

United Nations
Division for the Advancement of Women (DAW)
Expert Group Meeting on
“Peace agreements as a means for promoting gender equality and ensuring
participation of women – A framework of model provisions”
10-13 November 2003
Ottawa, Canada

Peace Agreements as a Means for Promoting Gender Equality and Ensuring
Participation of Women

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Northern Ireland Case Study
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I. Background to the Conflict in Northern Ireland.

The following constitutes an overview of the major causes of conflict in Northern Ireland, with emphasis on its manifestation in the 20th century. The Northern Ireland sub-state came into existence in 1921, a year before the independence of the twenty-six-county Irish Free State. The division of Ireland resulted from an initial attempt to give some form of limited autonomy as a whole by the British government of the time. This political move was ideologically and militarily opposed by the Protestant majority in the jurisdiction. This majority, a by-product of colonial settlements in Ulsterⁱ, which occurred in the seventeenth century, viewed itself as British culturally and politically. The political independence of the Irish and Catholic state was perceived as undermining the identity by which this Protestant group defined itself. There was also a substantial Catholic minority within Northern Ireland, whose identity was linked to the emerging southern Irish state. The minority defined itself politically and culturally as Irish. Thus, polarisation of the two communities was built from the inception of the state along religious and political lines.

While the Northern sub-state quickly established a devolved Parliament, the Irish Free state quickly moved from the limited autonomy given to it by the Anglo-Irish Treaty to full independence.ⁱⁱ From the state's inception the Protestant majority in Northern Ireland perceived its status to be threatened on two fronts: on the one hand, by the Catholic state on its doorstep, which had a specific constitutional mandate to reunite the whole territory on the island; on the other, by an internal Catholic minority which did not identify with the ideology of the majority and was viewed by that majority as politically subversive. The insecurity of the Protestant majority had a direct bearing on the nature of the state they created. While ostensibly democratic in nature – the façade hid practices of exclusion, vote rigging and the artificial manipulation of electoral boundaries to exclude the Catholic minority from political power. In addition, the state was defined by practices of entrenched discrimination in the areas of education, housing, employment and legal process aimed at curbing and excluding the minority Catholic community. Finally, the agents of the state (police and militia) were overwhelmingly Protestant in make-up. The state also maintained and enforced the most draconian emergency/security legislation in the shape of the Special Powers Act.

By the 1960's, significantly influenced by the civil rights movement in the United States, the minority community mobilised around a broadly based civil rights movement – seeking inclusion in the legal, political and social affairs of Northern Ireland. In short, the Protestants (Unionist) political elites were unable to embrace reform, which was generally viewed as a threat to the legitimacy of the state itself. The Unionist state was

convinced that the civil rights movement was the Irish Republican Army (IRA) in a different guise – an Irish paramilitary organisation which had intermittently taken violent action against the sub-state from its inception in 1921. The pendulum in the Catholic (Nationalist) community swung from constitutional reform to violent backlash, as the state responded militarily to the civil disobedience. Continuous and rising violence through to 1969 left local police forces unable to contain the spiralling sectarian strife, and led to a decision by the British government to send in the British army to restore calm. The British Army remains in Northern Ireland to the present day. Allied with the introduction of the army, political pressure was exerted on the government to introduce reform measures. The failure of reforms to materialise as quickly and as profoundly as needed resulted in a significant shift within the minority community. That direction was the protection of the community by means of political violence. In effect, the minority community was splintered into two distinct groups: those committed to constitutional violence and those seeking violent overthrow of the state. By 1972 the British imposed direct rule in Northern Ireland and government was thereafter (with limited exceptions) exercised by direct rule. Three decades of sectarian, paramilitary and state violence followed, in which over 3,000 persons were killed, thousands injured and widespread damage took place to physical property.

II. Background Leading to the Peace Agreement

Between 1969 and 1996, various political initiatives were advanced to ‘resolve’ or provide partial solutions to the conflict in Northern Ireland. These included the failed 1973 Sunningdale Agreement and the more successful 1985 Anglo-Irish Agreement. Notably, elements of these Agreements provided the basis for the more comprehensive solutions embraced in 1996. This illustrates the point that one stop peace agreements may not be able to ‘resolve’ all the issues in complex violent conflicts, and that there is a need for a more nuanced assessment of the elements which constitute a successful peace agreement – specifically the partial capacity of some agreements and the long term benefits of same.

The direct lead-in to the Good Friday/Belfast Agreement came through initiatives on the Nationalist/Catholic and Irish governmental side. These included the Hume/Adams dialogue, a series of meetings between the two leaders of the major nationalist parties (John Hume (SDLP) & Gerry Adams (Sinn Fein)) culminating in a joint statement in April 1993. This was followed in December 1993 by the Downing Street Declaration, a statement of principles by the Irish and British Prime Ministers as to the basis that would lead to a comprehensive peace and multi-party talks. In August 1994, the Irish Republican Army (IRA) announced a “complete cessation of military operations”. This was followed in October 1994, by a loyalist paramilitary ceasefire. While the IRA original ceasefire did not hold, the most recent of which was called in July 1997 and is still in place. Between 1995-1997, the British and Irish governments worked to create an environment that would enable the various political parties to come together to negotiate the substantive issues. The process was a difficult and fraught one not least because some parties (Unionists) refused to negotiate directly with Sinn Fein (the political wing of the IRA). In addition, an ongoing dispute existed as to whether talks could take place

between the parties before the major paramilitary organizations had commenced decommissioning their weapons. While this was resolved for the purposes of activating negotiations, the issue of decommissioning weapons remains one of the most fraught aspects of the post-Agreement environment.

Northern Ireland proves a graphic example of the general exclusion of women from the processes leading up to peace agreement negotiation. The pre-negotiation period was dominated by male political actors (both in terms of the local politicians from Northern Ireland and the representatives of the two governments – with one ministerial exception on the Irish side), and the issues on the table at the pre-negotiation stage were arguably narrow and male in conception. The key issues were the undulating emphasis on the constitutional status of the jurisdiction and the decommissioning of weapons and paramilitary organizations. However, a side-benefit of the approach taken to the inclusively of all political parties and opinions at the negotiation table, was that it would have later benefits for women political actors focused on issues with a gendered dimension (including the ordering of priority issues overall) as well as opening up the range of issue on the table. Thus, one key lesson to be learnt from the pre-negotiation process in Northern Ireland is that while it may reflect the gendered nature of the conflict (in that the conduct of violence was predominantly male), if that process is sufficiently inclusive and invites in the broadest possible range of political and military actors in, this may leave scope for an expansion of issues and representativeness at the negotiations themselves.

A key development in this phase was the creation of the Northern Ireland Women's Coalition, the first political party in the jurisdiction focused primarily on issues of concern to women. The Women's Coalition was thrust onto the political stage in 1996, when two delegates were elected to multi-party talks on the future of Northern Ireland. Just six weeks earlier, women from all walks of life met to discuss how women's voices could be heard in pending negotiations. They define themselves as a cross-community political party working for inclusion, human rights and equality in Northern Ireland. While numerically small and politically untested their impact on the negotiation process and its outcomes was to be substantive.ⁱⁱⁱ In particular, the emphasis by the coalition on a collective approach to the issues under negotiation, their identification of a broad range of issues to be given full consideration by the negotiation parties, their commitment to participative democracy in its broadest sense, and their willingness to act as a building block between other political parties – brought a unique dimension to the formal political negotiations once they commenced in October 1987.

Some general background points should be made concerning women's participation in the broader communal processes which facilitated a successful outcome to the negotiations. First, throughout the conflict in Northern Ireland, women created networks which operated to support and extend the support of civil society for the peace process. Notably, throughout the course of the conflict Northern Ireland maintained a highly effective and articulate civil society, which became the incubator for many of the ideas and structures ultimately parachuted into the Good Friday/Belfast Agreement. The success of these networks can also be seen as making women invisible to the public political processes that inevitably have more 'camera-time' during high-profile peace

initiatives. Second, women worked together with other marginalized groups to create coalitions which were significant in placing human rights on the political agenda. These had a direct effect on the shape and substance of the final Agreement. This also ensured that the political agenda, to a significant degree was being crafted to meet real problems.^{iv} Finally women worked both within their own political groupings and through the establishment of a women's political party – the Northern Ireland Women's Coalition (discussed above) – to deliver policies and objectives that were then imputed into the negotiations leading directly to the Agreement.

Key Aspects of the Pre-Negotiation Context

- ❖ An inclusive approach to participation in the negotiation process.
- ❖ Prior (if unsuccessful) agreements which prefigured the shape of the final negotiations.
- ❖ A vibrant and engaged civil society in which women were active and exerted influence.
- ❖ The creation and subsequent inclusion of a Women's political party in the multi-party negotiations.

III. The Good Friday/Belfast Agreement

The outcome of multi-party negotiations was the Good Friday/Belfast Agreement.^v It is a negotiated document which seeks to facilitate a resolution to the political problems in Northern Ireland.^{vi} It is composed of three strands:

- Strand One - internal political arrangements within Northern Ireland;
- Strand Two - bi-lateral relationships between Northern Ireland and Ireland.
- Strand Three - multi-lateral relationships between Northern Ireland, the UK and Ireland.

Each of these strands is inter-connected, and agreement was required on all three simultaneously to conclude the final Agreement. These are variously set out in a political agreement reached between the negotiating parties, and in a treaty binding in international law, between the two state parties. It is the first Agreement which involves virtually all the political parties in the jurisdiction (those excluded absented themselves).

The Agreement is marked by the centrality of human rights and equality norms to its substantive content, across multiple political and legal spheres. The deep embedding of human rights provisions in the Agreement is a defining aspect of the document's legal and political personality. This aspect is also one of the key features of the agreement marking it out as a model for good practice in other conflict negotiation processes. From a gender analysis perspective the Agreement provides some illustrations of the manner in

which the final negotiations and the agreed text can conceptually and practically ensure the participation of women. These should not be oversold, as the provisions specifically related to women are scant. However, the deep embedding of human rights and equality norms across a range of sectoral interests provides a highly innovative means to promote and further gender equality in the post-Agreement environment.

Strand I: Internal Political Arrangements

The Agreement is marked out by its classically consociational political arrangements. The internal political arrangements contained in Strand I of the Agreement, provide for proportionality, power-sharing, parallel consent, weighted majorities and mutual vetoes for both Nationalists and Unionists.

The system for voting to the local political Assembly accepted under the Good Friday/Belfast Agreement is the d'Hondt system. This voting system was felt to be the most suitable electoral mechanism for a divided society, aimed at ensuring cross-community political representation. Under the d'Hondt system the Northern Ireland Women's Coalition won two seats in the last Assembly elections. Following an election result, ministerial portfolios are allocated by nomination of individuals to preferred departments, and committee membership and chairs in the political Assembly are also allocated on this basis.^{vii} The detail of these arrangements can be seen as the means to accommodate internal self-determining claims for the nationalist/republican community by means of fulsome internal participation, adding the side benefit of accommodating international human rights norms to democratic participation on the basis of equality and non-discrimination. Parties from the Unionist and Nationalist tradition can also exercise the right to veto legislation if it is seen to compromise or raise acute concern for one community or the other.

From a gender perspective the electoral system has some notable disadvantages, as the d'Hondt system tends to operate to the benefit of the larger political parties. The Northern Ireland Women's Coalition was opposed to the system, and argued strenuously for a more inclusive electoral structure, but ultimately signed off on the political deal as a whole and did not enter any formal reservations on this basis. It arguably services the needs of the dominant political transitions in Northern Ireland over marginalized or emerging political groupings. Positively, given the exclusionary and dis-enfranchised history in Northern Ireland, the electoral process represents a considerable advance and offers the possibility of creating a more inclusive political space that may yet prove more receptive to issues of gender. Thus, while not ideal the emphasis on participatory practices has some capacity to advance gender equity through the electoral system. While the local political Assembly is currently suspended it is also fair to note that while operational the electoral and internal rules crafted by the Good Friday/Belfast Agreement created a forced mutual dependency between opposing political traditions. It produced a high level of mutual communication between political parties represented in government so as to further legislative agendas. It also allowed some scope to smaller political groupings such as the Northern Ireland Women's Coalition to advance issues that can

garner cross-party support, which in a divided society can further issues such as health, education and social provision, generally ignored by more divisive politics.

Other protections built into the local political structure include the Assembly being given the power to appoint a special committee to report on whether legislative measures are in conformity with equality requirements, including the European Convention on Human Rights or a local Bill of Rights.^{viii} Moreover, the legislative measures are subject to a compatibility test with the European Convention and/or a locally agreed Bill of Rights.^{ix} This means that a finding of breach requires the Assembly to start the legislative process again, and that it would not be in the legislature's interest to create legislation which fails to protect rights adequately. Thus, we find consistent evidence of the significance attached to micro aspects rights enforcement during the multi-party negotiations, and the embedding of these measures in the Agreement itself. The potential of these mechanisms to be used to prevent gendered and other forms of discrimination are quite considerable, and they have the potential to create the legislative and social context in which gender advances are made in Northern Ireland. Finally, individuals elected to serve as Ministers are required to take a pledge of office with states that they will 'serve all the people of Northern Ireland equally ... with the general obligation on government to promote equality and prevent discrimination'.^x

Key Aspects of the Internal Political Settlement

- ❖ Consociational political model adopted, with high emphasis on multi-party participation in the legislative process.
- ❖ Human rights and equality protection built into the internal legislative process.
- ❖ Human rights and equality policies given additional status by responsibility for their oversight being located in the Office of the First Minister and Deputy First Minister (including the movement of Community Relations, Human Rights and Victims Division, Human Rights Unit and an Equality Unit to these key political offices).

Strand II: Bi-lateral relationships between Northern Ireland and the Ireland.

This strand of the political agreement evidences the willingness of two sovereign States to cede their sovereign interests to accommodate an end to political violence, and to put practical institutional structures in place to that end. The compromises made by both States are not insignificant. In the case of the United Kingdom this has entailed electoral contingency on territorial integrity.^{xi} That is, they have agreed that if a majority of the population of Northern Ireland wish to change the constitutional status/affiliation of the jurisdiction by peaceful means they will not stand in the way of this development. On the part of the Republic of Ireland there has been a corresponding substitution of a constitutional aspiration to peaceful unification in place of a formal territorial claim to Northern Ireland as-of-right.

While Strand II is largely focused on institutional relationships between sovereign jurisdictions, with a notable bias to structures (which under current modes of nomination will be predominantly male in representation) a number of key human rights elements are articulated. The key question is to what extent this broader human rights dimension can operate to further gender perspectives at the inter-government policy-making level. For example, in setting up a body called the North-South Ministerial Council the Agreement envisages this body being facilitative of human rights concerns. This is achieved by considering the establishment ‘of an independent consultative forum appointed by the two Administrations, representative of civil society with expertise in social, cultural, economic and other issues’.^{xii} The potential of these institutional structures lies less in their formal legal and political responsibilities, but in their capacity to create a political space which is driven by values of a different kind, with knock-on effect on political and social behaviour.

Key Aspects of Strand II

- ❖ Infusion of a human rights dimension into the inter-state aspect of the Agreement.
- ❖ Evidence of the commitment of ‘guarantor’ states to commit to institutional structures designed to facilitate the long-term maintenance of a transition to peace.

Strand III - Multi-lateral relationships between Northern Ireland, the UK and Ireland.

Under Strand III, concerned with the East-West dimension to the Agreement an institution named the British-Irish Council is to be established. The Council is committed to ‘exchange information, discuss, consult and use best endeavours to reach agreement and co-operation on matters of mutual interest within the competence of the relevant Administrations. Such issues for early discussion in the BIC could include transport links, agriculture issues, environmental issues, cultural issues, health and education issues and approaches to EU issues’.^{xiii} No specific reference is made to gender, and as per the North-South dimension the probability of its representation being equally gendered is highly unlikely.

Key Aspects of Strand III

- ❖ Gender (as well as a human rights dimension entirely absent)
- ❖ Evidence of the commitment of ‘guarantor’ states to commit to institutional structures designed to facilitate the long-term maintenance of a transition to peace.

Other Aspects to the Agreement.

The most important and detailed provision for rights protection and thereby the integration of a gendered approach is made under the **Rights, Safeguards and Equality of Opportunity** section of Strand III. In paragraph 1 the parties confirm their commitment to ‘the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity’.

This section also marks the creation of a national human rights institution for Northern Ireland and the Republic of Ireland with primary responsibility for overseeing the enforcement of human rights norms. There has been a spiral in the creation of national human rights institutions, a number in post-conflict situations, and a corresponding attempt to regulate and set standards for such bodies. The willingness of the negotiating parties to create a ‘super’ enforcer for human rights attests to the importance attached to the meaningful realisation of human rights protection. In particular the NIHRC was invited to consult and advise on a bill of rights. Paragraph 4 mandates the Human Rights Commission to ‘[draw] as appropriate on international instruments and experience’. The legislation creating the Irish Human Rights Commission (of which the author is a member) specifically required that the Commission be equally composed of men and women. The Northern Ireland Human Rights Commission’s appointment criterion makes reference to the need to be cognizant of equal gender representation. The Agreement also provides that the NIHRC will create a joint committee with members of the Irish Human Rights Commission, which *inter alia* will be tasked with the ‘possibility of establishing a charter, open to signature by all democratic political parties, reflecting and endorsing agreed measures for the protection of fundamental rights of everyone living on the island of Ireland’.^{xiv}

The British government also committed itself to create a new statutory Equality Commission which would *inter alia* oversee the introduction of a new statutory duty imposed on all public bodies to ‘carry out their functions with due regard to the need to promote equality of opportunity in relation to religious and political opinion; gender; race; disability; age; marital status; dependents; and sexual orientation’.

In a subsequent section, reference is made to ‘rights, safeguards and equality of opportunity’ in the realm of economic, social and cultural issues. Explicit reference is made to the importance of social inclusion, community development, the advancement of women in public life, tackling the problems of division, strengthening anti-discrimination measures, more effective targeting of poverty and the need to progressively reduce the unemployment differential between the two communities. Subsequent chapters deal with decommissioning of paramilitary weaponry, security (and the review of emergency powers in Northern Ireland), policing and justice,^{xv} and prisoners.

Finally in the Annex entitled ‘Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland’, which sets out the nature of the relationship between the two guarantor states to the Agreement, human rights values are stoutly lauded and promoted.

Reaffirming their commitment to the principles of partnership, equality and mutual respect and to the protection of civil, political, social, economic and cultural rights in their respective jurisdictions.

Both states affirm that the

‘... the power of the sovereign government ... shall be founded on the principles of **full respect for, and equality of, civil, political, social and cultural rights** and freedom from discrimination for all citizens
...^{,xvi}
...

Other societies emerging from conflict have, to a greater or lesser degree, made both criminal and moral accountability an intrinsic part of the process of conciliation, and sometimes the very basis of political agreement. For all victims of conflict and for women victims in particular such mechanisms have constituted a means to make visible their experiences of conflict, and their roles in maintaining families and communities throughout the experience. By contrast, the Good Friday/Belfast Agreement made little explicit reference to the past, other than noting that ‘The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured or their families. But we can best honour them through a fresh start, in which we dedicate ourselves to the achievement of reconciliation, tolerance and mutual trust, and to the protection and vindication of the human rights of all’.^{xvii} The issue however has not gone away and in the post conflict environment has consistently been referenced by community groups, and a broad range of civil society actors as a necessary requirement to the achievement of a lasting and comprehensive peace in the jurisdiction.

Key Aspects of the Equality and Human Rights Provisions in the Agreement

- ❖ Emphasis on the inter-relationship of all rights (Political, Civil, Economic, Social and Cultural).
- ❖ Establishment of independent national human rights institutions
- ❖ Establishment of an Equality Commission specifically tasked to promote gender equality.
- ❖ Innovative statutory mainstreaming mechanisms for equality and non-discrimination (effectively mainstreaming provisions for a range of inequalities, with gender specifically listed).
- ❖ A regrettable lack of emphasis or structure for identifying with the history of the conflict and human rights abuses experienced.

IV. Implementation of the Agreement/Gender Promotion in the Transitional Context.

Implementation of the Agreement has been a stop-start affair. In short, while the Agreement initially successfully negotiated the hurdles of referenda, local elections and changes in British and Irish governments, internal political differences between the local political actors have threatened to its smooth implementation throughout. At times it has appeared (as currently) that the entire 'deal' was in danger of collapse. In particular, the issues of weapons decommissioning have constantly threatened to derail progress made in other spheres. The post-conflict period has been so short that a fulsome evaluation of women's participation and the promotion of gender equality is difficult to make. However the following general observations can be made.

- ❖ There has been an overwhelming decline in the levels of political violence in the jurisdiction. While the threat of violent action still exists from splinter paramilitary organisations, generally Northern Ireland has become an increasingly normal and demilitarised society to live in.
- ❖ The creation and successful integration of the Northern Ireland Women's Coalition has had a distinct effect on political culture in Northern Ireland. In short, they have become an unremarkable part of the local political landscape. Without overselling their contribution, their priorities and profile have helped shaped the terms of some key debates in the transitional environment.
- ❖ The mainstreaming of the human rights aspects of the Good Friday/ Belfast Agreement has been notable. Both a NI Human Rights Commission and a similar body in the Republic of Ireland were established; an Equality Commission has been created; a statutory duty to mainstream fairness and non-discrimination has been implemented, key reports on policing and criminal justice have been completed and reforms (though not as fulsome as required) have been undertaken.
- ❖ While operational the local political Assembly generally demonstrated a strong capacity to operationalize the consociational model of governance proposed in the peace agreement.
- ❖ **Of concern** are the following matters – women's participation in public and political life still remains marginal and unrepresentative. Moreover, the difficulties and multiple sites of implementation for the Agreement have generated an enormous volume of work for women's groups who remain under-resourced financially and otherwise.
- ❖ Ongoing, post-Agreement negotiations and re-negotiations have been substantially less inclusive than the peace agreement's process, and have in some critical respects undermined gains made in the multi-party talks. The regrouping of political opposition to key elements of the political settlement, as well as resistance on the ground to reforms (especially in the areas of human rights and

equality) point to the fact that the gains made in political agreements should not be presumed to be safe in the transitional environment.

❖ While considerable advancement has been made for human rights protections, there has been a substantial diminution of rights protections in the translation of the Agreement's principles to law.

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- i Ulster is the name given to the nine-county province, which is geographically located in the northern part of the Island of Ireland.
- ii It proclaimed a Republic in 1948, withdrew from the British Commonwealth in 1949 and pursued a foreign policy that actively disassociated Ireland from British policy imperatives.
- iii Fearon, Kate, *Women's Work The Story of the Northern Ireland Women's Coalition* (Belfast, Blackstaff Press 1999).
- iv McCrudden, Christopher 'Mainstreaming Equality in the Governance of Northern Ireland' (1999) *Fordham International Law Journal* 22: 1696-1775; Bell, Christine (2003) 'Women and the Problems of Peace Agreements: Strategies for Change' in R. Coomaraswamy (ed) *Women, Peace-building and Constitution Making*. Sri Lanka: International Centre for the Study of Ethnic Conflict (forthcoming).
- v Agreed on 10 April 1998.
- vi *Agreement Reached in the Multi-Party Negotiations* (1998, Cm 3883). Note that in the Northern Ireland Act 1998 it is referred to as the "Belfast Agreement", however both terms are used interchangeably.
- vii It should be noted that the positions of First and Deputy First Prime Minister are jointly elected by the Assembly on a cross-community basis. GFA , Strand I, Para 15.
- viii Strand I, Article 11.
- ix GFA, Strand I, Paragraph 26.
- x GFA, Democratic Institutions in Northern Ireland, Annex 1, Pledge of Office.
- xi The language of that compromise is found in Strand I of the Agreement, whereby the British government agrees that, 'whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people ... and shall be founded on the principles of full respect and equality of civil, political, social and cultural rights'. Paragraph 1(v)
- xii GFA, Strand II, article ().
- xiii GFA, Strand III, article 5.
- xiv GFA Rights, Safeguards, and Equality of Opportunity, Strand III para 10.
- xv The mechanism to address the highly contentious issue of policing was the appointment of an independent international commission. Their Report is entitled *The Report of the Independent Commission on Policing for Northern Ireland, A New Beginning: Policing in Northern Ireland* (1999). Criminal Justice issues were also examined by a Commission but one that was not independent of government in its composition. See critique of its report, Committee on the Administration of Justice, *Annual Report 2001-02* pp12-14.
- xvi GFA Annex: Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland, Paragraph 1(v).
- xvii GFA, Declaration of Support, Paragraph 2.