Who we are

Unionist Voice Policy Studies (UVPS) is an independent think-tank, set up to promote cohesion within the unionist community and to encourage, and facilitate, a wide range of policy debates and new ideas within the unionist community.

It is our belief that unionism needs to develop greater broad strategic aims and encourage a new generation of unionists to become politically engaged. We seek to provide a vehicle to analyse and debate important areas of policy and potential political development.

We are linked to the website www.UnionistVoice.com. The website's core purpose, outlined on the homepage, is as follows;

"Unionist Voice exists to provide a platform for the most marginalised sections of the Unionist community to articulate new ideas, debate policy and discuss current affairs and areas of political development. We further aim to report current political and community events in a fair and balanced manner."

Introduction

The purpose of this inquiry by the Northern Ireland Affairs Committee (NIAC) is to consider how democratic accountability can be restored to Northern Ireland.

The UVPS group has worked extensively with a broad range of people from within the unionist community including community workers, political activists, ex-prisoners/combatants and victims.

As part of this engagement we have repeatedly heard from many ex-prisoners within the PUL community that they have not felt the peace dividend, and as a result there is a huge number of cases of mental health difficulties, alcohol abuse and many people suffering from the effects of PTSD.

There is no infrastructure or support mechanism that currently exists to help those within the unionist community suffering from the effects of long periods of imprisonment, or bereavement.

This has lead to a complete disengagement from the political process for large sections of the working class Protestant/Unionist/Loyalist (PUL) community, and as a result there remains a vacuum in terms of the benefits of the post-1998 political developments, within working class loyalist areas.
This engagement has fed into our work developing this written submission. We have sought to not only highlight negative aspects of devolution post-1998, but also potential ideas to positively move Northern Ireland forward by strengthening the union.

It is undeniable that the current system of Government, and the terms of devolution, are the main source of instability within Northern Ireland. Therefore to fix this instability, it will be necessary for the Westminster parliament to amend the Northern Ireland Act 1998, in order to deliver workable devolution.

**The Belfast/St Andrews Agreement- The context of devolution**

The current basis of devolution within Northern Ireland is the Belfast Agreement, which is given effect by the Northern Ireland Act 1998. This underpins the British-Irish Agreement which has the status of an international treaty.

The Belfast Agreement, which was amended with minor changes by the St Andrews Agreement, has been almost given the status of a political holy writ. It has been elevated to a status far beyond a normal political policy, agreement or treaty. Criticism of the Belfast Agreement is seen as moral blasphemy.

It is important to understand how this moral 'trump card' is used to solidify support for the agreement, and many of the immoral outworkings, that flow from it. The agreement is presented in the context of the 'peace process'. This simple phrase, which it appears can be used to justify almost anything, entwines 'peace' with the 'process'. The 'process' is, of course, the Belfast Agreement.

This moral 'trump' creates the illusion that peace and the process are inextricably linked, that you cannot have one without the other. The logic of this is absurd; it effectively hands a veto to those that would engage in violence in order to progress political aims. Therefore it sends the message that all must support the process, or else we cannot have peace.

It is crucial, we believe, that the Northern Ireland Affairs Committee (NIAC) addresses this within the inquiry. It is vital that there is an unambiguous acknowledgement that violence in pursuit of political aims and objectives is wrong, is morally reprehensible and that political advantage should never be gained by acts of terrorism. Flowing from this acknowledgement must be the recognition that the 'process', namely the Belfast Agreement, can be challenged, amended or repealed (in the form of the NI Act 1998) without any fear of terrorism or violence. One can oppose the process but be wholly committed to peace.

The stated aim of the inquiry is to explore ways to restore workable devolution; there is no more essential starting point than dealing with the aforementioned salient point. An unambiguous acknowledgement that the threat of terrorism should not restrict the parameters of democratic debate is crucial to unlock the potential for a wide debate on potential solutions.

Currently the straightjacket of the 'peace process' narrative locks any discussion about potential solutions within the parameters of the Belfast Agreement. Put succinctly the false representation of the Belfast Agreement as an unmovable, and unchallengeable, political holy writ, stifles real and meaningful dialogue about the potential benefits of other democratic structures.
Society must feel free to have an open and respectful conversation around whether the Belfast Agreement has failed and needs to be fundamentally altered. It is the elephant in the room and this committee has a unique opportunity to at the very least explore whether repealing the Northern Ireland Act 1998, and withdrawing from the British-Irish Agreement, could unlock potential positive benefits that would create greater stability and democratic accountability within Northern Ireland.

The democratic void within Northern Ireland has its roots in the mandatory coalition system of Government, which is the key tenet of the Belfast Agreement. This provides a veto to the largest nationalist party, and unionist party, to allow either/or to collapse the institutions at any time.

Given the Belfast Agreement is seen as a 'staging post' towards Irish unity, the mandatory veto is naturally a key tool for the republican movement, in so far as they can simply make Northern Ireland unworkable each and every time their latest demands are not met. Of course these demands will end only when they have reached the end of the 'process', and the end of the 'process' is very clear. It is outlined in Schedule 1 paragraphs 2 and 3 of the Belfast Agreement and allows the Secretary of State to call a referendum on Irish unity, and then a repetition of same every 7 years thereafter, until such times as the answer to the question of whether you favour Irish unity, is in the affirmative.

It is simple logic to conclude that a stable, prosperous and working Northern Ireland would run counter to nationalism's overriding objective of achieving Irish unity. Therefore the mandatory veto presents a key tool to create instability, each and every time nationalism's 'unity' project would benefit from such upheaval.

Mandatory coalition cannot work, and will not work. And if you arrive at the logical position of concluding that such an unworkable structure is part of the problem, then a key tenet of the Belfast Agreement falls. When arriving at this realisation the natural next step is to accept that the Northern Ireland Act 1998 needs repealed, or at the very least amended. That is a matter fully within the remit of the Northern Ireland Affairs Committee to make recommendations upon.

The system of mandatory coalition enshrines sectarian division. When the very core tenet upon which Government rests is a system which essentially says 'we could never trust our neighbour to govern', then how can any genuine or lasting peace ever flow from such a scenario?

**How the required changes could be made**

The Northern Ireland Act 1998 itself is extremely clear at Section 5 (6). British Parliamentary sovereignty is fully retained. Therefore the sovereign British Parliament is free to legislate over any issue pertaining to Northern Ireland, and this includes repealing the Northern Ireland Act 1998, if it so wished.

On this point it is important to debunk the myth that the Northern Ireland Act 1998 is a 'constitution'. This, as aforementioned, gives it the status of a holy writ that is politically sacrosanct. It is, quite simply, a piece of legislation. And like every other piece of legislation it can (and has) been amended, and if it was the will of Parliament, it could be repealed.

We concede that the Northern Ireland Act 1998 is underpinned by an international treaty, but in the same vein international treaties are not binding forever and a day. If they were
then we would never have had Brexit. It would be absurd to suggest that any treaty is binding forever.

They can be overridden, which brings us to another key argument advanced by those in support of the agreement, namely that repealing the Northern Ireland Act 1998 would be in breach of international law.

The British Government can override any treaty, at any time. This can be done via a Royal Prerogative. Those hostile to Brexit have already tried to litigate this point, submitting that a legislative consent motion from the Northern Ireland Assembly was necessary to allow such a Royal Prerogative to take effect. This was dismissed by the Northern Ireland High Court.

So, if as I presume it would be, the argument is that the Northern Ireland Act 1998 could not be repealed, or a Royal Prerogative to override the Belfast Agreement could not take effect without a legislative consent motion, then this argument has already been tried, and failed, in relation to Article 50.

Despite the existence of the international British-Irish treaty, this does not give the Republic of Ireland a veto over Westminster legislation, such as the Northern Ireland Act, and it is furthermore clear that responsibility for Northern Ireland, if the institutions given effect by the Northern Ireland Act 1998 floundered (as they have), would rest solely with the British Government.

There is also an inherent bias within Schedule 1 and 2 of the Belfast Agreement. A referendum can be called on the question of Irish unity, yet there is no clear mechanism to call a referendum to solidify support for the union. Nor is there any mechanism that, in the event of a decision of the majority to join a United Ireland, that the Northern Ireland population would have the opportunity to hold a reciprocal referendum every 7 years thereafter, in order that the opportunity to re-join the union would always reside with the people of Northern Ireland.

An affirmative decision to join a United Ireland, following a referendum, would see Northern Ireland, and the unionist community within it, permanently subsumed into a United Ireland, with no viable mechanism to restore their constitutional preference.

The committee should consider whether an appropriate legislative mechanism should be clearly put in place to remedy this bias within the Belfast Agreement.

Failing a legislative remedy to this issue, the committee may give consideration to recommending legislation that would ensure no border poll could be called within the next 20 years, thus providing stability and clarity to the people of Northern Ireland.

A Fresh Start? - The Political failure

The Fresh Start agreement was heralded as the latest 're-boot' of the Belfast Agreement, and the overarching peace process. Despite this the political element of the agreement has failed, and the policing and justice theme of the 'Fresh Start' agreement has only further isolated and demonised a large section of the unionist community.
Concerns have been consistently raised within the unionist community in relation to the work of the new PSNI-NCA Task Force. Despite this force coming into effect following the murder of a man by the Provisional IRA, the majority of their resources have been focused on the loyalist community.

This 'siege' of sections of the unionist community, which many contend is nothing to do with pursuing crime and everything to do with criminalising, and thus de-legitimising, the working class unionist community within the political sphere, has had a negative effect in relation to the political stability of Northern Ireland.

There have been numerous house searches and many occasions whereby the unionist community have felt that there have been politically motivated arrests, designed to deliver maximum publicity for the Task Force, despite the fact there has been no evidence of crime found, and no charges brought.

A key example of this is the seizure of conflict related memorabilia. A matter within the knowledge of the NIAC, given that the Chief Constable was questioned on this point during a recent appearance before the committee. This policy of seizing conflict related material has not been enforced across the board, evidenced by the failure of the PSNI to take any action against IRA museums or Sinn Fein shops selling IRA merchandise. This stands in stark contrast to the relentless pursuit of artwork and memorabilia relating to conflict related loyalist groups.

The UVPS believe that the Fresh Start policing policy must be not only clear, but most importantly implemented across the board. There cannot be one policy for the unionist/loyalist community, and one policy for mainstream republicans. Everyone must be equal under the law, and equally subject to the law. This is a cornerstone of democracy.

The committee may consider recommending, for example, that the use of non-jury trials is brought into line with the rest of the United Kingdom. The current de-facto emergency provisions being used are an example of regressive policing and justice strategies, which do not sit easily with a progressive political process.

29 December 2019