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Towards a New Relationship

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ABSTRACT. Growing institutional cooperation between the Republic of Ireland and the United Kingdom, initially explicitly directed at resolution of the Northern Ireland conflict, has taken the form of three parallel institutional structures. First, an Anglo-Irish (later, British-Irish) Intergovernmental Conference has dealt with matters relating to the government of Northern Ireland in areas to which power is not devolved, and with certain other 'sovereign' matters. Second, a British-Irish Council links not just the two sovereign governments but also the devolved institutions in Scotland, Wales and Northern Ireland and the crown dependencies of Jersey, Guernsey and the Isle of Man. Third, a matching British-Irish Parliamentary Assembly provides common ground for representatives of the legislative bodies of the same jurisdictions. The paper tracks the evolution of these structures, and assesses the significance of the new institutions for the British-Irish relationship.

Keywords: British-Irish relations, Northern Ireland, inter-parliamentary relations, ethnic conflict.

Introduction

The widely-hailed improvement in British-Irish relations in the early twenty-first century was at its most visible in the public domain, symbolised in such events as the state visit of Queen Elizabeth II in 2011. But behind this lay a pattern of growing institutional links, ones that appeared calculated to reverse the steady severance of Irish links with Great Britain that was a feature of constitutional development for more than two decades after the creation of the state in 1922. This paper aims to explore these new links and to set them in political context. The new institutions were initially part of an effort to find a settlement in Northern Ireland, but it is striking that, in varying degrees, they have acquired a life of their own, as they seek to develop new relationships between jurisdictions. The following sections examine in turn three of these – the British-Irish Intergovernmental Conference, the British-Irish Parliamentary Assembly and the British-Irish Council – and a last section evaluates their impact.

The British-Irish Intergovernmental Conference

In reviewing the institutional aspects of the British-Irish relationship, it is worth recalling a long-standing differentiation between arenas of policy responsibility in multi-tier governments. Up to 1922, UK rule in Ireland operated at two levels. Some government departments, such as the Foreign Office, the Post Office and the War Office, were defined as 'imperial' ones, and, where they had staff in Ireland, this was managed by relevant London-based cabinet ministers. Other departments, such as the Board of National Education, the Department of Local Government and the Department of Agriculture and Technical Instruction, were defined as 'Irish', and were managed directly or indirectly by another minister, the Chief Secretary for Ireland. The difference went further than administrative distinctiveness (Coakley, 2010). Areas which were the responsibility of 'Irish' departments (which were very extensive, affecting all aspects of everyday life) were governed by separate 'Irish' legislation – laws enacted by the UK Parliament, but designed exclusively for application in Ireland. The others were governed by UK-wide legislation. This distinction corresponds to the classic division in federal constitutions between areas that are the responsibility of the federation, such as foreign policy and defence, and those that are the responsibility of the sub-federal units, such as education and policing (Wheare, 1966: 34-38).

This distinction was observed in the various Irish Home Rule bills and in subsequent devolution measures in Northern Ireland, Scotland and Wales. Thus, the Government of Ireland (Home Rule) Acts of 1914 and 1920 and the Northern Ireland Act of 1998, which implemented the terms of the Good Friday agreement, distinguished between 'excepted' powers, where responsibility would remain in London (essentially, the domains of the old 'imperial' departments, corresponding to federal jurisdiction in federations), and 'transferred' powers, where responsibility was handed over to devolved institutions (essentially, the domains of the old 'Irish' departments, corresponding to the jurisdictions of the component units of federations). A third category was also recognised: 'reserved' powers, not transferred to the devolved institutions but available for potential transfer in the future, such as control of the Royal Irish Constabulary in the Government of Ireland Act, 1914, and of responsibility for policing in the Northern Ireland Act, 1998 (Hadfield, 1988: 52-54).[1]

Much of the history of the Irish Free State comprised an effort to gain control not only over the kinds of 'transferred' powers that were features of all Home Rule measures, and of the 'reserved' powers; the Irish government also chipped away at 'excepted' areas until control over practically all had been secured by Dublin. Two residual 'excepted' matters survived even after the 1937 constitution came into force: the Office of Arms (established in 1552 and responsible for state ceremonial and heraldic and genealogical matters) and the Commis-

sioners of Irish Lights (dating from 1786 and responsible for maintaining lighthouses around the coast of Ireland). Following the death of the last head of the Office of Arms, the Ulster King of Arms, its responsibilities were partly repatriated to London and partly vested in a new office, that of Chief Herald of Ireland, in 1943 (Hood, 2002: 160-164). The Commissioners of Irish Lights survived threatened restructuring in 1922 and 1998, continuing as a stand-alone, 32-county agency entirely independent of the post-1998 North-South structures.

The new wave of more formalised British-Irish cooperation was driven by efforts to resolve the Northern Ireland conflict, and progressed through four phases, marked by the FitzGerald-Thatcher summit of 1981, the Anglo-Irish Agreement of 1985, the Good Friday Agreement of 1998 and the St Andrews Agreement of 2006. The FitzGerald-Thatcher summit of 6 November 1981 was the third in a series that had been initiated 18 months earlier, designed to promote an intergovernmental approach to resolving the Northern Ireland conflict (Moore, 2013: 595-597, 601-607, 617-619). It endorsed a set of 'joint studies' prepared by British and Irish civil servants, who proposed a three-pronged approach. First, there would be a council that would meet at head of government, ministerial and official level to discuss all matters of common concern, 'to contribute to the achievement of peace, reconciliation and stability and to the improvement of relations between the peoples of the two countries'. Second, it was suggested that consideration be given 'at an appropriate moment' to the establishment of a parliamentary tier linking the two parliaments. Third, the creation of an 'Anglo-Irish encounter' organisation was proposed; this would organise joint conferences and might in time evolve into an advisory committee on economic, social and cultural cooperation, similar to the Benelux Economic and Social Advisory Council or the European Community's Economic and Social Committee (Ireland, 1981: 13, 15, 17).

The parliamentary tier is discussed in the next section. The civil society tier made limited progress. Anglo-Irish Encounter was established in 1983, and continued to organise meetings alternating between Ireland and the UK for some years. It was modelled on the Königswinter Conference that has taken place annually since 1950; this brings together politicians, diplomats, business managers, academics and journalists from Britain and Germany for 'a profound exchange of ideas' (Deutsch-Britische Gesellschaft, 2013). But Encounter was operating on a terrain already occupied by an older voluntary body established in 1972, the British-Irish Association, which established a Königswinter-style programme of annual meetings that survives to the present (British Irish Association, 2013). Although Encounter organised an important series of conferences over the years, the civil society tier envisaged in 1981 never emerged.

The intergovernmental tier was the major outcome of the FitzGerald-Thatcher summit. An Anglo-Irish Intergovernmental Council was established, but it got off to a shaky start. The two governments had disagreed on the handling of the hunger strikes of 1981 and on the priority to be given to the pursuit of an internal settlement within Northern Ireland, and the decision of the new Haughey government not to support the British during the Falklands/Malvinas war in 1982 generated long-standing resentment in London (Arthur, 2000: 177-178). It was on the occasion of the second meeting of the Council at prime ministerial level in November 1984 that Thatcher famously dismissed the recommendations of the New Ireland Forum. Nevertheless, the relationships built up both within and outside the framework of the Council enabled politicians and officials from the two sides to come together to seal a more ambitious intergovernmental deal, the Anglo-Irish Agreement of 1985.

The 1985 agreement ushered in a new institution under the framework of the Intergovernmental Council: an Anglo-Irish Intergovernmental Conference with a much tighter focus. This was centrally (but not exclusively) concerned with Northern Ireland and with relations between the two parts of the island of Ireland, especially in respect of political, security and legal matters, where a detailed reform and equality agenda was spelt out. Rather than being merely given a voice, the Irish government would have the right to put forward views and proposals on the internal affairs of Northern Ireland and, in the event of disagreement between the two sides, 'determined efforts shall be made through the Conference to resolve any differences', though ultimate British responsibility for Northern Ireland would remain unaffected. The Conference would meet 'on a regular basis' at ministerial or official level (in the former case, headed normally by the Secretary of State for Northern Ireland and the Irish Minister for Foreign Affairs), and, importantly, it would have a standing secretariat comprising civil servants from the two jurisdictions. This was duly set up in a heavily defended building in Maryfield, in the Belfast suburbs.

The immediate consequences of the agreement were mixed. Paul Dixon (2008: 208-209) suggests that the British government had been 'out-negotiated' by the Irish. But, while the Irish side could eventually point to the achievement of more equal treatment of Catholics with respect to policing of marches, flags and emblems, employment and public appointments, problems in the areas of the administration of justice, police reform and security policy remained unresolved (Todd, 2011: 58-59).[2] The British side in general saw the agreement as failing to deliver on its promise (Dixon, 2008: 208-209; Bew, 2011: 48). As Eamonn O'Kane (2007: 92-96; 2011: 34-36) points out, though, it is extremely difficult to evaluate an agreement when the objectives of the parties to it cannot be readily identified.

The long-term indirect effects of this initiative appear to have been more important than its direct achievements. While senior negotiators (notably Taoiseach Garret FitzGerald) argued that it was a mechanism for demonstrating the potency of constitutional politics and thus marginalising Sinn Féin, it has been plausibly argued that it was signed 'as part of a jointly designed British and Irish Machiavellian master-plan to coerce unionists into accepting a power-sharing devolved government together with an Irish dimension' (O'Leary and McGarry, 1996: 238). It seems indeed to have eventually encouraged Sinn Féin and the IRA down a more political path (McLoughlin, 2014). It certainly offered a powerful incentive to unionists, who had been holding out against power sharing, to enter the negotiation process. They were outraged by the agreement, which their leaders saw as compromising Northern Ireland's position in the United Kingdom, but it at least provided a mechanism for undermining the agreement itself: the Conference would have a role to play only in areas that were not the responsibility of a devolved government. Securing the return of a Northern Ireland administration (even though this would inevitably be based on the principle of power sharing) thus offered the only chance for unionists to overturn the provisions of the Anglo-Irish agreement.

The Good Friday agreement did not sweep away the Anglo-Irish Intergovernmental Conference; it created a new British-Irish Intergovernmental Conference, which would 'subsume' the existing Anglo-Irish Conference and Council. Its non-threatening image was reinforced by the fact that instead of operating in fortress-like conditions outside Belfast like the old Anglo-Irish secretariat, the British-Irish secretariat was based in an office building in central Belfast. The composition of the Conference was broader than that of the old Anglo-Irish Conference: crucially, while the two governments are defined as the major actors (with decision making by agreement, but with a commitment by both governments to 'make determined efforts to resolve disagreements'), meetings are to be attended also by 'relevant executive members of the Northern Ireland Administration'. By thus involving northern unionists and nationalists, the nature of this forum was changed fundamentally from its predecessor under the Anglo-Irish agreement, at least in theory.

A formal basis for the new institution was laid by a British-Irish treaty on 8 March 1999 (Department of Foreign Affairs, 1999b), almost a year after the Good Friday agreement, and it finally came into existence at the same time as the other institutions on 2 December 1999. The Conference's first meeting in London on 17 December 1999 was attended by Prime Minister Blair, Taoiseach Ahern, senior British and Irish ministers and, significantly, the First and Deputy First Ministers of the Northern Ireland Executive (the only such meeting that they attended). Although it was planned that a further meeting at summit level would take place within months, only one other such meeting took place, and that was more than five years later, in June 2005. The initial summit also envisaged a ministerial-level meeting in January

2000, but in fact no further meeting took place while the devolved institutions were up and running in Belfast. Following what would turn out to be a prolonged suspension of the institutions on 14 October 2002, however, the first meeting of the Conference at ministerial level took place, on 22 October 2002 in Hillsborough. Between then and the restoration of devolution on 8 May 2007, a further 17 meetings took place at this level, necessarily in the absence of Northern Ireland ministers and thus avoiding potential political difficulties.[3]

The functional domain of the Conference is in principle very wide. Recognising the Irish Government's 'special interest' in Northern Ireland, the agreement gave it a voice on all non-devolved Northern Ireland matters, as well as 'all-island and cross-border co-operation on non-devolved issues', including security and policing. The mandate of the Conference was thus seen as extending over two areas that corresponded respectively with the 'excepted' and 'reserved' arenas discussed above (the remaining 'transferred' arenas were the responsibility of the power-sharing administration). As defined at the first summit, these were as follows:

- Matters of shared British-Irish interest: asylum and immigration (including the British-Irish common travel area), EU and international matters, social security (including methods of fraud detection), education, misuse of drugs, organised crime and money-laundering, and fiscal issues.

- Non-devolved Northern Ireland matters: all-island or cross-border matters, the question of human rights, policing (including implementation of the Patten Report), criminal justice, security (including cross-border security co-operation), the victims of violence, prisons, drugs and drug trafficking, and broadcasting (British-Irish Intergovernmental Conference, 1999).

The British-Irish Intergovernmental Conference has been described as 'a political retreat by the Irish government from the transformation in intergovernmental relations attained under the 1985 agreement', a retreat designed to enhance northern nationalist influence in the government of Northern Ireland (Fanning, 2005: 141-142). Indeed, the limited capacity of the Irish government to influence its British counterpart was exposed in February 2000, when the British suspended the devolved institutions against the strong wishes of the Irish side – by no means the only disagreement between the two governments at the time.

The St Andrews Agreement of 2006 had the effect of further reducing the role of the Intergovernmental Conference. By providing for the creation of an inclusive Northern Ireland executive to manage major devolved areas (which duly took office in 2007), and for the devolution of control over policing and justice (which eventually took place in 2010), it removed re-

sponsibility over these areas from the Intergovernmental Conference. While the Conference still has a function in respect of 'excepted' matters and in relation to residual 'reserved' matters, it no longer holds 'regular and frequent' meetings, as provided for in the Good Friday Agreement (indeed, it has not met since early 2007). Furthermore, with a widely-shared perception that the Northern Ireland conflict has been 'resolved', and new governments that had no involvement in the negotiation or implementation of the Good Friday agreement taking office in London (2010) and Dublin (2011), the momentum behind the conference seems to have evaporated. As well as a drop in staff numbers in its secretariat, the notion of a joint entity was compromised by the withdrawal of the British side of the joint secretariat in 2012 (its members returned to their old home in Stormont), leaving the Belfast office staffed only by the Irish side. Nevertheless, the secretariat continues to work on unresolved matters arising from the Good Friday Agreement, including organising quadrilateral meetings between the First Minister, Deputy First Minister, Secretary of State for Northern Ireland and Irish Minister for Foreign Affairs; and its pre-2007 role might again be asserted were the devolved institutions to collapse.

In a significant parallel development in 2012, Taoiseach Enda Kenny and Prime Minister David Cameron announced a reorientation of the British-Irish relationship, with the initiation of 'an intensive programme of work aimed at reinforcing the British Irish relationship over the next decade' (Department of the Taoiseach, 2012). An initial outcome was the publication of a detailed study of the economic relationship between the two countries (PA Consulting, 2013). This fed into the work programme of a new Permanent Secretaries and Secretaries General Group, bringing together senior civil servants from the two jurisdictions to plan an intensification of British-Irish cooperation (Department of the Taoiseach, 2013; McEwen, 2013). This fresh front in the British-Irish relationship cuts across the role of the British-Irish Intergovernmental Conference, and may well altogether sideline it.

The British-Irish Parliamentary Assembly

The last section looked at a set of institutions – the Anglo-Irish Intergovernmental Council, the Anglo-Irish Intergovernmental Conference, and the British-Irish Intergovernmental Conference – whose origins may ultimately be traced back to the 1981 and 1985 agreements. But, as discussed above, the 1981 summit proposed also that the establishment of a parliamentary tier be explored. This matter was not pursued in the tense political atmosphere of the early 1980s, during which the British placed their faith on incremental devolution through a new Northern Ireland Assembly by means of 'rolling devolution', while the main Irish political parties sought to develop an alternative blueprint for political progress through the New Ireland Forum. Some discussion did take place from 1983 onwards, however, between Irish

and British delegates to the Inter-Parliamentary Union, and the Anglo-Irish agreement of 1985 sought to give impetus to the process: the two governments agreed to support any joint body that might be established by the two parliaments. Finally, following the recommendations of a planning group under the auspices of the Inter-Parliamentary Union, headed by Peter Temple-Morris, a prominent Conservative MP, and Jim Tunney, Leas-Cheann Comhairle of the Dáil, it eventually came into being in February 1990 (see McKay, 1994; Taylor and Walker, 1997: 345-347).

As initially established, the new body consisted of 50 members, 25 from each parliament. It sought to maintain a balance between the political parties (with a dominant position occupied by the governing parties) and the regions (for example, three places were reserved on the British delegation for the Northern Ireland political parties, but only the SDLP took up its seat originally). A major change in the structure of the body arose from one of the provisions of the Good Friday Agreement, which proposed the creation of interparliamentary links between the member-jurisdictions of the British-Irish Council discussed below (there were eight such jurisdictions rather than the two represented in the British-Irish Interparliamentary Body). The Body's steering committee and a special working group invested considerable effort in seeking to marry this proposal with the existing structure; the main challenge was how to reconcile parity between the two sovereign states with adequate representation for the other members (British-Irish Parliamentary Body, 1998, 1999, 2000). Finally, it was decided not to replace the Body, but to add a further five members from each of the devolved parliamentary bodies (the Scottish Parliament, the National Assembly for Wales, and the Northern Ireland Assembly) and one each from the representative bodies of the three crown dependencies (the Tynwald of the Isle of Man, the States of Guernsey and the States of Jersey). This contrasts with the approach of a similar inter-parliamentary body, the Nordic Council, where four large countries initially had equal representation, but the later allocation of seats to three autonomous entities was at the expense of the countries of which they form part. Thus, while Sweden and Norway continue to have 20 members each, Finland has dropped to 18 (with two going to the Åland Islands) and Denmark to 16 (with two each to Greenland and the Faroes); Iceland accounts for the remaining seven members.

Continuity in personnel has made an important contribution to the expertise and standing of the body. Members are selected as long-term appointees, for the duration of their parliamentary session (alternates may replace full delegates who are unable to attend meetings). The main disruption is caused by general elections, which typically have a big impact on the composition of particular delegations. But the leadership of the body has been relatively stable. This was particularly noticeable on the UK side: in its first 15 years, only two people (Peter Temple-Morris and David Winnick) led the British delegation. Although the level of turno-

ver on the Irish side was greater, there were still striking elements of continuity in respect of personnel. Northern Ireland represented one difficulty. Unionist members of the Northern Ireland Assembly refused to attend initially, and while devolution in Northern Ireland was suspended (2002-07) the five Northern Ireland seats remained vacant. A watershed was reached in 2006 when a Democratic Unionist Party delegation attended the body's plenary in Killarney as visitors, but it was only in 2008 that a full Northern Ireland delegation took up its seats. At the same time, the body was upgraded to an 'Assembly', suggesting that it had achieved a more secure existence.

The consensus-seeking nature of the Assembly is underscored by the fact that members are seated in alphabetical order rather than by national or party designations (Armstrong and French, 2002: 3). In any case, there is a high level of party fragmentation; in 2013 its 67 members included 15 Conservative, 12 Fine Gael, 11 UK Labour, five Irish Labour, four Liberal Democrat, three Fianna Fáil, three Sinn Féin and two Ulster Unionist members, together with one each of four other parties (the Scottish National Party, Plaid Cymru, the Democratic Unionist Party and the Social Democratic and Labour Party), and eight assorted independents (a cross-bench peer, an Irish senator, two Dáil deputies, an independent unionist from Northern Ireland, and the three crown dependency representatives). This contrasts with the Nordic Council, where ideological divisions cut across member parliaments, and are of some significance for political debate (Qvortrup, 2001: 32). In November 2013, its 87 members included 25 Social Democratic, 23 Centre Group and 21 Conservative delegates, together with eight Left Socialist-Green, six Nordic Freedom and four unaffiliated representatives.[4]

The Assembly has followed a regular pattern of biannual plenary meetings, alternating between Ireland (each spring, normally) and the UK (autumn). Of the 47 meetings that had taken place by the end of 2013, 24 took place in Ireland (typically rather far from Dublin, at venues such as Killarney, Clonakilty and Bundoran); 16 took place in England (typically in a regional venue rather than London); three in Scotland; two in Wales; and historic 'firsts' were recorded when the body first met in Belfast (2006) and in the Isle of Man (2010). At each meeting, a senior minister outlines government priorities relevant to the work of the body and answers questions that can sometimes be quite pointed politically. When the meeting is being hosted in the UK, the Secretary of State for Northern Ireland usually attends; in Ireland, the Minister for Foreign Affairs usually represents the Government, but is occasionally replaced by the Taoiseach or by another minister. While the Assembly has no legislative role and a strictly limited advisory one, it thus constitutes an important forum in which parliamentarians from one jurisdiction can formally question ministers from the other jurisdiction. As well as formal dialogue during plenary sessions, meetings of the Assembly (whose agenda typically extends over a day and a half) offer an important opportunity for informal network-

ing. This useful function is compatible with the underlying intention that the body would 'promote mutual understanding and respect between members of the two parliaments', so that 'the social side of the body has been almost as important as the parliamentary side' (Cranmer and Roycroft, 2000).

The business of the Assembly was originally managed by a six-person steering committee, comprising three from each parliament (this was enlarged after 2000 to take account of the new member jurisdictions). Two sectoral committees were up and running by the end of 1990, and two others were planned (Shanahan, 1990). Since the latter came into existence in 1991, the committee structure has remained unchanged, apart from a renaming of each committee in 2000 to take account of enlarged membership and to reflect their actual priorities more accurately. They cover the following areas:[5]

- Committee A (Sovereign Matters): this was particularly significant in the early years, since monitoring the Anglo-Irish agreement was part of its remit. It has had a special interest in policing and security matters and, because of the sensitivities of the area, has produced few written reports. Unlike the other committees, its composition after 2000 was confined to representatives of the two sovereign parliaments.

- Committee B (European Affairs): this has focused on the various EU programmes that played a cross-border role, including the peace and regional aid programmes. Topics of interest have included the common agricultural policy, cross-border trade, transport links to and from the island of Ireland, EU funding for social deprivation, and matters relating to migrant workers.

- Committee C (Economic): the agenda of this committee has been very wide-ranging, including a focus on economic regeneration especially in Northern Ireland and the Irish border counties, and on North-South economic links. It has also considered such issues as tourism, pensions and benefits, the work of the International Fund for Ireland, and the challenges facing the small business sector.

- Committee D (Environment and Social): this has focused on the environmental dimension, with the nuclear energy plant at Sellafield attracting particular attention on the part of Irish members. More recently, it has addressed such issues as waste management, the integration of migrant workers, and the Irish in Britain.

The work of the committees consists not just of internal discussions but also meetings with officials, community representative and others. Between them, the committees have prepared an impressive number of reports for presentation to the governments and for other

purposes. The Assembly web site lists 31 reports produced since 1999 (almost half of them by committee D), and 20 formal responses to these by governments.[6] At a minimum, they have helped to inform the policy process and, in particular, to sensitise members from different jurisdictions to the cross-jurisdictional complexities of many of the matters on the agenda.

Early assessments of the British-Irish Parliamentary Body judged it to be a useful but unexciting initiative. Buckland and Cox (1995) saw it as no better and no worse than a typical parliamentary committee, a finding that was echoed by Qvortrup and Hazell (1998: 14-16). One more positive assessment concluded that, although it lacked a clearly defined remit, and its plenary resolutions and committee reports were 'modest and tame', it wisely adopted a low-key approach; the very fact that expectations about its output and impact were so low meant that its contribution was not seen as disappointing, and it played 'a very important symbolic role in providing a public display of co-operation between two national parliaments' (Taylor and Walker, 1997: 358-359). The body's very survival is testimony to the fact that it has found a useful niche for itself.

The British-Irish Council

Like the Conference and the Parliamentary Assembly, the new British-Irish Council was conceived initially in response to the Northern Ireland conflict, and has been a central part of 'strand three' of the Good Friday Agreement. But it also played a more narrowly political role: it was designed to make the 'Irish dimension' in the agreement more palatable to unionists by providing also a 'British dimension' that would be less palatable to nationalists (Walker, 1999; Fanning, 2005: 135). This focus on Northern Ireland explains why securing the assent of Northern Ireland's parties to the new arrangements took precedence over getting the approval of the other jurisdictions; indeed, the governments of Jersey and Guernsey were unaware that their inclusion in this body was planned until the matter had been incorporated in the Good Friday Agreement (Qvortrup and Hazell, 1998: 19).

The idea of a council of this kind had from time to time been suggested as a mechanism for discussing matters of shared interest in the islands (Graves, 2007). In 1995, for instance, two observers had suggested adapting the Nordic model by creating a 'Council of Islands of Britain and Ireland' linking a 'demilitarised' Northern Ireland with the Republic, Scotland, Wales and England (Kearney and Wilson, 1997). This idea was long associated with Ulster Unionist leader David Trimble, but it was not too objectionable to nationalists, one of whom privately described it as 'necessary nonsense', echoing Brian Faulkner's dismissal of the Council of Ireland agreed in 1973 (Godson, 2004: 340). There were other models of cross-national co-operation, such as the Baltic Conference, the North Sea Commission and the European

Danube Commission, not to mention the many summarised in the acronyms NAFTA, APEC, MERCOSUR and ASEAN (Qvortrup, 2001: 27). But the perceived success and visibility of the Nordic Council, and the manner in which it linked sovereign jurisdictions and autonomous regions, enhanced its attractiveness to the British-Irish case (Fanning, 2005; Qvortrup and Hazell, 1998; Bogdanor, 1999; Winetrobe, 2000; Walker, 2001). In fact, it is the British-Irish Parliamentary Assembly, which featured little in this debate, that is modelled on the Nordic Council; the British-Irish Council resembles more closely a distinct but related body, the Nordic Council of Ministers.

This new initiative risked falling foul of a parallel development, the establishment in 1999 of a Joint Ministerial Committee to link the British government with the political leadership of the three new devolved administrations. This new body was to meet in plenary format (involving the heads of the British, Scottish, Welsh and Northern Irish governments) and in functional or sectoral format (to deal with specific policy areas). Its terms of reference were wide (United Kingdom, 2001). It was envisaged that functional meetings would cover such areas as health, the knowledge economy, poverty and the EU. Following an early flurry of activity, though, the number of meetings declined, mainly because of the relatively smooth relations then existing between the four administrations (Trench, 2001: 154-156). By mid-2004, there was speculation that this initiative would simply wither away, since meetings had become infrequent, and the three plenary meetings that had taken place (2000-02) had had 'a ritualistic air' (Trench, 2004: 514). But as the four administrations began to diverge politically, the need for inter-jurisdictional discussion again became apparent. The outcome was that the committee system was revived and overhauled after 2007, now with a simpler structure – a general-purpose 'domestic' committee and a particularly active 'European' one, alongside plenary meetings (Gallagher, 2012: 201). Officials familiar with the operation of both structures perceive Joint Ministerial Committee meetings as more free-flowing and robust than the more scripted, consensual work of the British-Irish Council.[7]

The British-Irish Council was given a formal basis by a British-Irish agreement on 8 March 1999 (Department of Foreign Affairs, 1999a). It comprises the heads of government of the eight jurisdictions (the British prime minister, the Taoiseach, the first ministers of Scotland and Wales, the first and deputy first ministers of Northern Ireland, and the chief ministers of Guernsey, Jersey and the Isle of Man). Its plenary meetings are attended by other ministers, and its work is conducted by specialist groups made up of ministers and officials. The Council did not originally have a standing secretariat, but was assisted by civil servants in the Department of Foreign Affairs in Dublin and in the Cabinet Office (and later in other government departments) in London. Its development was influenced by events in Northern Ireland. The St Andrews Agreement of 2006, as part of a complex set of quid-pro-quo compromises, rec-

ommended that 'with a view to giving further impetus to its work, the two Governments would facilitate the establishment of a standing secretariat for the British-Irish Council', subject to agreement by its members. A review committee of the Council saw merit in this, and finally, in February 2012, this was established in Edinburgh. The secretariat currently has a staff of six: UK and Irish joint heads, three policy officials from the Scottish, Welsh and Northern Ireland governments, and an office manager provided by the Scottish government.

The formal launch of the Council was delayed by outstanding political difficulties in Northern Ireland. Finally, once devolved government was reintroduced in Northern Ireland on 2 December 1999 the new body came into legal existence, and held its first summit in London on 17 December 1999. The Council has since met regularly at summit level, even while devolution was suspended in Northern Ireland.[8] Initially, it met annually (1999-2007), but since 2008 it has met twice yearly, each spring and autumn, with minor variations. By the end of 2013, a total of 21 summit meetings had taken place – three each in Ireland, England, Scotland, Wales and Jersey, and two each in Northern Ireland, Guernsey and the Isle of Man. Strikingly, all of these were high-powered as regards attendance, with the prime minister (or chief minister, or first minister, or equivalent) normally heading the respective delegations, and other senior ministers also present (the British prime minister is an exception, having attended only a quarter of all meetings). Alongside these, more than 30 ministerial meetings have taken place, as well as many more at official level.

Summit meetings normally focus on the work of specialist groups. The very first summit devised a work programme under which responsibility for selected policy areas was allocated to particular governments. The 14 areas on which the Council has focused (including three on which work was concluded in 2008) are listed below. In each case, the government responsible, the period during which work has been proceeding and the number of ministerial meetings, if any, is indicated:

1.   Misuse of substances (Irish government, 1999-; eight ministerial meetings): mechanisms for tackling the misuse of drugs and meeting the challenges posed by drug use

2.   Social Inclusion (Scottish and Welsh governments, 1999-; five ministerial meetings): approaches to reducing barriers to access to services and to participation in the community

3.   Environment (UK government, 1999-; 12 ministerial meetings): sustainable development, marine management, pollution and waste management, and problems arising from invasive species and other environmental hazards

4. Transport (Northern Ireland Executive, 1999-): planning of structures to deal with physical communications, including road safety, transport networks and ferries; two subgroups deal respectively with accessible transport and sustainable transport

5. Knowledge economy (Jersey, 1999-2008): responses to the threat posed by criminal attacks and natural disasters to the sustainability of business (work concluded in 2008 with a set of guidelines on good practice)

6. Tourism (Guernsey, 2001-2008): matters with implications for tourism, including quality standards, training, emerging markets in Asia and the implications of crisis management (work concluded in 2008 as it had 'arrived at its natural end')

7. Health: telemedicine (Isle of Man, 2001-2008): capacity of telecommunications technology to assist remote diagnosis and treatment of patients (work concluded in 2008 because developments at EU level were seen as superseding this)

8. Indigenous, minority and lesser-used languages (Welsh Government, 2002-; two ministerial meetings): support for the varied linguistic heritage of the Council's member administrations, with attention to Irish, Welsh, Scots Gaelic, Scots, Ulster Scots, Manx, Jèrriais, Guernèsiais and Cornish

9. Demography (Scottish government, 2006-; one ministerial meeting): consequences of population movement and migration, changing age structure, the growing elderly population and student flows

10. Early years policy (Welsh government, 2008-): policy on early childhood, dealing with physical, cognitive, social and emotional development

11. Energy (UK and Scottish governments, 2009-; one ministerial meeting): exploitation of renewable energy resources to generate electricity (Scottish government); renewable energy trading and electricity grids (UK government)

12. Digital inclusion (Isle of Man, 2009-): problems of uneven access and the link between digital and social exclusion; attempts to identify common areas and themes through comparison of statistics, policy and strategy

13. Housing (Northern Ireland Executive, 2009-; two ministerial meetings): supply and allocation of social housing, housing benefit issues and affordable housing

14. Collaborative spatial planning (Northern Ireland Executive, 2009-): role of spatial planning and of development strategies across borders.

The new institutions were launched in a mood of optimism. It was said of the British-Irish Council that it 'has gripped the imaginations of many people in these islands' (Walker, 2001: 139). Some observers were sceptical of its potential contribution in domestic UK matters, given the existence of competing intergovernmental structures (Hazell and Morris, 1999: 139-140). Another acknowledged that while the Council might prove to be 'just a distraction' or a 'talking shop', it might also evolve into a forum for the political expression of 'the inter-twined links between the Western isles of Europe', from which might emerge 'a different and non-exclusivist expression of allegiance' (McQuaid, 2002: 117-118). Others, as discussed below, identified a menu of possibilities, ranging from institutional collapse to the emergence of confederal-type structures (Lynch and Hopkins, 2001: 757-758). For many of those in-volved, though (including in particular senior British politicians), its substantive function was unclear, and its early progress had been unnecessarily delayed by the very people who had called it into existence, Northern Ireland unionists.[9]

Assessing the British-Irish institutions

In evaluating the contribution of the British-Irish institutions, we may begin by looking at the impact of these bodies on public consciousness by gauging the extent to which they feature in news reports, if only from an Irish perspective. Figure 1 records the number of times each of the three institutions discussed here was mentioned in the *Irish Times* over the period 1998-2012. For comparative purposes, a fourth institution created by the Good Friday Agreement is added: the North/South Ministerial Council, charged with oversight of North-South cooperation. The profile of the two councils follows the same distinctive curve: they attracted a great deal of attention initially, and this continued in the years immediately after the Agreement, though at a declining rate, as various implementation issues were threshed out. They reached their nadir in 2003, after devolution in Northern Ireland had been sus-pended, but enjoyed a new lease of life in 2007, with the restoration of devolved government there. The profile of the Conference has been much lower, and declined further after 2007, as its zone of jurisdiction was whittled away. The parliamentary body attracted modest atten-tion from the outset, and continued more or less at this level. Three considerations help to account for the relatively low profile of the bodies: restricted jurisdictions, limited budgets and structural asymmetries.

[Figure 1 about here]

The first obvious point has to do with the functions which the various bodies discharge. As the discussion above shows, each is associated with a formidable list of areas. The Intergov-ernmental Conference is by far the most significant; it is in theory a forum in which either

government can put forward policy positions, and the other government has committed itself to working to achieve agreement should this be absent. The range of areas over which the conference has jurisdiction, once extraordinarily broad, has shrunk since 2007, but the central dilemma is not so much the restricted policy sector as the asymmetry that results from the fact that sovereignty is vested in the government of the state in question, so that in Northern Ireland matters the British government makes the ultimate decision. In the case of the British-Irish Council and the Parliamentary Assembly, the role of the bodies is explicitly consultative only. They may draft reports and make recommendations, and their members may acquire a more profound and balanced understanding of the issues; but there is no way of ensuring that their contributions have an impact on policy.

Second, none of the bodies has a significant budget; the small allocation made to each is designed to cover only its own running costs, with little available over and above this. Since salaries and expenses are borne by member components, it is difficult to arrive at overall cost estimates. Thus, the British-Irish Council reported direct expenditure of £61,000 for 2012, and expenses for the British component of the Parliamentary Assembly amounted to approximately £170,000. The true costs, allowing for the time of those involved, would be much higher; but there is no general purpose budget. By contrast, the institutions of the Nordic Council have a considerable budget, levied on the member states on the basis of their gross national product. In 2010, this came to 940m Danish kroner (about €126m).[10] This allows the Nordic Council to maintain a very visible presence, and to support a range of influential cultural and other institutions.

[Figure 2 about here]

Third, the most important consideration in explaining why the various British-Irish institutions have not flourished and, indeed, why it took so long for them to appear, especially by contrast to their Nordic counterparts, has to do with the utterly different structure of the two areas. As an early comparison pointed out, cooperation of this kind is easier in the Nordic area because of shared cultural features (including religious tradition and political ideology), the existence of substantial civil society support for the institutions, and the similarity in size of the main member states (Qvortrup and Hazell, 1998: 16-17). In the British-Irish context, however, six of the eight entities are dependencies or autonomous areas of one large state, a seventh is a former part of that state, and the remaining jurisdiction is a major post-imperial power. The dilemma is expressed graphically in figure 2. In an ideal geopolitical context for institutional cooperation, all eight bars would be of equal size. But the largest member of the British-Irish institutions, the UK, accounts for 93% of the population and at least an equivalent share of other resources; the largest member of the Nordic institutions, Sweden, ac-

counts for less than 37% of the population, with three others accounting for about 20% each, a level of similarity that facilitates cooperation.

In evaluating the three institutions, it is important to begin with the purpose for which each was designed. To the extent that this was resolution of the Northern Ireland problem (the consideration that led to the launch of each), the record is mixed. We may assume that the shared objectives of the two dominant players, the British and Irish governments, were similar: to procure peace in Northern Ireland, underpinned by domestic, shared government and acceptance for the indefinite future of the status of Northern Ireland as a detached, bi-communal part of the United Kingdom. By facilitating and stimulating the return of devolved government to Northern Ireland based on the principles of the Good Friday agreement, the British-Irish Intergovernmental Conference (like its Anglo-Irish predecessor) played an important part, its success reflected in its shrinking role as power was devolved to the Northern Ireland Assembly and Executive. The British-Irish Parliamentary Body played a not insignificant role in this, by facilitating close contact between ministers and parliamentarians. The British-Irish Council played little role, other than the symbolic one embodied in its very existence and its status as a negotiating trade-off; most of its early meetings included no Northern Ireland representation, and its substantive focus studiously ignored the communal problem there.

The three sets of institutions were also designed to respond to another need: to enhance the quality of the British-Irish relationship (or, in the case of the British-Irish Council and the re-designed parliamentary tier, to build up wider relationships between jurisdictions). Here, the most significant entity was the British-Irish Intergovernmental Conference, charged not just with responsibility for 'reserved' matters but also for certain 'excepted' ones, the business of sovereign governments. But the central role of the Conference appears to have melted away, to be replaced by a less structured British-Irish axis supplemented by formalised contact between senior civil servants. By contrast, the British-Irish Council has maintained an interest in a considerable number of specific sectors, even if its influence is limited; and the Parliamentary Assembly continues as an important forum of contact between parliamentarians and as a deliberative body of some importance.

There is, however, a major dilemma that inhibits the further evolution of the Parliamentary Assembly and the Council. It is true that these bodies are attractive to the smallest jurisdictions, the crown dependencies, which may see them as an affirmation of their distinctive status. As one official from a crown dependency put it, 'it is also important for our international identity that we be able to have an equal say in the operation of the British-Irish Council alongside the Irish Government, UK Government and devolved administrations'.[11] These in-

stitutions are also attractive in Scotland for several reasons: they offer an opportunity to bring Scottish expertise in the management of inter-communal tension to bear on Northern Ireland (Ramsay, 1998), they have implications for the future structure of the UK (Meehan, 2001: 98-99), and they constitute a framework within which an independent Scotland could reach an accommodation with its neighbours (Sturgeon, 2013). But, unlike the Nordic area, the British-Irish zone is marked by a history of dominance by one people, and unresolved issues of identity and sovereignty remain (McQuaid, 2002: 117). Because of big disparities in population and resources between the eight jurisdictions, there is a profound tension between the interests of the British government and those of the other administrations (Fanning, 2005: 138-139). In brief, if the British government sees these institutions as ones in which it is but one voice among eight, they will never exercise much influence; conversely, to the extent that they acquire power, the principle of equality will be sacrificed.

One study of the British-Irish Council identified four possible paths of development (Lynch and Hopkins, 2001: 757-758):

• a *pessimistic* scenario, in which the Good Friday agreement would collapse, bringing all the related institutions with it or placing them in cold storage
• a *minimalist* scenario, in which the Council would survive but not flourish
• a *gradualist* scenario, with the Council establishing a coherent role and identity
• a *maximalist* scenario, in which the Council would play a key role in intergovernmental relations in a quasi-federal UK and a confederal relationship between the UK and the Republic of Ireland.

This is a useful framework for assessing all three bodies. The British-Irish Intergovernmental Conference is clearly at the lower end of this scale in respect of its impact. Carrying considerable political weight initially, its role in respect of 'reserved' matters has been reduced by the transfer of additional responsibilities to the devolved institutions, and it has been by-passed on 'excepted' matters by other channels of communication between the British and Irish governments. Looked at in isolation, it would have to be classified as now falling somewhere between the 'pessimistic' and 'minimalist' categories, though it should be recalled that it was never intended to be just another institution with static powers: its area of responsibility varies inversely with the areas managed by the devolved institutions in Stormont. It would probably be appropriate to place both the Parliamentary Assembly and the Council in the 'minimalist' category during their early years; but each seems to have gained a new lease of life more recently, with the Assembly being upgraded from a mere 'body' in 2008, and the Council acquiring a standing secretariat in 2012 – symbolising modest progress that might suggest the 'gradualist' category for each.

Conclusion

This paper has suggested that no single powerful cross-jurisdictional institution has emerged as part of an effort to resolve the Northern Ireland problem. The existing bodies facilitate contact and aid mutual understanding; but their primary importance at present appears to be symbolic. This is attributable to a particular geo-political reality: the extent to which any network of ties is bound to be dominated by the British government, because of the sheer size and political weight of its jurisdiction. Not even the increasing independence of the UK's outlying regions appears to threaten Britain's status as a 'dual polity', where regional autonomy co-exists reasonably comfortably with 'the absolute sovereignty of the centre … over a relatively narrow range of issues that it deems of crucial importance' (Todd, 2003: 81). This is likely to affect the operation not just of bilateral bodies such as the British-Irish Intergovernmental Conference and whatever may succeed it, but also of the two eight-member bodies, the British-Irish Council and the British-Irish Parliamentary Assembly.

The verbal transition in the 1990s from 'Anglo-Irish' to 'British-Irish' relations (Gillespie, 2006) reflects not just a more politically correct description but also a shift from the appearance of English dominance. No further transition to a yet more correct 'UK-Irish' relationship (which would record more explicitly the constitutional location of Northern Ireland) has taken place. Indeed, the focus in the cross-channel institutions has increasingly moved away from Northern Ireland, with the emergence of further challenges, potentially much more disruptive of inter-jurisdictional relations than domestic inter-communal conflict. The two most obvious are Scotland's relationship with the UK, and the UK's relationship with the EU. Major changes in these relationships, on the scale envisaged by the Scottish National Party and by the UK Independence Party and its allies, would call into question other geopolitical relationships. Just as the Nordic Council helped to manage the consequences for the Nordic area of Denmark's accession to the EU in 1973 and that of Sweden and Finland in 1995, so too might the British-Irish institutions have a role to play in any redefinition of constitutional relationships in this corner of Europe. Ironically, institutions created in response to a conflict in a small disputed territory may end up constituting a bridge to deal with troubled relationships on a larger scale.

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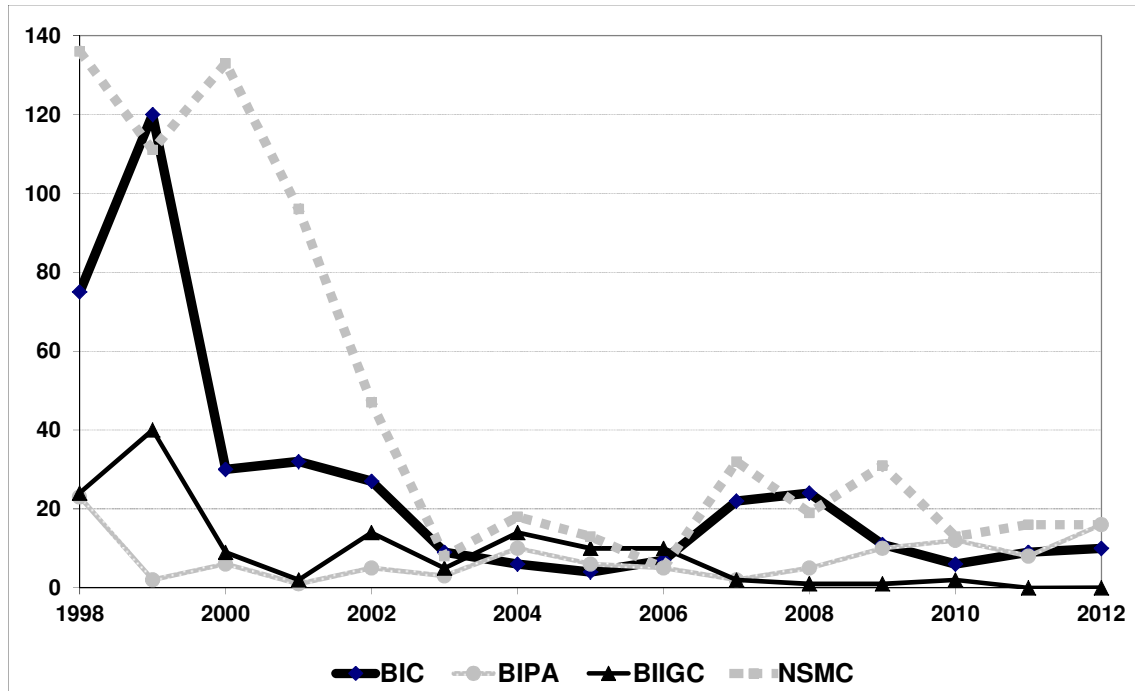
Figure 1: Press references to British-Irish institutions, 1998-2012

Note: The respective bodies are the British-Irish Council (BIC), the British-Irish Parliamentary Assembly (BIPA), the British-Irish Intergovernmental Conference (BIIGC) and, for comparative purposes, the North/South Ministerial Council (NSMC). Numbers refer to numbers of instances of the respective phrases using the newspaper's advanced search engine for these names and their main alternatives.
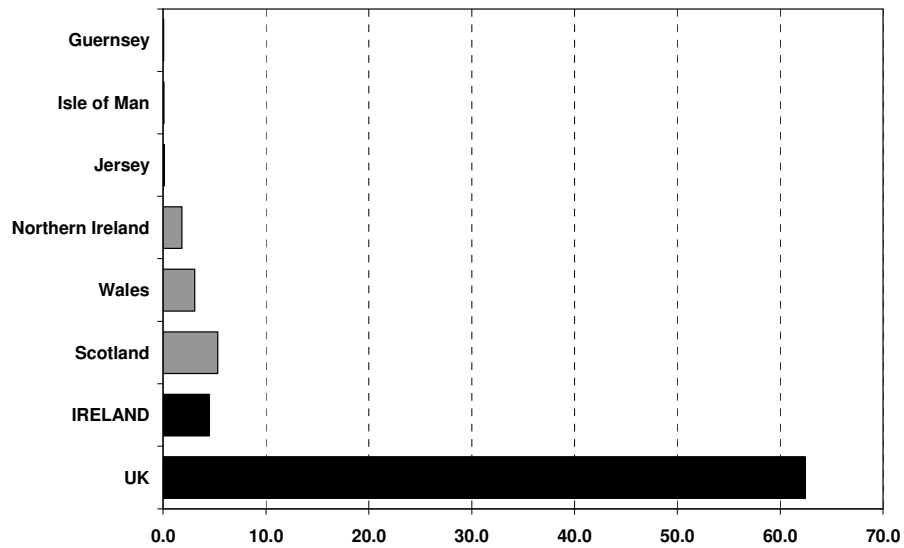
(a) British-Irish Council
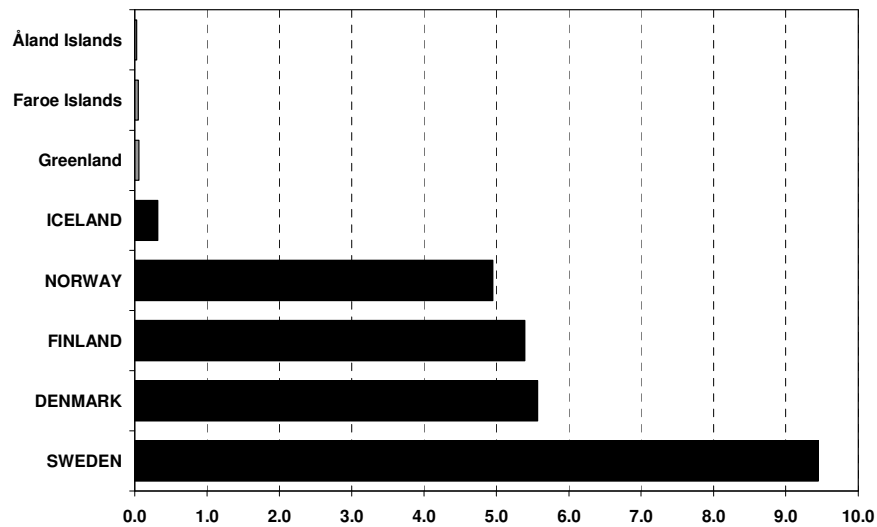
(b) Nordic Council

Figure 2: Population of member-states of British-Irish Council and of Nordic Council, 2011

Note: Population is in millions. Sovereign states are in uppercase and shaded black.

Source: *United Nations Demographic Yearbook*, 2011; Office for National Statistics, ons.gov.uk.

Notes

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1. Excepted and reserved powers are listed in article 2 of the Government of Ireland Act, 1914 (4-5 George V c. 90); the former included the crown, foreign relations, defence and certain other areas; reserved powers extended over the areas of land purchase, policing and certain other matters. Excepted powers in the Northern Ireland Act, 1998 (1998 c. 47), listed in schedule 2, are similar to these; the list of reserved powers, listed in schedule 3, is much longer.

2. One senior Irish politician of the 1980s valued the direct access to his British counterpart which the Agreement facilitated (interview, 1 November 2007). On the other hand, it is clear that there was little enthusiasm in the Northern Ireland Office for the practical implementation of the agreement; see witness seminar on Anglo-Irish agreement, 11 December 2006.

3. A search of communiqués in the Department of Foreign Affairs web site (dfa.ie) reports 15 meetings, as well as the two summits; the CAIN web site reports 16 meetings as well as the two summits (cain.ulst.ac.uk/issues/politics/conference). Allowing for overlap between the two lists, this comes to a total of 18 ministerial meetings and two summits.

4. Computed from www.britishirish.org/members-2/ and www.norden.org/en/nordic-council/organisation-and-structure/party-groups. The Assembly was one member short of its full complement of 68 due to a gap in UK representation.

5. This discussion is based on the annual reports of the body, from the first report (1996) to the sixteenth report (2011); available www.britishirish.org/annual-reports/. Formal minutes and more detailed 'summaries' of the transactions of each plenary meeting are available from the 14th plenary (December 1997) onwards; see www.britishirish.org/plenary-sessions/.

6. See www.britishirish.org/committees-reports/.

7. Telephone conversations with officials in two devolved adminstrations, 11 October 2013.

8. This account is based on British-Irish Council, 2004, 2013, and the communiqués issued after ministerial and summit meetings on the Council's web site, www.britishirishcouncil.org.

9. Witness seminar, 9 December 2008.

10. This includes the budget of the (parliamentary) Nordic Council and of the (intergovernmental) Nordic Council of Ministers; see www.norden.org/en/news-and-events/press-room/budgets-and-finance.

11. Email from official in a crown dependency, 14 August 2013.