16,200 bombings, 37,000 cases of firearm use, 22,000 armed assaults and 2,200 arson attacks were registered. Between 1980 and 2005, paramilitary organizations drove around 4,600 people out of the country (Kandel 2005: 9). More than 500,000 Northern Irish still suffer from long-term psychiatric effects, and every third person sees themselves as a victim (Belfast Telegraph, 30 Oct. 2015). The suicide rate in Northern Ireland is considerably higher than the average for Great Britain, an indication of the conflict’s long-term traumatic impact (The Irish Times, 4 Feb. 2016).

The persistence of many signs of a divided society is striking.<sup>6</sup> Its fault lines are not just shown by the colors of the curbstones and the different flags. In addition, high-tech military-style fortifications (“peace walls”) divide areas with different political-denominational population groups, especially in Belfast’s socially disadvantaged districts. As the Agreement has aged, these walls have increased in number – from 22 in 1994 to 116 in 2017. Meanwhile, the school system perpetuates social segregation, with only seven per-

6 The Northern Ireland Peace Monitoring Report (published annually between 2012 and 2014, and every other year starting in 2016) provides overviews and lots of data on political, legal, social and economic relations between 2012 and 2016.

cent of all children attending non-denominational schools. This situation goes back to the Roman Catholic Church's insistence in the nineteenth century that it be granted the right to run its own schools. Residents continue to prefer their denominationally and politically homogeneous neighborhoods and resist efforts to persuade them to move to mixed public housing. Although the annual marching season commemorating the 1689 victory of protestant King William of Orange over catholic King James II is mostly celebrated in protestant-unionist-loyalist areas, it still stirs fear of unrest because parades are often routed through neighborhoods that have become predominantly catholic. In summer 2017, the Parades Commission placed restrictions on 131 of more than 3,000 parades deemed contentious or offensive (The Irish Times, 29 Oct. 2017). Members of the "Orange Order" resent government interference, which they view as restricting their freedom of expression and demonstrating a lack of respect for their cultural traditions.

Despite these perennial tensions, violence has sunk to its lowest level in 40 years. Reportedly, violent loyalist and republican organizations remain active (The Irish Times, 5 Dec. 2016), with around 140 groups judged to have the capacity to attack. However, their activities no longer destabilize the political system, especially because criminal economic activity and infighting have discredited them in the eyes of the population. Nevertheless, there are still lawless areas where paramilitary organizations – mostly loyalist – exercise social control and act as vigilantes. Between 2012 and 2016, in more than 2,000 known cases, people had to abandon their homes or apartments because local paramilitaries judged their behavior or ethnic-religious background unacceptable (The Irish Times, 5 Nov. 2017). These days, sectarian hatred and racism are particularly aimed at people who have migrated to Northern Ireland and at Roma, who have always been persecuted and were never regarded as acceptable neighbors (McVeigh 2015:14).

## **2.2 Contours of the peace process**

During the civil war, only a few individuals and groups called for an end to the violence and for peaceful coexistence. The conflict had so deeply invaded everyday life that appeals to give one's life for the just cause and personal convictions outweighed any willingness to compromise and live in peace. Efforts to resolve the conflict non-violently only began to gain momentum in the early 1990s when all parties – apart from the hardliners and dissidents on both sides – understood that the republican camp and the Provisional IRA could not bomb the British out of the country, nor could the state security forces, police and army eliminate the guerrillas. The government in Dublin was eager to promote the economic upturn of the Republic of Ireland free of pressure from fighting in the North. British governments – first under John Major (conservative, 1990-1997) then Tony Blair (labour, 1997-2007) – were also tired of the Northern Irish "Troubles." As Northern Ireland Secretary Peter Brooke stated in 1990, the outpost in the northeast of the island of Ireland was not strategically or economically significant to the United Kingdom (Catterall/McDougal 1996: 5). That's why, in 2016, John Major and Tony Blair campaigned in Northern Ireland for the British to remain in the EU. They were concerned about the

peace that they had helped bring about – and which they saw threatened by a Brexit (Belfast Telegraph, The Guardian, The Irish Times, 10 Jun. 2016).

Below I outline the elements of the Northern Irish peace process and then discuss the factors and framework conditions for creating the peace. A cursory glance at the implementation of the Agreement shows that it required great effort – and was only fragmentary (Hauswedell 2017). Now the Brexit crisis is revealing many problems because incomplete solutions had been accepted in the name of not jeopardizing the entire peace process.

Elements of the Northern Irish peace process included: (1) the equal participation of all actors who renounced violence; (2) British and Irish government leaders' readiness to accompany local developments, along with the good will of the EU and numerous US administrations; (3) ample economic and financial support to redress the impacts of violent conflict, as well as to mitigate the costs of partitioning the island and cushion the effects of Northern Ireland's de-industrialization (that started in 1970); (4) sufficient time to address controversial issues, coupled with the plausible threat of sanctions; and (5) novel compromises to help all sides overcome the apparently insurmountable.

The reason why Northern Ireland is currently caught between civil war and a consolidated peace can be traced to various factors. One is that the decision about Northern Ireland's state sovereignty has been postponed because the adversaries have accepted the status quo and agreed that a referendum will eventually be held in both the North and the South. Although no vote will be scheduled until a change of mood regarding Northern Ireland's status in the United Kingdom is clearly identifiable, since the final decision is still pending, uncertainty continues to smolder. The state's monopoly on using force and the return to the rule of law have been more or less accepted. The Northern Irish benefit from the local autonomy – "devolution" – that the British government has gradually granted to all regions but England. Foreign, security, monetary and fiscal policies remain the British government's purview but citizens in the different regions regulate their internal affairs with "devolved" governments. Regular regional and local elections are considered fair. The Northern Irish participate in elections to the British House of Commons and the European Parliament. Nevertheless, the threat remains that London will resume direct rule over Northern Irish affairs if local politicians cannot reach an agreement. Until March 2017, the unionist and nationalist camps had come to terms with their obligatory system of power-sharing that is fundamentally different from the British majoritarian democracy in which the parliamentary majority governs and the minority acts as the opposition. In Northern Ireland's "consociational" democracy, minorities are amply represented in the executive branch of government. Consociational democracies are based on the mutual respect of competing collective identities, which are granted great autonomy to preserve their traditions and cultures. The various political parties are required to collaborate in the executive and legislative branches of government (where they are proportionally represented), regulating matters of concern to the whole society and statehood. Well-balanced electoral systems ensure that the various camps are fairly represented (Gromes 2007: 107 f., Tonge 2014: 40–47).

In addition to these legal and domestic political factors, there is an international dimension to the peace in Northern Ireland: Great Britain and the Republic of Ireland are co-guarantors of the Belfast Agreement. They monitor the work of Northern Irish institutions and mediate any disputes that local political actors can or will not resolve. While EU membership has not eliminated the two countries' political and economic differences, it does ensure that the governments are on equal footing. Meanwhile, closer contacts have developed between the North and South of the island of Ireland, and the two governments' semi-annual consultations have become institutionalized. Other linkages have developed in the healthcare, energy and tourism sectors, as well as waterways and infrastructure, and the two legal spheres cooperate to fight criminality, subsidy fraud and the shadow economy.

These developments occurred as the two national economies became dovetailed as a result of the application of EU regulations regarding the intensive exchange of persons, goods and services between two currency areas. Targeted EU funding exists to help surmount the social and economic consequences of the violent conflict, as well as the island's partition. American policies – supported by all US presidents since the 1980s – have provided flank guards for the peace process. In addition, the Irish diaspora, especially in English-speaking countries, runs numerous financial aid programs. Compared with other post-civil-war societies, Northern Ireland has been able to pursue its peace process in economic and financial comfort.

### **2.3 Implementation phases**

The peace strategy followed a three-pronged approach: First, stopping the use of violence as a tool of political discourse; second, restoring the rule of law and the state's monopoly on using force; third, democratizing the power relations so as to give legitimately elected actors responsibility for this British region. A consociational democratic system ensured the unionist and nationalist camps equal powers.

The three components of the peace strategy are reflected in the "Belfast" or "Good Friday" Agreement of 10 April 1998 (The Agreement; summary in Moltmann 2016: 113f.) negotiated by the Northern Irish parties under British-Irish aegis. In Northern Ireland and the Republic of Ireland, referendums in favor of the Agreement created enough societal legitimation for it to become the basis for peace. Northern Ireland opened itself to cooperating with the South. At the same time, all government units on the islands began to collaborate. Then in 2007, under the eloquent evangelical preacher Ian Paisley, the Democratic Unionist Party (DUP) became part of the equation. Until then, it had fought against the Agreement. Most of the people in Northern Ireland who had voted against the Belfast Agreement turned out to be DUP voters.

Implementing the peace strategy in the following years proved to be very tricky. Security reform mostly involved changing policing and getting the conflicting parties to acknowledge that the police have the monopoly on using force. The police force was transformed much faster than the paramilitary organizations were disarmed. For those

groups to not be stigmatized as losers they were allowed to disarm themselves. That took a lot of time: Only in 2005 did a commission of international experts appointed by London and Dublin certify the Provisional IRA's complete decommissioning; loyalist groups followed suit in 2009. However, this procedure did not require the groups to disband, and with their organizational structures intact, some moved into other rough activities: extortion, money-laundering, subsidy fraud, dealing drugs and counterfeit products, as well as smuggling tobacco products, fuel and all kinds of waste between the North and South of Ireland.

Efforts to establish democratic home rule dragged on over nine years. Between 1998 and 2007, the more radical parties imposed themselves over the more moderate forces, with the leaders of the Democratic Unionist Party (DUP) and the republican-nationalist Sinn Féin entering government after the Northern Ireland Assembly elections in 2007. The two sides had settled into a kind of pragmatic confrontation, clinging to their differences but managing everyday affairs as long as they didn't threaten their competing group identities. No effort is made to address new social and economic challenges. The only success is the fact that the institutions did not collapse between 2007 and 2017. However, as the current crisis shows, even the glow of this relative success has dimmed. The two camps have not been able to form a working power-sharing executive since the Northern Irish regional elections in March 2017.

### **3. A slowdown in the peace process**

The Northern Ireland peace process is experiencing a major crisis, which some observers are calling a standstill (Kane 2017). Clearly, it has slowed down – for various reasons. First, during the long transformation from violent to civil-constitutional forms for resolving conflicts, the Northern Irish have become used to inconsistencies and deficiencies. Second, the rapid succession of elections and referendums between 2015 and 2017 solidified the political landscape's binary coding. Finally, in 2016, the British decision to leave the EU severely strained the peace process, crippling the outside forces and actors that had helped Northern Ireland stay the course. The Brexit also threatens important EU funding. I will first examine domestic problem areas, then in the next chapter, the effects of a Brexit.

#### **3.1 The price of a long drawn-out transformation phase**

Ten years have passed since Northern Ireland's devolution began in 2007, as set out in the Belfast Agreement. The peace process has aged since the Agreement was signed in 1998. Its drama, urgency and élan have worn off. The competing unionist and nationalist-republican camps accept the power relations as long as their interests aren't threatened. Each camp's attempt to change the balance in its favor arouses the other's resistance. The dispute is no longer over constitutional issues, however. Now it is about the symbols,

status and historical interpretations associated with each side's collective identity. This explains the vehemence with which unionists repel nationalists' push for the Irish language to have official status alongside English.

Political parties that vehemently champion their own community's concerns thrive on defending issues of identity and try to obtain the most they can for their own camp. In so doing, they distinguish themselves. Research on Northern Irish political parties terms them "ethnic tribune parties" (Mitchell et al. 2009: 397), which are represented on the unionist side by the DUP and on the nationalist, by Sinn Féin. These two parties from the extremist fringes of the unionist and nationalist camps rose to their current leadership positions because they initially criticized the system and accused the more moderate parties negotiating the Belfast Agreement of betraying the cause by being too ready to compromise. Not surprisingly, the DUP and Sinn Féin have difficulty cooperating or developing new strategies.

In 1998, the conflicting parties were paid twice to accept a power-sharing arrangement and political institutions linking Northern Ireland with the Republic and other parts of the British Isles. On one hand, Great Britain, Ireland and the EU granted them generous financial support, and on the other, they allowed a bloated government sector to be created in Northern Ireland to give the two sides space to develop. Today, Northern Ireland is the United Kingdom's biggest burden – with the biggest per-person deficit – because its tax income cannot cover government expenses. In 2016, Northern Irish public spending amounted to GBP 14,020 per head but only tax revenue of GBP 8,580 was raised per person (Belfast Telegraph, 24 May 2017). The GBP 9 billion that the British Exchequer transfers annually to Northern Ireland represents 21 percent of the payment to all four British regions, well above the average payments (Meagher 2016: 73). The same holds for EU Common Agricultural Policy funds and structural support: Northern Ireland tops all British regions (Paun/Cheung 2017: 4). EU subsidies account for 87 percent of Northern Irish farm income, compared with just 53 percent in the entire United Kingdom. More than 8 percent of the Northern Irish gross domestic product (GDP) comes from programs financed by the EU. In 2015, the public sector in Northern Ireland provided 28 percent of all jobs in 2015 – 10 percent higher than in England (based on Burke 2017: 6f.). The conservative government in London has been demanding spending cuts for healthcare, the social sector, education and infrastructure in Northern Ireland, but for fear of alienating supporters, local parties either don't make any budget decisions or transfer them to policy fields that have no lobbies, such as the police or the judiciary. Nevertheless, in addition to reallocating powers and changing the boundaries of the county councils, London managed to reduce the number of members in the Northern Ireland Assembly in 2017 from 108 to 90 and shrink the executive from 12 departments to nine.

Even during the decade of Northern Irish devolved government (2007-2017), the tough issues were not tackled. These include punishing breaches of the law by government and paramilitary actors during the violent conflict and establishing how to rehabilitate and compensate victims and survivors. Also not addressed was how to use the rule of law to deal with the persistent signs of ethnic hatred expressed at the annual Orange Or-

der parades, as well as the practice of mocking places and symbols associated with the adversary.

One important side effect of the long period of transformation is the generational change now occurring among the political elites. People who took part in the violent conflict and negotiated the Belfast Agreement, or were at least involved in its implementation, have left the political stage. The most prominent of them was Martin McGuinness, formerly second in command of the IRA Derry Brigade, who died on 21 March 2017. As the Sinn Féin representative, he served as deputy first minister in the Northern Ireland executive since 2007. Gerry Adams, the last person who had been involved in negotiating the Belfast Agreement, announced in November 2017 that after 34 years, he would give up Sinn Féin leadership in 2018. Now the early leaders' children and grandchildren, who grew up during the violent conflict, are taking political positions. However, the younger generations have inherited the history of Northern Ireland without either personally experiencing the conversion to peace and understanding or accepting the intentions and methods of the peace process. They are wearing their predecessors' shoes but not taking any new steps.

### **3.2 An election marathon's paralyzing effect**

Northern Irish politics has been in election mode since 2015, especially because of domestic British politics.<sup>7</sup> The practical work of public officials and institutions has virtually ground to a halt while at the same time the two camps have intensified their disputes. Matter-of-fact controversies become emotionally charged and culminate in the verbal abuse and victimization of political representatives. This has pretty much eliminated any prospect of the two sides cooperating in Northern Ireland's obligatory consociational democracy. However, more and more citizens are going to the polls: In 2017, 65.6 percent of eligible voters took part in the House of Commons elections, up from 58.5 percent in 2015. Voters understood that they were making existential decisions.

The ruling parties in both camps have benefited from the mobilization of the electorate, while the smaller parties have continued to lose support and are no longer represented in the British House of Commons. Following the Northern Ireland Assembly elections on 2 March 2017, the nationalist-republican Sinn Féin party is just one member shy of the opposing DUP. For the first time since Ireland was partitioned in 1921 and Northern Ireland was founded, unionists no longer have a majority in the Northern Irish legislative: Their predominance is threatened. However, in June 2017, the DUP won enough seats in the House of Commons to be able to help the shrunken conservative party in

7 2015: Elections for the British House of Commons – 2016: Elections for the regional assembly and the British-EU Referendum – 2017: new elections for the regional assembly and the British House of Commons.



Westminster form a majority. After weeks of wrangling, the unionists finally agreed that their 10 MPs would help the British government pass the annual budget and survive no-confidence resolutions. In return, British Prime Minister Theresa May assured the DUP that Northern Ireland would receive another GBP 1 billion over the next few years – in addition to the GBP 500 million already allocated (Agreement 2017). However, six months later, the cash has only begun to flow slowly. It is also not clear if the additional payments are contingent on Northern Ireland having a functioning executive that can decide on appropriations. Added to that, Scotland and Wales have begun to complain that the regions are being treated unequally and have declared their financial needs in London.

In any case, the DUP has gained considerable influence in the British government without having entered into any formal coalition with the conservative party. It already has threatened to withdraw its support should the conservative government be too ready to compromise with the EU in the Brexit negotiations (The Guardian/Belfast Telegraph, 30 Nov. 2017). The DUP has further decided that it wants a seat at the negotiating table in Brussels and is claiming its right to object to European matters, although this was not part of the agreement of 26 June 2017 (Belfast Telegraph, 6 Dec. 2017). Britain's weak conservative government has become hostage to Northern Irish unionists. On the other hand, Sinn Féin is not scoring any political points despite having won seven seats in the British House of Commons because republican parliamentarians refuse to take an oath to the British crown and occupy seats in Westminster. Doing so would go against the party's principle of not acknowledging British sovereignty over their part of the island. So the Labour party, which is the largest opposition party in the British lower house, cannot count on Sinn Féin's support – particularly since some party members fear that an alliance with Sinn Féin would earn them the reputation of being unpatriotic.

Since spring 2017, the nationalists' gain in power in Northern Ireland and the DUP's bigger role in London have made it even more difficult for the two sides to form a power-sharing executive in Belfast. The last executive collapsed when the nationalists quit, catalyzed by unionist majority leader Arlene Foster's refusal to investigate devious subsidies during her tenure as enterprise minister, and called for new elections. Northern Ireland critically lacks a democratically legitimate, functioning government when state structures have to be modernized despite funding restrictions and radical changes in the political landscape on the Irish and British islands are imminent.

## 4. Destabilized by the Brexit<sup>8</sup>

Events that did not originate in Northern Ireland are causing convulsions in the political constellation and negatively impacting the peace process. On 23 June 2016, a referendum was held on the United Kingdom's future membership in the EU. Ahead of it, the regional governments in Scotland, Wales and Northern Ireland had urged in vain that the final outcome be made dependent on a unanimous vote in all four regions so as to take their different interests into consideration (See Reilly 2003: 179 f. on the risks in holding referendums). The government and parliament in London merely repeated, "Majority is majority."

As expected, the results of the referendum were disparate: 52 percent of voters in England and Wales voted to leave, while majorities in Scotland (62%) and Northern Ireland (55.8%) wanted to remain. In all, 51.9 percent of Britons (17.4 mil.) voted to leave the EU and 48.1% (16.1 mil.) to remain. Regional imbalances influenced the outcome of the referendum with the 15.2 million leave votes in England carrying the day (Uberoi 2016: 5). In Northern Ireland, votes traced the boundaries dividing nationalists (85% for remain) and unionists (leave). A majority in Northern Ireland voted to remain in the EU with core unionist voters in the country's agricultural center "switching" (denominational) sides to join them, while in the unionist heartland in the northeast, leave advocates had the upper hand. In the border region, the vote was heavily in favor of remaining in the EU (Northern Ireland Assembly 2016: 10, Phinnemore/Hayward 2017: 27). The DUP was the only Northern Irish party that heavily campaigned for the United Kingdom to leave the EU.

The EU referendum's procedure and results did nothing to promote peace in Northern Ireland. In fact, two basic issues are back on the agenda: Northern Ireland's position as a British territory on the island of Ireland and the basic contours of the political coexistence that had taken shape since the Belfast Agreement was signed in 1998. In the 20 years in which relations flourished between the United Kingdom and the Republic of Ireland, between Northern Ireland and its southern neighbor and within Northern Ireland, these problem areas had not demanded anyone's attention.

### 4.1 Borders and status

A British exit will create the United Kingdom's only land border with the EU: a line of 500 km cutting straight across the island of Ireland that is not concomitant with any natural formations or reflecting any historical events. First drawn in 1921, the border was intended to divide the island politically, keeping the counties with the majority of citizens loyal to Great Britain under British domination and ensuring that unionists were the majority

8 For details see Bundeszentrale 2017 and Oppermann 2016.

in a new and viable Northern Ireland (de Barra 2017). Although travel between Great Britain and Ireland has been unrestricted since 1923, guard towers and street closings closely controlled the border during the violent conflict. All that, along with toll barriers, disappeared 20 years ago particularly because Ireland and Great Britain were EU members when the European Single Market was established in 1993. Since then, more than 110 million border crossings of persons have been registered annually, 14,800 of whom regularly go from one territory to the other to work or study. In 2015, 1 million trucks, 1.3 million vans and 12.5 million cars crossed the border. Healthcare facilities and schools in the North and South are shared (The Irish Times, 16 and 18 May 2017).

Northern Ireland and the Republic of Ireland also have close economic ties. The South is Northern Ireland's most important foreign trade partner, especially for food processing. Each week more than 10,000 pigs are brought from the South to the North, while one-fourth of Northern Ireland's milk is processed in the Republic. Irish ports are important transshipment points for Northern Irish goods heading to the rest of Great Britain. Since 2007, a single electricity market has guaranteed the energy supply for both jurisdictions (HM Government 2017).

North-South cooperation regulated by European legislation involves more than 140 areas – from hygiene and environmental standards to water management (The Guardian, 27 Nov. 2017). British government insistence that leaving the EU also means leaving the single market and the customs union jeopardizes economic and social integration on the island of Ireland by creating a “hard” border with all its implications for monitoring the movement of people and goods (Revenue 2016). Discussion about the border reintroduces unresolved territorial disputes that were not considered in 1921, when the island was partitioned, or in 1925, when the border was revisited with regard to the management of Lough Foyle in the northwest (Burke 2017: 2).

Directly after the Brexit vote, the newly elected British government especially protested EU citizens' unimpeded access but also claimed that it did not want to return to the earlier monitoring measures along the British-Irish border. London would prefer that Dublin monitor access to the island in its sea- and airports and be rewarded with an open border to Northern Ireland for its efforts. Whether such a procedure is compatible with EU regulations on free travel or the Irish concept of sovereignty is another kettle of fish. Northern Irish nationalists, Dublin and Brussels prefer a natural border – the Irish Sea – between Ireland and Great Britain, with persons and goods controlled upon entering British territory. This variation would allow Northern Ireland, especially its agriculture and food and drink sectors, to continue to follow EU regulations and access the EU market (Pollack 2017). However, Northern Ireland's important trade in goods and services destined for Great Britain would have to be controlled. Unionists consider this proposal an anathema, fearing that Northern Ireland would be cut off from the United Kingdom and the union they so highly praise would be at risk. They do not acknowledge that aside from the consociational democracy imposed by the Belfast Agreement, Northern Ireland is already living its own life in many regards (abortion, same-sex partnerships, sports). Instead of seeking special status for Northern Ireland, unionists are pushing for the Republic of Ireland leave the EU along with Great Britain. That would make any discussion

about borders unnecessary (Paisley Jr. 2017). However, this option clashes with the distinctly pro-EU position of a large majority of citizens of the Irish Republic, only 16 per cent of whom would agree to leave the EU with a Brexit (The Irish Times, 9 May 2017).

One other old quandary has been revived that makes it hard to resolve the Northern Irish conflict, namely majority-minority relations within a state. Remain supporters were in the majority in both Northern Ireland and Scotland, but the larger number of voters in England caused voters in other regions to have no impact on the results. In Northern Ireland, Brexit supporters are in the minority, but they know that they are in harmony with the majority of English – leave – voters. In contrast, the Northern Irish remain majority is only in agreement with the Scots, who continue to call for another vote on leaving the United Kingdom, following an unsuccessful attempt in 2015.

Even if London's contradictions regarding the referendum results expose rifts in the British Union, most Northern Irish still cherish their bond with the "mainland." According to current estimates, 55 percent of the population continues to want union with Great Britain, while 33 percent prefer unification with the South. Nevertheless, this attitude is volatile. The latest surveys show that the Northern Irish could change their minds depending on how the negotiations go. If these spell worsened economic prospects for Northern Ireland, the wish for rapprochement with the South would rise, with 46 percent of those questioned advocating unification with the Republic of Ireland (Bell 2017). In case of a Brexit, 67 percent of respondents would approve of Northern Ireland having a special status, as opposed to the disapproval of only 27 percent (Coakley/Garry 2017).

Appeals from Northern Irish nationalists for referendums on Irish unification to be held in both Northern Ireland and the Republic – thereby initiating the separation from Great Britain – get a lukewarm response in Dublin. Remain Unionists are also not keen on the idea. German efforts to overcome the effects of forty years' division testify to the wisdom of taking a cautious approach to such an option. While the EU has recognised Northern Ireland's right to rejoin the union in the context of a united Ireland, the Good Friday agreement stipulates that constitutional change can come about only via a border poll. (The Guardian, 30 April 2017).

In Northern Ireland, there are a variety of views about who best represents the country's interests. Unionists who voted to leave feel that they are well represented by the British government, which has indicated its line of approach for dealing with regional concerns: The United Kingdom joined the EU as a whole and is now leaving together. For nationalists, their country's subordinate position within the United Kingdom is one more sign of the dominating English nationalism that was so obvious throughout the Brexit campaign. That is why they want the Irish government to become more engaged, and are demanding coordinated Northern Irish-Irish action directed at Brussels. They prefer special status for Northern Ireland within the EU. This option, however, is out of the question for unionists because it threatens their biggest concern: preserving the union with Great Britain. Special status in the EU could move Northern Ireland closer to the Republic of Ireland. For that reason, unionists balk at any all-Ireland solution. In early November 2016, then-Irish Prime Minister Enda Kenny's invitation to an all-island forum about the consequences of a Brexit was rudely rebuffed by the Northern Irish First Minister

Arlene Foster. She insisted that existing institutions, particularly the semi-annual North/South Ministerial Council, not a group of politicians, business people and members of civil society, are the appropriate venues for the governments to coordinate: Giving a say to other parties, trade associations or civil society groups is a waste of time (Belfast Telegraph, The Guardian, The Irish Times, 1–4 November 2016).

## **4.2 Doubts about the future of the Agreement**

The outcome of the British-EU referendum undermined the foundations of power-sharing in Northern Ireland because the Belfast Agreement specifically described the Irish Republic and the United Kingdom “as friendly neighbours and as partners in the European Union.” A Brexit would destroy this fundament. The intergovernmental Agreement has also served as a vehicle and platform for putting the two countries on equal footing and normalizing their relations; it is an international treaty that was duly deposited at the United Nations by the United Kingdom and the Republic of Ireland.

The EU memberships of the Republic of Ireland and the United Kingdom provided the guidelines for the executive in Belfast and the North/South institutions. The Agreement stipulates that EU cooperation is to be coordinated with regard to common concerns. Particularly for Northern Irish nationalist parties, EU membership has served as their link to the South and to Europe, and qualified their minority status at home. They considered it all the more important for the United Kingdom to enshrine the European Convention on Human Rights (ECHR) in Northern Irish law, and viewed that as progress, although the British government and unionists had put off passing a Human Rights Act for Northern Ireland. It is unclear whether a Brexit would also see the British withdraw from the ECHR and adopt its own legislation, which would amount to withdrawing from the jurisdiction of the European Court of Human Rights in Strasbourg, as Euro skeptics have long demanded.

The Brexit also jeopardizes another innovation of the Belfast Agreement: citizenship. The Agreement had “deterritorialized” nationality, so to speak, by offering Northern Irish the possibility of carrying either British or Irish passports – or both. After the British referendum, Irish Republic authorities recorded a sizable increase in the number of applications for (EU) passports. A Brexit means that EU citizens living in Northern Ireland will be residing in a political entity that has turned its back on the EU. Their legal status will be inferior to that of citizens of Northern Ireland. EU citizens will thus have a harder time accessing healthcare and social services, and more difficulty reuniting their families – to say nothing of new procedures and added expense for obtaining residence permits.

In 2016, two legal challenges from Northern Ireland were lodged against the British government in light of the United Kingdom foreseeably leaving the EU. They questioned whether a Brexit is compatible with British commitments in the Belfast Agreement. One group of nationalist and unaffiliated politicians wanted clarification about whether London is authorized to unilaterally change Northern Ireland’s international status – over the heads of the Northern Irish – and replace EU regulations with UK laws. A second group

from human rights organizations and victims and survivors of the violent conflict feared losing the protection accorded by the ECHR, along with the recognition and compensation they've been granted by EU entities. The EU provides 85 percent of such funds. Critics also accused the British government of not considering the far-reaching economic, societal and environmental implications of EU membership. Both lawsuits ended up at the UK Supreme Court, which also heard Scottish and Welsh government challenges regarding the Brexit. The latter argued that London's failure to seek their parliamentary approval before pursuing the Brexit infringes on their devolved governments' rights and powers. However, the British government claims exclusive control over foreign affairs and security policy, and on 24 January 2017 the Supreme Court ruled against the plaintiffs (The Supreme Court 2017): The Brexit does not undercut the Belfast Agreement. Nor did the Supreme Court grant any of the regions a say in the Brexit negotiations. It did, however, require the British government to seek authorization through an Act of Parliament.

Although the UK's highest court has confirmed that the Belfast Agreement remains binding and all sides are emphasizing how much they want to preserve it, these legal disputes indicate fractures which may well have more to do with the spirit of the accord than with its wording. The Agreement was a political compromise containing intergovernmental and domestic components that were wholly dependent on the adversaries' readiness to accept and implement it. The power-sharing mechanisms described in the Agreement assumed that sovereignty can be "shared" and is "divisible" – and is enhanced through transnational cooperation. Today these concepts clash with Brexiteers, including Northern Irish unionists who only align themselves with the United Kingdom. Such positions are incompatible with the principles of European integration, Dublin's involvement in Northern Irish affairs, and ways of seeking compromise and consensus at home. Northern Irish unionists have abandoned the maxims that once guided the peace process. In reaction, nationalists have reverted to their original confrontational stance and are again encouraging a fight over collective identities (O'Dochartaigh/Hayward 2017).

## **5. Conclusion: Sowing strife**

### **5.1 Irritations**

The Brexit negotiations create many explosive practical problems for Northern Irish institutions and their representatives. The largest unionist and nationalist parties – that are required to work together in the executive – have drawn diverging conclusions from the results of the referendum. Although the DUP and its leader Arlene Foster believe that their rejection of the EU has been confirmed, they know that the majority of the Northern Irish think otherwise. For that reason, they are urging everyone to keep calm and place their trust in the British government. In contrast, the republican-nationalist Sinn Féin with its Northern Ireland Assembly leader Michelle O'Neill and party chief Gerry Adams, who remains in the wings until 2018, consider that the pro-British side has fooled them once again. All the achievements of the Belfast Agreement are up for renegotiation, in-

cluding Northern Ireland's special significance due to its unique peace process that obliges adversaries to respect each other's traditions. English voters have undercut Northern Irish peoples' right to self-determination. The British majority's leave vote discredits the Northern Irish majority's remain.

The tangible problems that a Brexit will present Northern Ireland are well known. Most are related to EU program benefits – from extensive financial support for the agricultural sector to funds for victims and survivors of the violent conflict. Since 1995, the EU has focused on supporting the peace process, including cross-border cooperation between Northern Ireland and the Republic of Ireland. Brexit-induced problems include the future applicability of EU standards to environmental protection, public procurement and consumer rights, as well as how regional interests will be represented within the EU. Security issues are again of concern, with senior officers of the Police Service of Northern Ireland warning that an end to the EU-wide and highly effective Northern Irish-Irish collaboration would hinder its cross-border fight against organized crime. Experts fear that a Brexit could cause a rise in anti-British attitudes, presenting groups of violent republican dissidents with a pretext to appeal for Irish solidarity and recruit new supporters. Looming over all these issues, however, is the central question of the future border between the North and South of the island of Ireland.

The Northern Irish executive and administration in Belfast are presented with considerable challenges for finding ways to maintain the current material standards. The newly exposed internal divergences and all the attendant uncertainties are testing the two majority parties' ability to collaborate. Added to that are doubts about whether the regional administration is even in a position to comprehend the extent of the practical problems posed by leaving the EU, and to devise solutions. The austerity measures imposed by London in past years have thinned out the administrative apparatus, which is already at the limits of its ability to perform.

Reliable help is not likely to be provided by London or Dublin. In Whitehall, hard-pitched battles are being fought about whether to drive a hard or soft Brexit. The DUP is seeking to prevent any broad compromises that could endanger the union of the two British regions. On 4 December 2017, the DUP leader blocked an agreement between the British government and the EU, after the two sides had agreed in a roundabout manner that Northern Ireland would continue to benefit from the current legal and trade regulations in case of a Brexit. That would lessen the discord over the future border on the island of Ireland. For its part, the Irish government has given up its traditional links to the United Kingdom in the belief that its interests are better protected by the 27 EU member states. It was easier for Dublin to change its position after long-serving Irish PM Enda Kenny was replaced by his much younger successor Leo Varadkar in summer 2017. Ireland's new PM and new Foreign Minister Simon Coveney vehemently protest when their counterparts in London are ambiguous about the border. Heightened antagonism is heard in Brussels, too, as well as in the long-winded negotiations in Belfast to re-establish the mandatory unionist-nationalist executive. At the same time, Dublin is becoming concerned about how much longer and for what price the EU-27 will support its position. Irish politicians are going to have to get used to defending Ireland's interests within the

EU without British support. Just as the Brexit decision and the DUP's influence are pressuring Great Britain so that it can no longer function as a neutral mediator in the Northern Irish peace process, the approaching Brexit is also pushing the Southern Irish to dispense with impartiality.

## **5.2 Making something new with the broken bits**

The success of the peace process in Northern Ireland depended on all supports becoming equally operational: the international dimension, the watchdog roles of London and Dublin, and the mechanisms for the Northern Irish to create a compatible cooperation. Now all of this is up in the air. The Brexiteers did not sufficiently consider the side effects of their vote. They should have more closely considered the situation of all those affected. There has not been enough accountability.

It's impossible to overlook all the broken bits in Belfast. The Northern Irish peace process has come to a standstill. It has lost its élan, and the domestic and foreign actors have taken their leave. The institutional network of the past 20 years has proved incapable of withstanding structural deficits and personal intrigues. Worst of all is the fact that the original interest in appeasing societal conflicts through democratization processes and in exercising sovereignty with full social legitimacy was forgotten during the long implementation phase. Incredibly, the various camps are once again demarcating their turf, taking the democracy deficit in stride, refusing all compromise and calculating zero-sum games in their battles for power and influence. Isolation and dissociation are poisoning the two dominant camps. Political parties and representatives have retreated to the security of their traditional clienteles and rebuff appeals to open up and compete with visions for the whole society. Gaining legitimacy through elections is no longer possible. Election results do not significantly change political balances of power; instead, they increase polarization.

Nevertheless, this gloomy summing up does not mean that with the collapse of the peace process, Northern Ireland will return to its earlier violent configurations. Despite all the economic and political uncertainties and societal clashes, there is no talk of that. No political groups consider that renewed violence is in their interest, a fact that sets Northern Ireland apart from other post-conflict societies. According to statistical analyses, in 90 percent of all post-civil-war constellations, there is a high likelihood of violence flaring up after a peace agreement has been negotiated and during its implementation (World Bank 2011: 57–58). In Northern Ireland, though, the current limbo between violent conflict and efforts to avoid it is expected to continue. This uncertain situation must be managed – from clarifying who is going to pay for everything for how long and dealing with the lack of socially legitimized and politically controlled governance – to sorting out Northern Ireland's relationship to the rest of the United Kingdom, the Republic of Ireland and the Atlantic-European context.

Whether the Brexit turns out to be “hard” or “soft,” the peace in Northern Ireland must be consolidated. At the very least, the goals and mechanisms of the Belfast Agreement must be respected in the short-term. All state actors must acknowledge Northern



Ireland's unique situation and Dublin's right to have a say on issues that affect the whole island. Rights granted to the Northern Irish through the EU memberships of Great Britain and the Republic of Ireland must be guaranteed. This concerns the representation of Northern Irish citizens in the EU institutional framework, as in the case of EU parliamentary elections. Finally, no matter how the issues of the border and cross-border monitoring of persons, goods and services are settled, the dense web of North/South relationships on the island of Ireland must be preserved (Phinnemore/Hayward 2017: 36–40). The people of Northern Ireland cannot be asked to bear the brunt of the negative consequences of the English Brexit. As the conclusion of the Belfast Agreement almost 20 years ago and its subsequent implementation have shown, concerted British-Irish action can subdue the differences between the Northern Irish unionist and nationalist camps. Preserving the Belfast Agreement does not, however, preclude the review of certain practices, such as the relationship of the executive and the legislative, or a mandatory consociational democracy.

For Northern Ireland, a more positive outcome to the peace process crisis caused by a Brexit would be an innovative approach like the peace strategy of 20 years ago, despite its constraints. In this case, it would make sense to use a practice from mediation: Broaden the horizon to solve small, limited problems. With regard to Northern Ireland and its internal conflicts and external challenges, this means seriously pursuing the idea of creating a single political unit on the island of Ireland – the way it already is economically. The United Kingdom would have to renounce its claims to sovereignty in the region – as mentioned in the Belfast Agreement. Northern Irish unionists in a new all-Irish state could be reassured through the creation of federal structures, which implies the Republic of Ireland reforming its current centralized system of government. The EU could surely suggest appropriate policy approaches for this. Such pragmatism shows that putting aside historical infatuation and ideological blinders makes it possible to find partial solutions for complex problems that demonstrate the will to make progress. The EU is a byword for institutional innovations that involve state and civil society actors and interests in decision-making. In the end, the EU indicates that despite various crises, visions of sovereignty can open up realities not limited to the power of individual states (Laffan 2017: 46, 56).

Such ambitious conceptualization for redesigning and managing state structures requires strong political leadership with civic backing in London, Dublin and Belfast, as well as a supportive international environment. Even if nothing suggests that such ideas could be realized in the near future, new options should be seriously examined in a timely fashion, and how to mobilize support and animate new ways of thinking and speaking should be studied. German philosopher and columnist Carolin Emcke wrote that this implies “reviving the political virtue of fantasy even if it leaves you open to attack” (Emcke 2017). In the 1980s and '90s, the beginning of the Northern Irish peace process was a similar gamble. Individuals and small groups slowly began to think the unthinkable, to seek “unacceptable contacts” and to marshal previously uninvolved forces. In the current predicament, such an approach could lead to a new peace process.

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