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[Cover picture: Inaugural session of the Commonwealth Medico-Legal Conference held in Kuala Lumpur on 17 January 2003. In the centre is H.E Bruce Cleghorn, British High Commissioner to Malaysia, who inaugurated the conference. He is flanked to his left by Dato' P Krishnan, President of the Commonwealth Medical Association, and to his right by Dato' Dr Cryus Das, President of the CLA.]

Northern Ireland: Did David Trimble Really Agree to a United Ireland?

Austen Morgan

Introductory: the Belfast Agreement

The Belfast Agreement, the result of two years of multi-party negotiations in Northern Ireland ('NI'), facilitated by the United Kingdom ('UK') and Irish governments, was concluded on 10 April 1998. It had a section entitled "Constitutional Issues" (of which more below). But the Agreement provided mainly for another devolved administration¹ in NI (Strand One), with north-south (Strand Two) and east-west (Strand Three) institutional links. There were also five sections dealing with rights, decommissioning of paramilitary arms, security, policing and justice, and prisoners – which have been characterised as (moving) 'from Terrorism to Democracy'.²

The Belfast Agreement is readily analysable by UK and Irish domestic constitutional lawyers, versed in public international law. Following professional engagement in the negotiation, and implementation, of the agreement, I wrote such a textbook, *The Belfast Agreement: a practical legal analysis*.³ It deals with relations within, and between, states, in ways familiar to the common law world. But the focus is a text which is at once political and legal, the law being international and domestic.

Political controversy

However, the agreement became the subject of a strange and irrelevant political controversy.

The nationalist minority, which favours a united Ireland, culturally appropriated the Belfast Agreement (and christened it the "Good Friday Agreement"). First, the Sinn Féin leadership, which failed to vote for the agreement on 10 April 1998,⁴ sought to persuade its troops by claiming it was transitional to a united Ireland.⁵ Second, the Irish government (which has not implemented all its obligations under the agreement after nearly five years) tried to create an impression

of joint London and Dublin sovereignty or authority.⁶ Third, and after Sinn Féin proclaimed there would be a united Ireland by 2016⁷ (the hundredth anniversary of the Dublin rising) the Social Democratic and Labour Party ('SDLP') – when Seamus Mallon was replaced by Mark Durkan as leader – called for a referendum in the Republic of Ireland ('ROI'), during the life of the current Irish parliament (2002-).⁸

All this was in spite of the new unionist leader,⁹ David Trimble, elected first minister of Northern Ireland (with a nationalist deputy first minister), who went on to share the 1998 Nobel peace prize with John Hume. There would have been no Belfast Agreement without this leader of the Ulster Unionists.¹⁰ David Trimble split unionism in 1998 into pro- and anti-agreement camps (much as the so-called Anglo-Irish treaty of 1921 had led to a civil war between pro- and anti-treaty nationalists in the south). Pro-agreement unionism managed to survive in the 1998-2003 NI Assembly, partly through suspensions because of the republicans' failure to decommission their illegal arms. Trimble was challenged seriously by other unionists (within his own party and outside it) on issues such as prisoner releases, terrorists in government and reform of the police – as well as decommissioning.

The reason the political controversy is strange is that anti-agreement unionists take the same view as nationalists. What Gerry Adams, the leader of Sinn Féin, affirms, Dr Ian Paisley, leader of the Democratic Unionist Party, accepts. Indeed, anti-agreement unionists cite in support of their worst fears about a united Ireland resulting from the Belfast Agreement, the political claims of those they oppose most vehemently.

Refutation

I want in this article to rationally examine the Belfast

in the same paper of 14 Feb 2000 by the Irish prime minister.

¹ The Northern Ireland Parliament had existed from 1921 to 1972. There was also a short-lived so-called power-sharing experiment in 1974.

² Duncan Shipley-Dalton, "The Belfast Agreement", (1999) 22 *Fordham International L Jo* 2601, at 2619-20.

³ London: The Belfast Press, 2000.

⁴ *Irish Times*, 11 Apr 1998.

⁵ Morgan, *The Belfast Agreement*, p xii note 9.

⁶ This was most in evidence in the Irish assertion that the UK could not suspend devolution in February 2000. Somehow, according to Dublin, a bilateral international agreement, where the Irish had not even been involved in the negotiation of Strand One, had subverted the UK Constitution, London losing sole control of NI. See my article in the *Irish Times* of 10 Mar 2000, provoked by one

⁷ Gerry Adams in New York first articulated this in 2000 (*Irish Echo*, 8-14 Jan 2003).

⁸ This was a reaction to David Trimble calling for a NI referendum, in order to show continuing support for the union.

⁹ David Trimble, *To Raise up a New Northern Ireland: speeches and articles by the Rt. Hon. David Trimble MP MLA, 1998-2001*, Belfast, 2001.

¹⁰ Senator George Mitchell of the United States, who chaired the multi-party negotiations, voiced this opinion authoritatively. In his memoir on the talks, *Making Peace*, (London, 1999), Mitchell opens his first chapter with David Trimble telling him he was prepared to accept the agreement, and, in his penultimate chapter, he poses the question: "Why did Trimble take that fateful step?" (pp 3-5 & 180-1).

Agreement, in order to refute the nationalist myth that David Trimble agreed to a united Ireland. Such an argument may be mounted legally; however, it is unlikely to end the cultural deception perpetrated by politicians and commentators.

There is an alternative, and better, theory of the Belfast Agreement, for which there is evidence. The UK sought to solve the problem of terrorism in NI, by harnessing the ROI to a devolution project with green edges.¹¹ It was hoped that a unionist-nationalist centre (led by the first minister and deputy first minister) would constrain republicanism and loyalism, leading NI Catholics to feel that they had a place in a multicultural UK.¹²

This had been the principle of the 1973 Sunningdale solution, which collapsed in 1974. It was also evident in the 1985 Anglo-Irish Agreement. In 1998, there were more continuities in UK and Irish policy, than there were radical new developments.

A political and historical debate about the viability of such a theory will continue. It does not affect my central thesis: the Belfast Agreement is firmly rooted in the 1920-22-partition settlement in Ireland.

One Agreement or two?

The Belfast Agreement comprises two agreements: the Multi-Party Agreement ('MPA') voted upon by the political parties, plus the two governments, on 10 April 1998; and the British-Irish Agreement ('BIA'), signed immediately afterwards by the two heads of government, Tony Blair and Bertie Ahern.¹³

It has been published in a number of forms in Belfast, London and Dublin, but the definitive text is the 44-page Cm 4705, No 50 in the UK treaty series for 2000.¹⁴

The Belfast Agreement has two faces, political and legal. The political face is the MPA, with the support of the two governments having no legal effect, and the BIA being annexed only for information.¹⁵ The legal face is the BIA, signed by Tony Blair and Bertie Ahern, with the MPA as annex 1 (there being an annex 2). The relationship between the BIA and the MPA is determined by article 2 of the former: "The two Governments affirm their solemn commitment to support, and where appropriate implement, the provisions of the Multi-Party Agreement." And where appropriate implement means that the obligations have to be legally extracted from the text.

It is not surprising that politicians and commentators do not understand the relationship between the two agreements, and

adopt a generally biblical approach to all the words. It is surprising that some NI lawyers and even judges, who should be familiar with the 1969 Vienna convention on the law of treaties (in particular articles 31 to 33 on interpretation), adopt a golf club conversational rather than legal scholarly approach.

Where does the Belfast Agreement provide for a united Ireland?

(1) *The Preamble to the BIA: "a new beginning"*

One of the five recitals refers to "a new beginning in relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands." This phrase had been the basis of the Strands One to Three structure of the multi-party negotiations.

First, "a new beginning" is in the context of the MPA. Second, it is recital rhetoric, of little use to a court interpreting the Belfast Agreement. Third, a new beginning (read with the other recitals, including "partnership, equality and mutual respect") refers more likely to the integration of Catholics in NI. Fourth, the recitals are unlikely to refer to a united Ireland, since this is not provided for in any detail in the agreement.

(2) *Article 1 of the BIA: consent, recognition and self-determination*

The inspiration for this is article 1 of the 1985 Anglo-Irish Agreement, where the two states parties had failed to fully define (not determine) the status of Northern Ireland. There was Irish acceptance of the consent principle, but no recognition of NI as a part of the UK. This article represents an updated constitutional understanding by London and Dublin, made possible by the ending of the Irish territorial claim (see further below).

For the first time, the UK obtained recognition of NI as a part of the UK, in paragraphs (i) and (iii). Reference to the union "reflect[ing] and rely[ing]" upon unionist aspiration is a political statement, and not a legal repealing of the fundamental 1800 Acts of Union (which could only be repealed expressly by Parliament¹⁶).

The ideological price paid by the UK government was the introduction of the concept of self-determination. In Ireland, this has always been associated with separatism. Few there recognise the changes in its meaning in international law since 1945.¹⁷

There is some evasive drafting in paragraphs (ii)¹⁸ and (iv),

¹¹ Green is the colour of Irish nationalism (even if the great nineteenth-century leader, Charles Stewart Parnell, had a phobia about it). This phrase means that a UK based proposal is presented in a light favourable to nationalist aspiration.

¹² Marianne Elliott, *The Catholics of Ulster: a History* (London, 2001), pp 426-7 & 481-2.

¹³ Plus Marjorie 'Mo' Mowlam and David Andrews.

¹⁴ Unfortunately, a version published in Dublin in March 1999 (and based on Cm 4292 of March 1999) confuses the position by having the BIA at the front and again at the back.

¹⁵ Cm 3883 of 1998, entitled: *The Belfast Agreement: an agreement reached at the multi-party talks on Northern Ireland*. This was voted upon in the referendum of 22 May 1998 in NI: Validation, Implementation and Review, para 2.

¹⁶ *Thoburn v Sunderland City Council* [2002] EWHC 195 (Admin) [2002] 3 WLR 247 DC, 279-83 per Laws LJ.

¹⁷ See Morgan, *The Belfast Agreement*, pp 113-6.

¹⁸ Essentially, the separate UK and Irish positions of 1993 and 1995 were added together, with important deletions in the latter.

but it is clear the UK did not concede that the Irish people (in two states) had a classical right of self-determination. This is evident in the idea of separate referendums in NI and the ROI, of two conditions precedent to a united Ireland and not simply a numerical majority in an all-Ireland vote.

Paragraph (vi) deals with citizenship. However, few realise that annex 2 of the BIA contains an important qualifying declaration by the two states parties. Evidently, the London and Dublin negotiators, when working on their constitutional understanding, did not have a full grasp of the limits of UK and Irish nationality law.

According to the UK, those born in NI became British citizens (though the birth rule changed in 1983). As for the ROI, there was no birthright in NI to Irish nationality. There was, under heavily retrospective 1956 domestic legislation,¹⁹ with an extra-territorial effect (to which London did not object), a peculiar descent rule. All those born in Ireland before 1922 (whether alive or dead) were deemed to be Irish citizens. A successor born in NI could acquire citizenship by descent. This descent rule seemingly expanded across generations with time.

I was born in NI to parents born in the old UK (of Great Britain and Ireland), have carried an Irish passport for most of my adult life, and am content to also consider myself a British (and European) citizen.

Paragraph (vi) does not give Irish nationality to NI Catholics for the first time. It, along with annex 2, acknowledges UK acquiescence in the extra-territoriality of Irish law since 1956. This is when the real change was made. An amending Citizenship Act in the ROI in 2001²⁰ was necessary because of the Irish constitutional changes. Unfortunately, the UK allowed the Irish to legislate a new tautologous birth rule by entitlement, which may have further extra-territorial implications.²¹

(3) The Declaration of Support in the MPA: "a new beginning" and reconciliation

This first section resembles a preamble to an international agreement. However, it refers only to the political parties and not to the two states parties. This is partly because paragraph 5 begins: "We acknowledge the substantial differences between our continuing, and equally legitimate, political aspirations." States do not have such political aspirations.

There is a reference to "a new beginning" in paragraph 1, but this would seem to resemble "a fresh start" in paragraph 2. That does not imply a legal constitutional revolution. The object of the MPA (?) is defined in paragraph 2 as "reconciliation, tolerance, and mutual trust", and in paragraph 5 as

"reconciliation and rapprochement within the framework of democratic and agreed arrangements."

(4) Constitutional Issues: two referendums

This section of the MPA has two paragraphs. The first is an endorsement of the constitutional understanding of the two states parties in article 1 of the BIA (but without any reference to annex 2). This endorsement has no additional legal effect.

Paragraph 2 introduces Annexes A and B to this section, proposed constitutional changes in respectively UK and Irish law. First, these are part of the MPA. Second, they are only annexes to a section. Third, the wording of paragraph 2 shows that they relate to government undertakings, politically conditional upon the MPA being agreed.

The legal status of Annexes A and B is to be found in article 4 of the BIA. Neither government agreed to change its constitution; that is a matter for Parliament in the UK and the people in the ROI. But constitutional changes were stated to be conditions precedent for the BIA entering into force (which it did on 2 December 1999).

Annexes A and B are not equivalent, despite references before and during the negotiations to balanced constitutional changes. The UK did little. It was the ROI which ended its territorial claim contained in articles 2 and 3 of its 1937 constitution.

Annex A contained two provisions: the so-called constitutional guarantee to NI; and the repeal of the Government of Ireland Act 1920.

The latter – the partition act – had been largely repealed in 1973. It was finally scrapped by section 2 of the Northern Ireland Act 1998, on 2 December 1999. Some provisions were re-enacted.

Section 75 of the 1920 Act, misunderstood by anti-agreement unionists as some sort of UK territorial claim to NI, was about parliamentary, and not territorial, sovereignty. Repeal did not affect NI's constitutional status as part of the UK. Nor did it affect Westminster's power to devolve functions to NI, and then to subsequently suspend the operation of the Assembly on four occasions to date.

The phrase "and this Act shall have effect notwithstanding any other previous enactment" was legally of no consequence. Later acts may expressly or impliedly repeal earlier enactments. This provision refers to a reverse process. The UK intention was to allow some nationalists to argue that, somehow, the 1800 Acts of Union was being repealed by the Northern Ireland Act 1998. They were not.

Section 1 of the Northern Ireland Act 1998 amounted to a shift in UK constitutional law. Parliament had applied the

¹⁹ Irish Nationality and Citizenship Act.

²⁰ Irish Nationality and Citizenship Act.

²¹ S 6(2)(a) of the 1956 Act as amended states: "a person born in the island of Ireland is an Irish citizen from birth if he or she does...any act which only an Irish citizen is entitled to do." It does not state

citizenship is acquired under a birth rule: note "from" and not "by". Citizenship would appear not to be a matter of law, but of administrative discretion. However, this will be determined, as regards NI, by the continuing descent rule, which survives through s 3 of the 2001 Act.

consent principle to Northern (and Southern) Ireland from 1920. In 1949, in the Ireland Act, Westminster stated that NI would not cease to be a part of the UK, without the consent of the NI Parliament. There was a similar so-called constitutional guarantee in 1972. In 1973, the law was changed to provide for the consent of the people of Northern Ireland.

The difference between then and now is that, while in 1949 the assumption was that NI would remain a part of the UK, in the Belfast Agreement the guarantee was extended to envisage an option of a united Ireland. What had been implied was made express. This is the effect of section 1(2) of the Northern Ireland Act 1998.

The UK constitutional change amounted to the incorporation of part of article 1 of the 1985 Anglo-Irish Agreement: the idea of introducing legislation at Westminster to provide for a united Ireland. However, a new condition precedent, a London-Dublin international agreement, is specified. This had not been in the 1985 Anglo-Irish Agreement. It is now in the Northern Ireland Act 1998.

The cession of territory from one state to another (an extremely rare act) has to be by international agreement. Another reason for such a London-Dublin agreement is: the possibility that the ROI might not vote for a united Ireland even if NI did so.²² The people of NI can no longer bring about a united Ireland on their own.

Such legal drafting did not mean a united Ireland by consent (even with two referendums) was a likely consequence of the Belfast Agreement.

However, an old idea, of Catholics eventually out-breeding Protestants, promoted by a few nationalist ideologues,²³ became almost an inevitability in minority culture. The hand was overplayed in the run up to the 2001 census. On 19 December 2002, the figures on the religious breakdown of NI were published. It was 53.13 per cent Protestants to 43.76 per cent Catholics, with 3.11 unallocated.²⁴ The expectation had been 46-47 per cent Catholic. One statistical estimate puts the sectarian split at: 55.5 per cent Protestant to 44.5 per cent Catholic.²⁵

The prospect of demographic parity lies in the medium term, if at all. Given the lack of complete fit ethnicity and politics, a united Ireland by democratic means is not necessarily achievable. It is an open question whether nationalists' chances, with the Belfast Agreement, will improve or diminish over time.

Annex B is much more important, and involved an Irish constitutional amendment by referendum. Its effect was to end

the Irish territorial claim. (By the way, the people of the ROI did not vote on the Belfast Agreement; only NI was so consulted.)

Articles 2 and 3, which had referred to the "national territory" as being the whole of Ireland, and to "the re-integration of the national territory", were scrapped.

Unfortunately, out of a desire to placate republicanism, the logic of the Irish constitution was disrupted with new articles 2 and 3. New article 2 referred to nationality, citizenship (already dealt with in article 9) and, strangely, the so-called Irish diaspora. New article 3, drawing upon suggested reforms over the years, contained unity by consent (with two majorities necessary), and the principle of peaceful means. Both articles referred to the Irish nation, which was described as having a "firm will" in article 3. The Irish nation would have been acceptable in the preamble to the constitution, or even a redrafted article 1 with no legal effect.²⁶

The new articles 2 and 3 failed to convince sufficient unionists, and this was compounded by republican spinning, encouraged by the Irish government, about essentially reformulating the irredentist claim to NI.

(5) *Strand Two: North/South Ministerial Council*

In the multi-party negotiations, Strand Two was balanced by Strand Three, dealing with east-west relations. This was a new development. The aborted Sunningdale agreement of 1973 had envisaged a more significant Irish dimension, than the one which emerged eventually on 2 December 1999. And the concept of north-south practical co-operation in the 1985 Anglo-Irish Agreement was not then balanced by any concept of a west European council of the isles (similar to the Nordic council).

To the bilateral North/South Ministerial Council ('NSMC'), unionists were able to retort: there would be a multilateral British-Irish Council ('BIC'); and even the bilateral British-Irish Intergovernmental Conference ('BIIC') with NI observers.

One difference must be acknowledged. The unionists cut back the number of north-south matters in the multi-party negotiations from 49 to nil. They agreed to a work programme to identify six implementation bodies and six areas of co-operation by 31 October 1998. These were eventually agreed between Belfast and Dublin on 18 December 1998. There was no similar provision for a work programme in Strand Three, though arguably the first paragraphs 5 and 10 of Strand Three allow for east-west arrangements of varying geometry.

²² I discuss the uncertainties in the cession of NI in Morgan, *The Belfast Agreement*, pp 144-5.

²³ Principally, Tim Pat Coogan and Brian Feeney, joined later by David McKitterick.

²⁴ *BBC News*, 19 Dec 2002. In terms of religious identification, it was 46 per cent Protestant to 40 per cent Catholic with 14 per cent declaring no religion. Seven per cent of the latter were allocated to

the Protestant category and four per cent to the Catholic one, with three per cent being unknown. It is possible that the seven per cent is an underestimate, the four per cent an overestimate, and many of the three per cent being more Protestant than Catholic ethnically.

²⁵ Garret FitzGerald, *Irish Times*, 21 Dec 2002.

²⁶ See Morgan, *The Belfast Agreement*, pp 151-3.

The point has been made about the Irish government, in alliance with NI nationalists, driving the NSMC since 2 December 1999. The answer is there is a unionist veto to all this activity. It is not the fault of the Belfast Agreement. Similarly, there are no limitations on the extent of the BIC and the BIIC (even given nationalist foot dragging and a lack of UK enthusiasm). It is to the credit of unionists, who are adverse to over-government, that they do not want to create pretence about a restoration of the old UK.

A great deal of ink was spilt providing for legislation in London and Dublin. The NSMC did not need Strand Two of the Belfast Agreement to be created, much less a supplementary London-Dublin agreement of 8 March 1999. It comprises ministers from a subordinate administration in the UK meeting with ministers of a sovereign neighbouring state, the ROI. Such activity is part and parcel of good neighbourly relations: Dublin ministers can do what they want; Belfast ministers must operate within the constitution of the UK.

The six implementation bodies, which account for tiny proportions of the budgets in Belfast and Dublin, are widely misunderstood. Again, legislation was talked about. So even was private contract law. Eventually, the bodies were created by another international agreement of 8 March 1999. They are treaty bodies, or international organisations. Legislation was only necessary to transfer domestic functions out of the two states. These international organisations represent the alienation of sovereignty by two states. The result is all-Ireland public bodies, but without unilateral interference by the ROI in NI. They are mutual. NI ministers share responsibility for what were once aspects of the domestic life of the ROI.

During the suspension which began in October 2002, questions were even being asked, by a unionist peer, at Westminster, about rivers in the ROI now under Waterways Ireland. The UK government had to answer these questions, though some officials in Dublin (and NI) were clearly uneasy about what appeared to be a partial restoration of the old UK.

(6) The Rights, Safeguards and Equality of Opportunity section

This is divided into two subsections: human rights and economic, social and cultural issues (sic). While nationalists emphasise the constitutional aspects of the Belfast Agreement plus the NSMC, it was secular radicals (some of whom would take the same position regardless of the state in which they resided) who have read into the loose drafting of this section many of their own aspirations.

In the human rights subsection, the new Northern Ireland Human Rights Commission ('NIHRC'), based upon the controversial Committee for the Administration of Justice, which had promoted its own draft bill of rights in 1993, was required to be consulted and then to advise the UK government on the scope for defining in Westminster legislation rights supplementary to the European Convention on Human

Rights.

Though the UK state discharged its obligation under the first paragraph 4 of this section of the Belfast Agreement on 24 March 1999, the NIHRC has continued to campaign for its bill of rights.²⁷ In doing so, it has shown its dependence ultimately upon republicanism.²⁸ A bill of rights is one of the things Sinn Féin says the UK still has to deliver. The UK and Irish governments are known to be opposed to any such NIHRC bill of rights. Indeed, a Northern Ireland Office minister, Des Browne MP, wrote to the NIHRC on 22 November 2001, effectively rejecting what was proposed.²⁹

The first paragraph 9 of this section is extremely important. Though the Belfast Agreement is a bilateral treaty, the ROI has very few obligations under it. Most of them are concentrated here: "comparable steps by the Irish government". These include "strengthen[ing] and underpin[n]g the constitutional protection of human rights" to "at least an equivalent level protection...as will pertain in Northern Ireland." The Irish government has introduced a European Convention on Human Rights Bill. However, the fifth anniversary of the Belfast Agreement may be reached without legislation. This bill – only partly modelled on the UK's Human Rights Act 1998 – would not, if enacted, meet the requirements of the Belfast Agreement.

Nationalists have made little if any effort to ensure mutuality on the part of the two states parties. The Irish government has been tardy about its obligations. But it has joined Sinn Féin and the SDLP in continually demanding of the UK that it fully implement the agreement.

The first paragraph 10 of this section provides for a joint committee between the NIHRC and a similar body in the ROI. Again, nationalists see this as another instance of all-Irelandism, even though these two bodies needed no such sanction to meet. However, this is not seen by the NIHRC as an example of human rights internationalism (involving a similar interest in Great Britain). It is seen as an aspect of a new constitutional arrangement where NI, on the basis only of paragraph 1(v) of the BIA, is seen as an entity in transition from the UK to the ROI.

(7) Decommissioning

The Belfast Agreement required all paramilitary organisations to decommission their weapons by 22 May 2000. Even if it had not, there is an argument that the principle of legality (in the absence of express exception), in both international and domestic law, could be read into the Belfast Agreement.

The loyalist paramilitary organisations (one of which did begin voluntarily to decommission on 18 December 1999) are not in issue here. Only one of them has (two) representatives in the NI Assembly. Neither of these members is, or has a hope of becoming, a minister in the devolved administration.

²⁷ I have detailed this in "What Bill of Rights?", (2001) 52: 3 & 4 *Northern Ireland Legal Quarterly*, p 234.

²⁸ *Irish News*, 5 Feb 2003.

²⁹ Letter in the House of Lords' library.

Not so Sinn Féin, which had two ministers from 2 December 1999. Having refused to decommission before then, the republicans continued to do so afterwards. All sorts of spurious arguments were tried. With the Belfast Agreement limping badly, they were forced to decommission on two occasions. However, there was a complete lack of transparency. The fourth suspension in October 2002 was occasioned by a number of incidents allegedly involving republicans: the training of FARC narco-terrorists in Colombia; the raiding of police special branch in Belfast; and the spying on Northern Ireland Office ministers.

(8) Policing and Justice

This section may be the undoing of the Belfast Agreement. It provided for the UK government establishing an independent commission on policing (which Chris Patten, the former governor of Hong Kong, chaired) and a review of the criminal justice system (an inside job performed by civil servants). UK ministers rapidly discharged these obligations.

Reports were published respectively in September 1999 and March 2000. The UK government had only promised in paragraph 6 to discuss implementation of the recommendations. In domestic law, ministers could not fetter their discretion. The response of nationalist Ireland was: implement Patten in full and much the same for the criminal justice review, though it excited very little public attention.

Legislation followed: the Police (Northern Ireland) Act 2000; and the Justice (Northern Ireland) Act 2002. The SDLP went on the new policing board, with the support of the Irish government. Sinn Féin still wanted to implement Patten in full, and, at Weston Park in July 2001, further legislation on policing was promised. A second bill was introduced in Parliament in December 2002. In February 2003, Sinn Féin was still arguing that it was not enough.

They claimed that "a new beginning", used in paragraph 1 of this section, meant essentially what they wanted it to mean as regards policing.

Conclusion

The Belfast Agreement, more significant legally than the 1993-94 Oslo accords, even if the middle east is a global trouble spot of considerably more concern than NI, is, or should be, of interest to *inter alia* diplomats, practitioners and experts engaged in trying to solve persisting ethnic and other crises, particularly through the drafting of international instruments.

I would recommend the study of the Belfast Agreement. It may be accessed readily via the internet: www.nio.gov.uk/issues/agreelinks/agreement.htm.³⁰ However, I would also advise studying the implementation of the Belfast Agreement, in the transition from 10 April 1998 to 2 December 1999, and then during the period of devolution interspersed with (to date) four suspensions by the UK government. The transition from terrorism to democracy is something many governments, not just those in London and Dublin, desire. However, in looking to the Belfast Agreement as a possible model, readers should ask themselves an important question. NI is undoubtedly a better place because of the absence of republican warfare. But have the UK and ROI created a greater problem, by giving revolutionary nationalists an opportunity to advance their cause of a united Ireland through the continuing destabilisation of NI?

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³⁰ I would also recommend the Mitchell draft paper of 6 April 1998, the first version of the Belfast Agreement produced by essentially

the two governments for the political parties of NI: www.nuzhound.com/articles/mitzdraft.htm.