

# What form would referendums on Irish unification take?

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## Abstract

The Belfast or Good Friday Agreement of 1998 makes provision for Northern Ireland to leave the United Kingdom and join a united Ireland through a unification referendum, if voters so wish. Yet the provision is short on detail and has not been substantively explored. A Working Group on Unification Referendums on the Island of Ireland has recently sought to address this gap. In this article, the Working Group's chair and research assistant outline the project's methodology and key findings, covering overall referendum configurations and specific design features, as well as what steps might be taken in the coming years. The article also highlights two comparative lessons, relating to tensions between the values of informed consent and inclusive design, and between majoritarian and consensual politics. These tensions afflict many referendums, particularly on sovereignty questions. They cannot be resolved, but only tempered, through careful and inclusive design of referendum processes.

## Keywords

- Northern Ireland
- Ireland
- Belfast/Good Friday Agreement
- Direct Democracy
- Peace Processes
- British–Irish Relations

## Introduction

The Belfast or Good Friday Agreement of 1998 ended almost three decades of violent conflict over Northern Ireland's constitutional position. It did so by settling two principal issues. First, it established new governing arrangements that apply while Northern Ireland is part of the United Kingdom, including devolved power-sharing government at Stormont as well as both 'north–south' and 'east–west' cooperation. Second, it made provision for how Northern Ireland's constitutional status could be decided in the future. The signatories accepted that, at the time they penned the accord, a majority of people in Northern Ireland 'wished to maintain the Union' with Great Britain. But they allowed for the possibility of a referendum in the future to decide whether Northern Ireland would remain in the UK or become part of a united Ireland.

The governing arrangements were rapidly brought into effect after the Agreement was endorsed by voters both north and south of the border in May 1998, and they have operated—if intermittently and imperfectly—over the years since. By contrast, the Agreement's provisions on a possible future referendum have received little attention. For long, that was because such a vote seemed only a distant possibility, with opinion surveys and election results continuing to show or imply majorities for maintaining the Union. In recent years, however, discussion of the possibility of a future referendum has become widespread, not least because Brexit has rekindled the salience of the border. As a result, some polling has found that growing numbers of people see unification as increasingly likely or desirable.<sup>1</sup>

So what form would such a referendum take? Very little academic attention has been devoted to that question. The 1998 Agreement is either silent or ambiguous on many aspects, and only limited work has been done to fill the gap. Who would get to vote? What would the question be? How would the campaign be conducted? Would a referendum be required in the South as well as the North? What form of united Ireland would be on offer? How would that be worked out? These and many other questions remain unanswered.

To address this gap, the UCL Constitution Unit in 2019 convened a Working Group on Unification Referendums on the Island of Ireland, comprising scholars with relevant expertise in politics, law, history, and sociology. We were, respectively, the group's chair and its research assistant.<sup>2</sup> The Working Group published its *Final Report*<sup>3</sup> in May 2021, setting out the aspects of any future referendums that would need to be worked out and the options in relation to these, and analysing the strengths and weaknesses of these options against defined criteria.

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<sup>1</sup> Northern Irish Life and Times Survey, 'Module: Political Attitudes'; <https://www.ark.ac.uk/nilt/results/polatt.html>; Lucid Talk and Sunday Times, 'NI-Wide Poll', January 2021; <https://www.lucidtalk.co.uk/single-post/lt-ni-sunday-times-january-2021-state-of-the-uk-union-poll> (both accessed 17 August 2021).

<sup>2</sup> The members of the Working Group were: Alan Renwick (Chair), Oran Doyle, John Garry, Paul Gillespie, Cathy Gormley-Heenan, Katy Hayward, Robert Hazell, David Kenny, Christopher McCrudden, Brendan O'Leary, Etain Tannam, and Alan Whysall. The outline of the group's work and conclusions presented here is our own. While we have endeavoured to be faithful in all respects to the group's findings, the definitive version of those findings is contained in the group's *Final Report*.

<sup>3</sup> Working Group on Unification Referendums on the Island of Ireland, *Final Report*, London: Constitution Unit, May 2021; [https://www.ucl.ac.uk/constitution-unit/sites/constitution-unit/files/working\\_group\\_final\\_report.pdf](https://www.ucl.ac.uk/constitution-unit/sites/constitution-unit/files/working_group_final_report.pdf) (accessed 11 August 2021).

In this article, we seek to do three things. First, we describe the Working Group and its methods. Second, we outline some of the group's key findings—on core principles that should shape any future referendum, how referendums could be configured and sequenced, how particular elements of referendums could be designed, and what steps might be taken in the coming years. Finally, we explore comparative lessons. The Working Group's findings are clearly relevant to those interested in the future of Northern Ireland. But they deserve broader attention too. The analysis revealed two fundamental dilemmas that are acute in Northern Ireland's case, but that afflict any referendum on a basic question of sovereignty: between majoritarian and consensual politics; and between the values of informed consent and inclusive design. The final section characterises these dilemmas and reflects on how they might best be addressed.

## **The Working Group and its methods**

As in any project seeking to assess how something might best be done, the Working Group had five general tasks: identifying the aspects of the process needing to be thought through; identifying the options for each of these; identifying criteria for assessing these options; examining the options in terms of the criteria; and, where possible, drawing conclusions as to the best approach.

Performing such tasks for this case was clearly going to require very broad-ranging expertise: in the politics, law, history, and sociology of Northern Ireland, Ireland, and the United Kingdom; and in the comparative politics and law of referendums, peace settlements, and decision-making about sovereignty. The need to bring together such diverse expertise explains the decision to establish a working group rather than as a more traditionally structured research project. The need to be impartial among competing perspectives on Northern Ireland's constitutional future—and to be seen as such—also favoured a diverse group.

Part of the approach taken by the Working Group was thus to pool the expertise of its members. We met at first in person, then later, as Covid-19 restrictions descended, online. Building on a discussion paper prepared by one of the Working Group's members,<sup>4</sup> we shared perspectives on what matters would need to be covered, and how best to do so. Individual members and subgroups of the Working Group were assigned to draft certain sections; these were then discussed and refined iteratively.

In addition, the Working Group sought to hear the widest possible range of views. This engagement work had four principal components. First, we issued a call for evidence to academics, politicians, civil servants, and others with relevant expertise and experience. Second, we invited numerous of the same people, and many others, to speak with us. We met 63 such individuals, including two former Irish Taoisigh (prime ministers), two former British cabinet ministers, representatives of political parties, officials, community leaders, journalists, and academics. Many of those we spoke with are listed in the Working Group's report.

Third, in the summer of 2020, we ran an online public consultation, which was open for anyone to complete. Such a consultation is clearly very different from a representative survey or a focus group, and its results must be interpreted with caution. For a project seeking to influence political debate,

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<sup>4</sup> A. Whysall, *A Northern Ireland Border Poll*, London: Constitution Unit, March 2019; [https://www.ucl.ac.uk/constitution-unit/sites/constitution-unit/files/185\\_a\\_northern\\_ireland\\_border\\_poll.pdf](https://www.ucl.ac.uk/constitution-unit/sites/constitution-unit/files/185_a_northern_ireland_border_poll.pdf) (accessed 11 August 2021).

however, we considered it essential to provide a route through which anyone who wanted to express their thoughts could do so. We also wanted to see who would be interested in engaging with a project such as this and what views they would express. In total, 1,377 people replied. We have analysed their responses separately.<sup>5</sup>

Finally, the Working Group published an interim version of its report in November 2020, and sought responses to its preliminary conclusions. We held a series of public events, wrote op-eds for newspapers in Belfast, Dublin, and London, and encouraged feedback through a variety of channels.<sup>6</sup>

Through these different methods, the Working Group gained deep insight into what others were thinking on the subject, picking up points that we had not considered, identifying issues that required further thought, and understanding better the perspectives of engaged members of the public. It is important to note that some parts of the community in Northern Ireland were more willing to engage with our project than others. In particular, many unionists did not wish to speak with us: not wanting a referendum on the unification question, they in many cases, for understandable reasons, chose not to engage with a project exploring that possibility. We fully respect such views. We were very keen, however, to hear unionist voices, and were glad that some did speak with us or submit their thoughts. We also listened to and learned from those who explained to us why they preferred not to take part.

## Core principles of referendum design

While not expansive on detail, the 1998 Agreement<sup>7</sup> establishes certain core principles on the issue of Irish unification. Unification cannot happen without the consent of the people of Ireland, both north and south. Consent in Northern Ireland can be given only through a referendum. The form of consent in the South is not explicitly stated, but a referendum would be needed there too—not least because constitutional change would be required to allow a united Ireland to respect continuing obligations in the Agreement.

Both the Agreement and the Irish Constitution<sup>8</sup> are clear that the threshold for any referendum to pass and have binding effect would be a majority of 50% + 1. The votes would have to be ‘concurrent’, which we understand to mean that the same proposals would have to be put to voters north and south, within a narrow timeframe, though not necessarily on the same day.

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<sup>5</sup> A. Renwick, N. Dobrianska, C.J. Kelly, and C. Kincaid, *Public Attitudes to Referendums on Irish Unification: The Results of a Public Consultation in Northern Ireland*, London: Constitution Unit, August 2021; [https://www.ucl.ac.uk/constitution-unit/sites/constitution\\_unit/files/consultation\\_working\\_paper\\_-\\_final.pdf](https://www.ucl.ac.uk/constitution-unit/sites/constitution_unit/files/consultation_working_paper_-_final.pdf) (accessed 17 August 2021).

<sup>6</sup> Recordings of the events, links to the newspaper articles, evidence submissions, and other resources are available at the project’s website; <https://www.ucl.ac.uk/constitution-unit/working-group-unification-referendums-island-ireland> (accessed 11 August 2021).

<sup>7</sup> Belfast/Good Friday Agreement, 10 April 1998. Available from the UK government (<https://www.gov.uk/government/publications/the-belfast-agreement>) and the Irish government (<https://www.dfa.ie/our-role-policies/northern-ireland/the-good-friday-agreement-and-today/>) (accessed 17 August 2021).

<sup>8</sup>The Constitution of Ireland 1937, Article 47; <http://www.irishstatutebook.ie/eli/cons/en/html> (accessed 11 August 2021).

If voters either north or south—or both—rejected unification, the status quo would hold. No further vote could be held on the issue for at least seven years. But majority votes for unification in both jurisdictions would require unification to take place. Unification could not be made conditional on two successive votes: if, for example, referendums approved the principle of unification before the details of a united Ireland had been worked out, unification could not be made conditional on subsequent approval of those details. Legislation would be required at Westminster and in the Oireachtas (the Irish legislature) to give effect to referendum votes in favour of unification. The transfer of sovereignty would not need to be immediate: an implementation period could allow preparations to be made. But delays for reasons unrelated to implementing the result would not be permitted. The transfer of sovereignty would have to be direct: the Agreement does not accommodate models of joint sovereignty.

The Agreement thus establishes some basic legal principles. But on many other matters it is silent. The Working Group therefore developed five key criteria for evaluating potential referendum processes, relating to procedural legitimacy, stability, clarity, informed choice, and inclusivity.

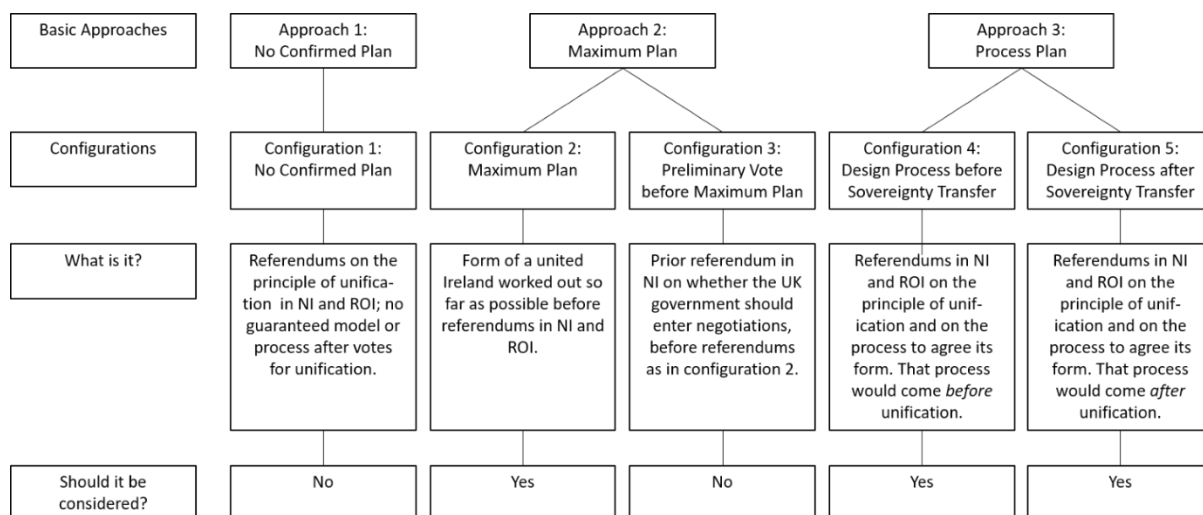
Meeting all of these criteria in full would be difficult. Most challenging is a likely trade-off between informed choice and inclusivity. Informed choice favours a process that asks voters to choose only after the detail of the options has been determined. Inclusivity favours a process in which all communities are involved in developing those options. But opponents of a united Ireland would have every right not to engage in discussions over its proposed form, and might particularly choose to exercise that right so long as the option of staying in the UK remained available. If so, developing a prospectus for a united Ireland before the votes would maximise informed choice at the cost of inclusive design, while delaying that design process till after votes for unification would do the opposite. Accordingly, no configuration can fully meet all criteria.

## **Design basics: sequencing and configuring referendums**

Within the legal parameters, we identified three possible approaches to the referendums, with five more specific configurations nested within them. The first approach would embark on the referendums with no confirmed plan, either for the form of a united Ireland, or for the processes through which unification would come about. The second approach would be the opposite: as much as possible of the form of a united Ireland would be worked out in advance. The third approach would take an intermediate route: plans for a united Ireland would not be confirmed at the time of the referendum, but there would be a plan for the processes through which these details would be agreed if voters backed unification.

Figure 1 shows these approaches. The first approach, ‘No Confirmed Plan’, maps on to one specific configuration (configuration 1), while each of the remaining approaches encompasses two. The ‘Maximum Plan’ approach could take a simple form (configuration 2), with a referendum occurring after plans had been worked out. It could also take a more complex form (configuration 3): given that designing a united Ireland would be complex and contentious, an authorising referendum could be held (at least in Northern Ireland) on whether to begin. The two variants of the ‘Process Plan’ approach, meanwhile, differ in when sovereignty would transfer if unification were chosen: the change could be delayed to allow the form of a united Ireland to be decided first (configuration 4); or it could proceed more speedily, on interim terms, with final arrangements worked out later (configuration 5).

**Figure 1. Possible referendum configurations**



The Working Group excluded configurations 1 and 3 from further analysis. Configuration 1 would be a Brexit-style leap in the dark—and if anything unites Leavers and Remainers, it is that planning for the eventuality of a Leave victory should have taken place before the Brexit referendum of 2016. Despite the possible advantages of configuration 3, the preliminary referendum it envisages could too easily be interpreted as violating the spirit of the 1998 Agreement or misinterpreted as a vote on unification itself.

That leaves three configurations; 2, 4, and 5. Configuration 2 resolves the trade-off between informed choice and inclusive design in favour of the former, while configurations 4 and 5 give greater priority to the latter. Configuration 2 would also benefit from relative simplicity, whereas configurations 4 and 5 would involve a multi-step process, with default or interim arrangements needing to be worked out in advance, and further decision-making later. Each approach would have advantages and disadvantages. How to weigh these requires further detailed consideration and would ultimately be a matter for political judgement.

## Elements in the referendum process

The configurations provide overall schemas for referendums and associated processes, but leave much detail undefined. Perhaps the most immediate question concerns how a vote might be called in the first place. For a vote in Northern Ireland, the 1998 Agreement assigns that decision to the Secretary of State for Northern Ireland within the UK government: she or he may call a vote at any time, and must do so if majority support for unification appears ‘likely’. But how should the Secretary of State judge what outcome is likely? The Working Group identified six types of evidence they might draw on: votes cast in elections; seats won at elections; votes within the Northern Ireland Assembly; survey or poll results; qualitative evidence; and demographic data. The Secretary of State must take all relevant evidence into account. Precise weights cannot be attached to these types of

evidence in the abstract, except that demographic data could provide only contextual information, and qualitative sources could not override clear quantitative evidence.

The criterion that a majority for unification looks ‘likely’ is not met at present, whatever evidence is used. But a time may come when the evidence is more ambiguous. At that point, an expert review panel might form a useful part of the Secretary of State’s assessment, provided it was genuinely impartial and independent.

Whichever referendum configuration was used, plans would be needed as to what would follow majority votes for unification. Under configuration 2, these would involve a detailed model for a united Ireland, spelling out constitutional arrangements, as well as plans for healthcare, education, and other aspects of public policy. It would be for the Irish government and the Oireachtas to propose such plans, ideally developed through inclusive processes. Consultations and negotiations with political parties would form part of such processes. Citizens’ assemblies have increasingly been used in preparing major constitutional reform proposals in Ireland, and could be valuable here too. But care would be needed: an assembly could become divisive, and lose legitimacy, if parts of the community opted out. The terms of sovereignty transfer would require negotiations between the British and Irish governments—though a British government might well decline to negotiate if no referendum vote for unification had yet taken place. There might also be a role for the British government, as a guarantor of unionist interests, in discussions of the form of a united Ireland—though it could hold no veto.

Reforms to the current Union could also be advanced, as in the 2014 Scottish independence referendum. But the formal alternative to unification on the ballot paper would be the status quo. If voters opted to maintain the Union, any proposed reforms to Northern Ireland’s governance could be adopted only with a suitable level of consensus, as has been the case since 1998.

Under configurations 4 and 5, the plan put to voters would set out a proposed process for deciding the form of a united Ireland, rather than a confirmed model, involving perhaps a constitutional convention and/or citizens’ assembly. As we noted above, it would also be necessary to establish default or interim arrangements for a united Ireland: default arrangements under configuration 4, for use if permanent arrangements could not be agreed; and interim arrangements under configuration 5, to apply until permanent arrangements were settled.

Turning to the rules of the referendums themselves, any vote in the South would follow established referendum practice: matters such as the franchise and the wording of the question on the ballot paper are fixed in existing legislation. The UK has fewer standing rules for referendums. The franchise, for example, must be defined anew every time a referendum is held. It has become standard practice, however, to apply (with minor adjustments) the franchise used for elections taking place over the same area, which would suggest using the Northern Ireland Assembly franchise.

Unlike Ireland, the UK also has no standard wording for referendum questions. Rather, the enabling legislation for each referendum stipulates the question, whose clarity and impartiality is scrutinised by the Electoral Commission. The 1998 referendums show that differently worded questions north and south would not necessarily cause difficulties. But differences in question wording that could lead to confusion for voters—most obviously, ‘Yes’ leading to opposite outcomes north and south—

or difficulty for campaigners—such as a Yes/No question in one jurisdiction but not the other—should be avoided.

Campaign rules—covering matters such as campaign finance, information, misinformation, and the media—would need close attention. The regulatory frameworks in both countries urgently need updating to increase transparency and accountability. In some respects, the two states use very different approaches, which could be exploited by rogue campaign groups or nefarious interests. Most notably, Ireland limits what individuals can donate to a campaign, but not what a campaign group can spend, while the UK does the reverse. Reforms should be made before any vote is called, in line with the advice of the Venice Commission that rules should be set well in advance in order to avoid any ‘suspicions of manipulation’.<sup>9</sup>

Clarity is also needed on what would happen after any votes. As we stated above, separate majorities for unification north and south are both necessary and sufficient for unification to take place. The status quo would be retained, therefore, if voters in either Northern Ireland or the Republic of Ireland voted against unification, even if the island-wide majority supported the change. The Working Group suggested it would be desirable for all parties to reaffirm their acceptance of that decision principle at the start of the process.

If voters north and south backed unification, the change would have to happen. Some matters would, however, need to be resolved first. Under configurations 2 and 5, the terms of the transfer of sovereignty between the UK and Ireland would likely remain to be agreed. Under configuration 4, detailed plans for a united Ireland would also have to be settled. Legislation giving effect to unity would then need to pass both parliaments, and unification would take place on an agreed date within a reasonable timeframe.

## **What next in Northern Ireland?**

The preceding paragraphs indicate the range of complex matters that would require resolution for any process of decision-making to proceed smoothly. In many cases, it would be highly desirable for these to be resolved before any referendum was called, enabling clarity on process and timings. For this reason, one of the Working Group’s central recommendations is that ‘it would be highly unwise for referendums to be called without a clear plan for the processes of decision-making that would follow’.<sup>10</sup> Such a plan would best be agreed between the British and Irish governments, working in close cooperation with political parties and other actors in Northern Ireland and in the Republic.

When, then, should preparation begin? This has become a politically contentious matter. For some, preparation has begun already. Campaigning activity for Irish unity has noticeably increased, with groups organising public events and gaining prominence. Organisations seeking to make a positive and proactive case for Northern Ireland’s place in the Union have become active too. At a political level, Sinn Féin argues that a referendum on unification is approaching in the next few years, and

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<sup>9</sup> Venice Commission (European Commission for Democracy through Law), *Code of Good Practice on Referendums*. CDL-AD (2007)008, Strasbourg: Council of Europe, March 2007; (accessed 11 August 2021), Guidelines para II.2.b, and Explanatory Memorandum, para 20.

<sup>10</sup> Working Group *Final Report*, p. 246, para 15.7.



that there is a need to plan accordingly.<sup>11</sup> The SDLP also says that constitutional change may be approaching, but has been more tentative in setting timelines.<sup>12</sup> Unionist parties, by contrast, largely boycott civic or political initiatives examining unification,<sup>13</sup> while the Alliance Party is neither pro-Union nor pro-unity.<sup>14</sup> In the Republic, the government of Fianna Fáil, Fine Gael and the Green Party has been more hesitant, and has sought to focus on cross-border initiatives, rather than active plans for unification.<sup>15</sup>

When the governments might begin to engage is a matter for political decision—it cannot be resolved by scholarly analysis. The Working Group said, ‘if evidence began to emerge suggesting that a majority for a united Ireland *might* be likely, the Secretary of State should announce a period of detailed review. A plan for the referendum process would best be agreed during that period, to be activated in the event that referendums were in fact called’.<sup>16</sup> In the meantime, further scholarly research would be desirable into how unification would operate in practice, and what options there are for reform within the Union.

## Comparative lessons: two dilemmas of referendum design

The Working Group focused on the design of any future referendums dealing with one particular question: Irish unification. But its analysis reveals two dilemmas in referendum design that have wider application. One concerns the tension that we have already emphasised, between the principles of informed choice and inclusivity. The other involves a still deeper tension, between majoritarian and consensual decision-making.

The principle that voters should be able to make an informed choice, knowing what proposition they are being asked to vote on, is widely accepted as central to good referendum design.<sup>17</sup> Fully informed choice is possible only if the details of the proposal on the ballot paper are worked out ahead of the vote. Sometimes, however, that is not possible. In 2016, for example, the UK and the EU could not have negotiated terms ahead of the Brexit referendum: Article 50 of the EU’s Lisbon Treaty requires a member state to notify its intention to withdraw before such negotiations can begin. Similarly, crucial issues in the 2014 Scottish independence referendum—such as the currency and whether an independent Scotland could remain seamlessly within the EU—could not be resolved in advance, as the UK and EU would not negotiate at that stage. Northern Ireland’s situation is somewhat different: the currency and EU membership issues are settled, and most aspects of a united Ireland could be worked out by Ireland on its own. But the desire to design a united Ireland inclusively inhibits decision-making before a vote.

The feature all these referendums share is that the exact form of the proposal that voters are asked to vote on can be worked out—or is preferably worked out—only with the cooperation of the

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<sup>11</sup> Sinn Féin, *Giving workers and families a break: A manifesto for change*, Dublin: Sinn Féin. January 2020; [https://www.sinnfein.ie/files/2020/Giving\\_Workers\\_and\\_Families\\_a\\_Break\\_-\\_A\\_Manifesto\\_for\\_Change.pdf](https://www.sinnfein.ie/files/2020/Giving_Workers_and_Families_a_Break_-_A_Manifesto_for_Change.pdf) (accessed 11 August 2021).

<sup>12</sup> J. Manley, ‘Colum Eastwood says border poll should be called when it’s winnable’, *Irish News*, 21 July 2020.

<sup>13</sup> H. McDonald, ‘Ulster Unionist Party will boycott any “citizens’ assembly” on Irish unity, says leader-elect Doug Beattie’, *The Times*, 19 May 2021.

<sup>14</sup> Working Group *Final Report*, p. 43, paras 3.19–3.20

<sup>15</sup> H. McGee, ‘A shared island: “People can’t be brow beaten into it”’, *Irish Times*, 12 September 2020.

<sup>16</sup> Working Group *Final Report*, p. 153, paras 8.101–8.102.

<sup>17</sup> E.g., Venice Commission, *Code of Good Practice on Referendums*, para 3.1.c.

proposal's opponents. These votes contrast, for example, with referendums on EU accession, where the acceding state and the EU both want the change and are happy to negotiate terms in the absence of a prior vote obliging them to do so.

One possible solution to this conundrum is a two-referendum process: a first vote on whether to negotiate terms; followed by a second vote on whether to accept them. Such an approach is not ideal: the side that opposes the change might insist on an unfavourable deal in order to diminish its attractiveness at the second referendum. But this threat should not be exaggerated: if, say, the EU insisted on harsh Brexit terms—or the UK government on harsh terms of Scottish independence—that might only encourage many voters in the UK or Scotland to feel they were under the yoke of a hostile power from which they had to free themselves. There may thus be circumstances in which a two-round process is the best solution.

That option is not available in the case of Northern Ireland. That is partly because, as noted above, the 1998 Agreement excludes it. But also, more profoundly, while a first-round referendum could potentially bind a government or other similar entity to negotiate, it could not bind unionists collectively to do so. It is in such circumstances that the dilemma is at its most stark.

Such inclusivity is so important in Northern Ireland because of the deep history of communal tensions there. To overcome those tensions, policy-making in Northern Ireland and decision-making about most aspects of its governing arrangements are now conducted consensually. The 1998 Agreement was itself negotiated on the principle of broad consensus, and it established a system of power-sharing government. As we have seen, however, the Agreement leaves decision-making on the basic question of sovereignty itself—whether Northern Ireland will be part of the UK or part of a united Ireland—to be decided by simple majority.

Here is the second dilemma: the tension between majoritarian and consensual principles of decision-making. The harmfully divisive potential of binary referendums has long been recognised.<sup>18</sup> Reducing a complex decision to a single choice between two options seems to eliminate any opportunity for compromise and conciliation. In recent years, considerable attention has focused on tempering this difficulty by using deliberative processes to develop the proposals that referendum voters decide on. Citizens' assemblies have increasingly been used for this purpose, most notably in Ireland. The 1998 Agreement took the same form, with cross-party and inter-governmental talks producing a consensual accord that was then put to voters.

That approach can work when the underlying issue is not binary in its essence. But questions of sovereignty typically are binary. There are many forms that the UK's union could take, and many forms that a united Ireland could take, but Northern Ireland is still part of either one or the other (confederalism, joint sovereignty, and independence are sometimes floated, but few think them credible). And a binary decision must be made by simple majority if both options are to be treated equally.

A vote on a matter such as this is therefore necessarily binary and necessarily divisive. In that circumstance, a narrow majority is possible, leaving a substantial minority of voters dissatisfied.

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<sup>18</sup> E.g., S. Chambers, 'Constitutional Referendums and Deliberative Democracy', in Matthew Mendelsohn and Andrew Parkin (eds.), *Referendum Democracy: Citizens, Elites and Deliberation in Referendum Campaigns* (Basingstoke: Palgrave, 2001), pp. 231–55.

The Working Group's recommendations highlight two possible steps in response. First, such a referendum must be conducted in a manner that is procedurally impartial and impeccably fair. Independent electoral administration and campaign rules that ensure a level playing field are essential. Second, the referendum process—including the basis on which the outcome will be determined—must be agreed across both sides. Such steps are far from removing the tension entirely, but they may be expected to minimise it so far as possible.

## **Conclusion**

The Working Group on Unification Referendums on the Island of Ireland explored numerous aspects of any future referendums on the unification question in its report. We see the report as a first attempt to grapple with these issues, and we look forward to watching the academic and policy debate on them in the coming years. We hope that our work has illuminated the complexities involved in any such votes, and the importance of thinking them through carefully and honestly before any referendum is called.

Sketching out how this process would work in Northern Ireland also reveals key comparative challenges. Some referendum questions—perhaps particularly those relating to sovereignty—generate deep tensions: between allowing voters an informed choice among clear options and ensuring inclusivity in the process of designing those options; and between the necessity of majoritarian decision-making and the desirability of building consensus. The Working Group's analysis suggests possible responses to these challenges. Further research is needed to develop their comparative value more precisely.

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