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Working Group on Unification Referendums on the Island of Ireland: Final Report

Posted on [May 26, 2021](#) by [The Constitution Unit](#)



*The [final report](#) of the Working Group on Unification Referendums on the Island of Ireland is published today. In this post, **Alan Renwick**, the Working Group's Chair, outlines what the Group has sought to achieve, explains how it has pursued these goals, and highlights some of the core findings. He points out that, while there is no certainty that a referendum will happen any time soon, policy-makers need to be aware of the decisions that might have to be made.*

The [Working Group on Unification Referendums on the Island of Ireland](#) was established approaching two years ago to examine how any future referendums on Northern Ireland's constitutional status would best be designed and conducted. Based at the Constitution Unit, the Group comprises 12 experts in politics, law, history and sociology, from universities in Northern Ireland, the Republic of Ireland, Great Britain and the United

States. Since coming together, we have pooled our expertise – meeting at first face-to-face and later online – and listened to as many voices as we could, including politicians, former officials, journalists, community organisers, academics, and members of the general public. We have held dozens of in-depth conversations and received numerous written submissions. Our public consultation last summer attracted 1377 responses, which we have carefully analysed. Last November, we published an interim report setting out our draft findings. Through four public seminars, direct correspondence, and monitoring of traditional and social media, we have logged over 300 responses to it. Our final report takes account of all of that feedback.

The Working Group's starting point

A crucial feature underpinning all of this work has been our starting point. The Group has no collective view on whether it would be desirable for referendums on Northern Ireland's constitutional future to take place, or what the outcome should be if they do happen. Speaking personally, my interest in this subject stems from my broader work on how to conduct referendums well, including the [Independent Commission on Referendums](#), which reported in 2018, and the 2019 [Doing Democracy Better](#) report, co-authored with Michela Palese. I have no position on where Northern Ireland's future should lie.

Our perspective in the Working Group rests on four basic propositions. First, referendums on the constitutional question in Northern Ireland *might* happen – indeed, they are legally required under the [1998 Belfast/Good Friday Agreement](#) if a majority for Irish unification looks likely. Second, if such referendums happen, it is imperative that they be conducted well. A process that might encourage either side to question the legitimacy of the outcome could be very dangerous. Third, the challenges involved in conducting such votes well would be considerable. There is no perfect approach that would avoid all of the serious pitfalls involved in a process like this. Trade-offs between competing priorities would be unavoidable. Careful thinking about the options and how they might pan out in practice is therefore essential. Fourth, no one has done that thinking. The 1998 Agreement set out some key parameters, but left much unspecified or unclear. Little detailed thinking has subsequently been done to fill the gap. Yet, if we fail to fill that gap, we could find ourselves at some point in the coming years in a tricky situation, with no plan for how to deal with it.

We on the Working Group do not believe that referendums on Northern Ireland's constitutional future are imminent: the evidence is that a majority of voters in Northern Ireland would currently support maintaining the Union. But opinion could evolve in either direction in the future, and Brexit and the ongoing constitutional debate in Scotland only add to the uncertainty. A period when referendums are not immediately on the cards is

precisely the time when careful examination of the issues and options is best done. The British and Irish governments, for wholly understandable reasons, find this matter too sensitive to address themselves at present. So an independent group of academics, with no agenda beyond procedural fairness and legitimacy, is well placed to do that work.

The Group's core conclusions

The 1998 [Belfast/Good Friday Agreement](#) provides the framework for any future referendums. It makes some key provisions, but also leaves many important points unspecified. Unification could not take place without votes in its favour on both sides of the border. There could be only two options on the ballot paper: a united Ireland; and the status quo. The threshold for passage would be a simple majority (i.e. 50% + 1) both north and south. If that threshold were met, unification would have to go ahead. The votes would have to be administered and the campaigns regulated such that the people of Ireland north and south could make a free choice, without external impediment.

The [Northern Ireland Act 1998](#), using the wording laid down in the 1998 Agreement, states that the Secretary of State for Northern Ireland must call a referendum if majority support for unification appears to him or her 'likely'. As to how that is to be judged, however, the Agreement is silent. We identify six types of evidence that the Secretary of State might draw upon, including election results, data from surveys and opinion polls, and any votes held on the matter within the Northern Ireland Assembly. Precise weights cannot be attached to these in the abstract. But the Secretary of State is under both a legal duty and a political and moral imperative to act with genuine and transparent honesty and impartiality.

There are several plausible configurations of referendums north and south. The votes could come relatively early in the process, before the details of a united Ireland had been worked out; or later, once a plan had been developed. We identify three plausible configurations that deserve further consideration. Each has advantages and disadvantages, as well as multiple variants. Deciding which one should be used in a future referendum process is a political as much as a procedural question. At its heart is a seemingly intractable trade-off between giving voters an *informed choice* at the ballot box, and creating an *inclusive process* such that, if unification is chosen, all constitutional perspectives can contribute to the shape of the unified state's structures.

Regardless of which configuration might be used, it would be highly unwise for referendums to be called without a clear plan for the processes of decision-making that would follow. Such a plan would need to be agreed by the governments, working closely with the full range of actors in Northern Ireland, Ireland, and Great Britain. When such

planning should begin is a political decision. But it should be completed by the time any referendum is called.

Any decision-making process would need to address a range of issues in addition to the sovereignty question itself. Not least among these would be the constitutional shape of a united Ireland – whether Northern Ireland would continue as a devolved region post-unification, or a united Ireland might have a unitary or federal structure. This would be a matter for the Irish government to propose, but seeking to engage all communities in discussion. A range of public policy matters, including healthcare and education provision, would also need to be decided. In the event that the votes favoured unification, the British and Irish governments would negotiate the terms of the transfer of sovereignty in Northern Ireland and of future British–Irish relations. Supporters of the existing Union might also make proposals for change, as they did in the final stages of the Scottish independence referendum in 2014 – though a majority for maintaining the Union would not in itself give a mandate for implementing them.

Finally, the report emphasises that the conduct rules for any referendums would be crucial. Some aspects are relatively settled: there are established rules in Ireland for the franchise and the wording of the referendum question, and there are well developed norms on these matters in the UK too. But the rules for the conduct of the campaigns need more attention: the existing rules are badly out of date in both the UK and Ireland, and urgently need to be strengthened. This would be particularly important for referendums on such a momentous question as unification. Voters should be protected from misinformation, and have access to high-quality information. Campaign finance rules should not be readily circumventable. The process as a whole must be fair, and its administration rigorously impartial.

Final reflections

Some of those who provided feedback on our interim report emphasised how sensitive the matters examined by the Working Group are. That is particularly so for many unionists, for whom talk of a referendum on Northern Ireland's future is deeply troubling. We fully acknowledge that, and we are grateful for the thoughtful and constructive manner in which these points have been made to us.

At the same time, the research that the Working Group has done has only confirmed our view that holding unification referendums would be complex, and thinking the processes through is therefore necessary. Multiple jurisdictions would be involved, dealing with a series of interrelated constitutional and political questions. Coordination, particularly by the two governments, would be essential.

The Working Group has now reached its final conclusions, but we do not wish these to be the final word on the matter. We are keen to continue engaging with relevant actors in the policy world and academia, and to encourage public discussion of our findings. Further information on the Working Group, our report, and how to get in touch with us are available on the [Working Group's webpage](#).

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About the author

Dr Alan Renwick is Deputy Director of the Constitution Unit and Chair of the Working Group on Unification Referendums on the Island of Ireland.

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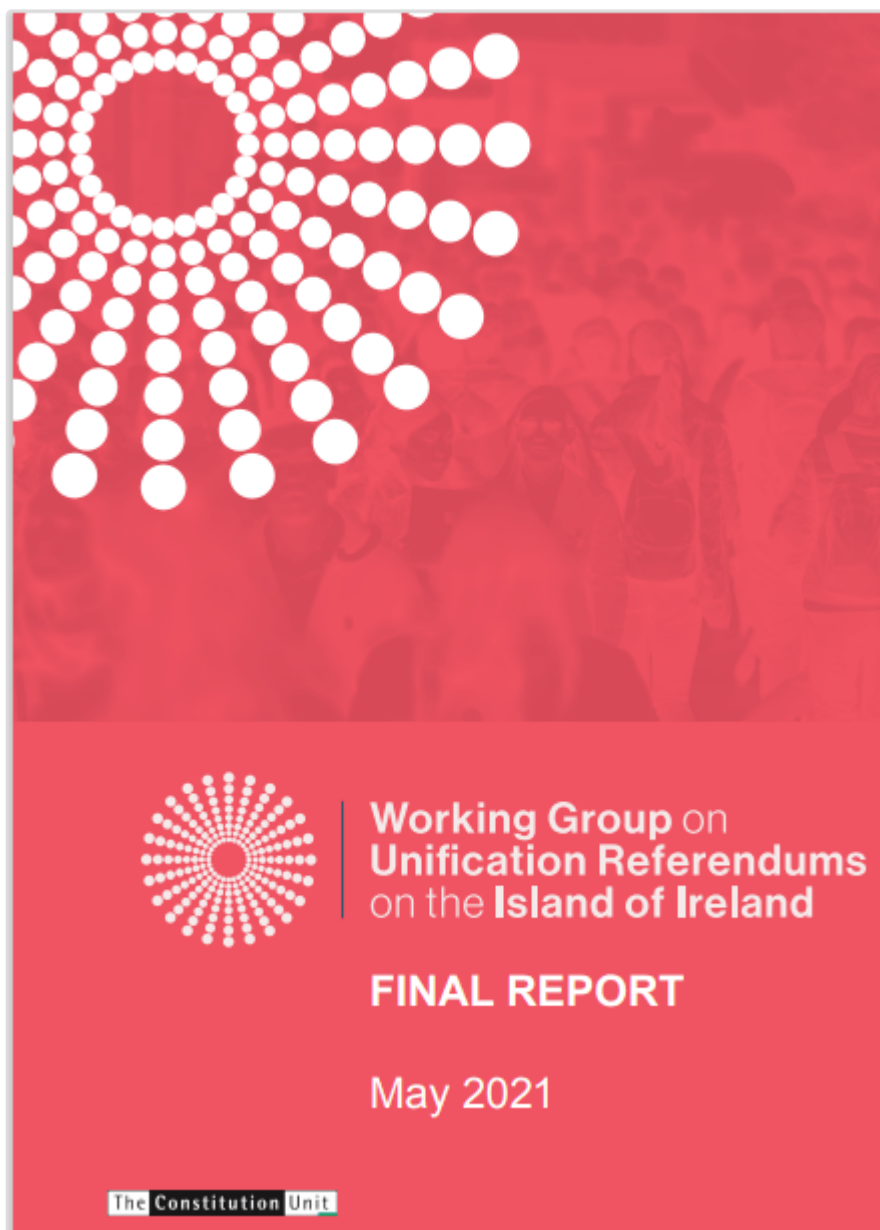
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