

12-31-2018

CHANCING THE ARM TO SAVE THE FACE: THE FIGHT FOR IRISH GAELIC RECOGNITION AND ENDING THE STORMONT DEADLOCK

Samantha F. Sigelakis-Minski

Follow this and additional works at: <https://brooklynworks.brooklaw.edu/bjil>

 Part of the [Comparative and Foreign Law Commons](#), [European Law Commons](#), [International Law Commons](#), [Law and Politics Commons](#), [Law and Society Commons](#), [Legislation Commons](#), [National Security Law Commons](#), [Other Law Commons](#), and the [Transnational Law Commons](#)

Recommended Citation

Samantha F. Sigelakis-Minski, *CHANCING THE ARM TO SAVE THE FACE: THE FIGHT FOR IRISH GAELIC RECOGNITION AND ENDING THE STORMONT DEADLOCK*, 44 *Brook. J. Int'l L.* 272 (2018).

Available at: <https://brooklynworks.brooklaw.edu/bjil/vol44/iss1/6>

This Note is brought to you for free and open access by the Law Journals at BrooklynWorks. It has been accepted for inclusion in Brooklyn Journal of International Law by an authorized editor of BrooklynWorks.

CHANCING THE ARM TO SAVE THE FACE: THE FIGHT FOR IRISH GAELIC RECOGNITION AND ENDING THE STORMONT DEADLOCK

INTRODUCTION

On January 9, 2017, Martin McGuinness, the deputy First Minister of the Northern Ireland Executive,¹ resigned in protest of First Minister Arlene Foster's refusal to step down.² His resignation signaled the beginning of a governmental lock-down colloquially known as the "Stormont Deadlock."³ McGuinness's political party, Sinn Féin, refused to appoint a deputy, and First Minister Foster was unable to govern alone under the law.⁴ The issues that face the Democratic Unionist Party (DUP) and Sinn Féin, the controlling unionist and nationalist parties, respectively, are far-reaching and diverse in nature.⁵ The initial

1. The Northern Ireland Executive is the devolved government of Northern Ireland, consisting of the First Minister, deputy First Minister, two junior ministers, and departmental Ministers. See *Your Executive*, N. IR. EXECUTIVE, <https://www.northernireland.gov.uk/topics/your-executive> (last visited Jan. 14, 2018). The Northern Ireland Assembly appoints all of the Executive positions, with the First Minister and deputy First Minister being nominated by the largest and second-largest political parties in the Assembly. *Id.*

2. See *Martin McGuinness Resigns as NI Deputy First Minister*, BBC NEWS (Jan. 10, 2017), <http://www.bbc.com/news/uk-northern-ireland-38561507>.

3. Chris Page, *Stormont: All You Need to Know About NI's Latest Political Crisis*, BBC NEWS (Jan. 16, 2017), <http://www.bbc.com/news/uk-northern-ireland-38612860>.

4. For more information on the power sharing structure of the Northern Irish Executive, see *The Assembly and The Executive*, N. IR. ASSEMBLY, http://education.niassembly.gov.uk/post_16/the_assembly_and_executive (last visited Jan. 10, 2019); see also Northern Ireland (St Andrews Agreement) Act 2006, c. 53, §8, 16B [hereinafter St Andrews Agreement]: "If either the First Minister or the deputy First Minister ceases to hold office at any time, whether by resignation or otherwise, the other—(a) shall also cease to hold office at that time, but; (b) may continue to exercise the functions of his [sic] office until immediately before those offices are filled."

5. In Northern Irish politics, unionist parties are in favor of remaining a part of the United Kingdom, while nationalist parties are in favor of having closer ties to the Republic of Ireland, with many wanting to unite Ireland. Generally, these political affiliations are tied to religion, with Catholics identifying

breakdown in interparty communication occurred due to the First Minister Foster's involvement in the Renewable Heat Incentive scheme and her subsequent refusal to step down after an investigation.⁶ McGuinness, however, laid out a full array of reasons for the necessity of his resignation. In his letter, McGuinness lamented, "The equality, mutuality and all-Ireland approaches enshrined in the Good Friday Agreement have never been fully embraced by the DUP."⁷ McGuinness further clarified that the DUP has "[a] negative attitude to nationalism and to the Irish identity and culture."⁸ This complaint includes the longstanding issue of Northern Ireland having no formal Irish language legislation, making it the only single-language country in the United Kingdom (UK).⁹

This is not the first time that there has been an Irish Language Act¹⁰ proposed to the Northern Irish Assembly,¹¹ nor is it the

as nationalists and Protestants identifying as unionists. The current controlling parties in the Northern Irish Executive are firmly on opposite ends of the political spectrum, with the DUP being unionist and Sinn Féin being nationalist. For more information on the political divide in Northern Ireland, see Michael Connolly, *Political Groupings in Northern Ireland*, in *POLITICS AND POLICY MAKING IN NORTHERN IRELAND* (John Benyon ed., 1990), available at <http://cain.ulst.ac.uk/issues/politics/docs/connolly.htm>.

6. For further reading, see *Q&A: What is the Renewable Heat Incentive Scheme?*, BBC NEWS (Dec. 13, 2016), <http://www.bbc.com/news/uk-northern-ireland-38307628>. The Renewable Heat Incentive Scheme was a government incentive that provided financial support to companies that switched from fossil fuel generators to renewable energy generators. *Id.* The issue that arose was due to the fact that the renewable fuel was significantly cheaper than the subsidy, meaning that users could abuse the system and the government overspent in the scheme. *Id.* While this initial disagreement seemingly has nothing to do with the subsequent and current language dispute, the Renewable Heat Initiative scheme was the catalyst and should therefore be acknowledged.

7. Letter from Martin McGuinness, Deputy First Minister, Northern Ireland Executive, to Robert Newton, MLA, Speaker, Northern Ireland Assembly (Jan. 9, 2017) (on file with the Sinn Féin Document Library).

8. *Id.*

9. The United Kingdom of Great Britain and Northern Ireland includes Wales and Scotland, both of which have comprehensive mother tongue legislation that makes their language co-official languages with English. See Welsh Language Act of 1993, c. 38 [hereinafter Wales Act]. See also Gaelic Language (Scotland) Act 2005, (ASP 7) [hereinafter Scotland Act].

10. In Irish, the Act is called "Acht na Gaeilge."

11. *Hardline Version of an Irish Language Act Previously Proposed by SF Minister*, BELFAST NEWS LETTER (July 3, 2017), <http://www.newsletter.co.uk/news/hardline-version-of-an-irish-language-act-previously-proposed-by-sf-minister-1-8037310>.

first time that the DUP has expressed disdain for such legislature, despite a commitment on paper¹² and international censure.¹³ In recent years, this disdain has been expressed in many different ways. Some examples include when the DUP Minister of Agriculture, Environment, and Rural Affairs renamed a naval ship from Gaelic to English at an unnecessary cost,¹⁴ and when the party cut funding to Gaelic¹⁵ education classes, only to “find” the money again before a major election.¹⁶ The DUP believes that implementing an Irish Language Act is a sign of Irish supremacy and has likened giving in to the Act to “feeding a crocodile.”¹⁷ Its most logical argument is the cost that an Irish Language Act would incur on the tax base,¹⁸ but Sinn Féin believes that this argument is a cover for the DUP’s purportedly racist agenda.¹⁹

12. See The Northern Ireland Peace Agreement, U.K.—Ir., ch. 6, § 3, Apr. 10, 1998, reprinted in 37 I.L.M. 751, available at https://www.taoiseach.gov.ie/attached_files/Pdf%20files/NIPeaceAgreement.pdf [hereinafter Good Friday Agreement]; see also Agreement at St Andrews, annex B, Oct. 13, 2006, available at <http://cain.ulst.ac.uk/issues/politics/docs/nio/bi131006.pdf>.

13. See *Fourth Opinion on the United Kingdom adopted on 25 May 2016 of the Advisory Committee on the Framework Convention for the Protection of National Minorities*, 6 ACFC/OP/IV(2016)005 50 (Feb. 27, 2017).

14. Rebecca Black, *Row Erupts After DUP Minister Changes Name of Boat from Irish to English*, BELFAST TELEGRAPH (Sept. 29, 2016), <http://www.belfasttelegraph.co.uk/news/northern-ireland/row-erupts-after-dup-minister-changes-name-of-boat-from-irish-to-english-35088135.html>.

15. The Irish-language spelling of “Gaelic” is Gaeilge. See CHRISTOPHER MOSELEY, *ATLAS OF THE WORLD’S LANGUAGES IN DANGER* (UNESCO Publishing 3d ed. 2010), available at <http://www.unesco.org/culture/en/angeredlanguages/atlas> (“Irish Gaelic, Original Name: Gaeilge”).

16. Robbie Meredith, *Irish Gaeltacht Scheme for Young, ‘Cut by £50,000,’* BBC NEWS (Dec. 23, 2016), <http://www.belfasttelegraph.co.uk/news/northern-ireland/row-erupts-after-dup-minister-changes-name-of-boat-from-irish-to-english-35088135.html>.

17. The First Minister of Northern Ireland Arlene Foster said, “If you feed a crocodile it will keep coming back for more,” in regard to allowing an Irish Language Act per Sinn Féin’s demand. See *DUP Will Never Agree to Irish Language Act, Says Foster*, BBC NEWS (Feb. 6, 2017), <http://www.bbc.com/news/uk-northern-ireland-38881559>.

18. Robbie Meredith, *Irish Language Act ‘Would Initially Cost £8.5m,’* BBC NEWS (Mar. 15, 2017), <http://www.bbc.co.uk/news/uk-northern-ireland-39272431>.

19. Gareth McKeown, *Sinn Féin Again Hit Out at DUP After Irish Language Bursary Scrapped*, IRISH NEWS (Jan. 3, 2016), <http://www.irish-news.com/news/northernirelandnews/2017/01/03/news/sinn-fe-in-again-hit-out-at-dup-after-irish-language-bursary-scrapped-861754/>.

Minority language laws have created controversy all over Europe, including the UK, since the beginning of decolonization.²⁰ Given the difficult environment that this has created for native and minority speakers, the United Nations (UN) has taken a hard stance supporting minority populations and mother tongue preservation.²¹ The United Nations Educational, Scientific, and Cultural Organization (UNESCO) has found this to be such a problem that it has declared February 21 to be International Mother Language Day in an effort to “promote linguistic and cultural diversity and multilingualism.”²² According to UNESCO data, “More than 50 per cent of the approximately 7,000 languages spoken in the world are likely to die out within a few generations, and 96 per cent of these languages are spoken by a mere 4 per cent of the world’s population.”²³

In Northern Ireland, Gaelic is “extinct as a first language . . . [and] widely studied as a second language,”²⁴ and the Republic of Ireland only has 44,000 people “living in primarily Irish-speaking areas,” with 77,185 people speaking Gaelic on a regular basis apart from a classroom setting.²⁵ This collective data equates to Gaelic’s being a “Definitely Endangered” language by the UNESCO standard.²⁶ In order to better preserve and rejuvenate these languages, and with them, minority cultures, the General Assembly of the UN has called upon nations to “take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture [and] language.”²⁷ Furthermore, the General

20. See Luke Mastin, *Late Modern English: Colonialism and the British Empire*, HIST. ENG., http://www.thehistoryofenglish.com/history_late_modern.html (last visited on Nov. 6, 2017).

21. See MOSELEY, *supra* note 15. See also *Thousands of Languages Face Extinction, UN Warns at Start of International Year*, U.N. NEWS (Feb. 21, 2008), <https://news.un.org/en/story/2008/02/249872-thousands-languages-face-extinction-un-warns-start-international-year> (“The agency warned that when a language fades, so does a part of the world’s cultural tapestry.”).

22. *International Mother Language Day, 21 February*, U.N., <http://www.un.org/en/events/motherlanguageday/background.shtml> (last visited Oct. 6, 2018).

23. See MOSELEY, *supra* note 15.

24. *Id.*

25. *Id.*

26. *Id.*

27. G.A. Res. 47/135, art. 4, ¶ 2, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Dec. 18, 1992).

Assembly has directed members to recognize that “persons belonging to national or ethnic, religious and linguistic minorities . . . have the right to enjoy their own culture . . . and to use their own language, in private and in public, freely and without interference or any form of discrimination.”²⁸

In order to fulfill the UN’s goal of preserving and rejuvenating minority and mother tongue languages, the Unionist DUP party should compromise with Sinn Féin and entertain some form of the Irish Language Act. While there are genuine concerns of financial hardship²⁹ and renewed tension, a widespread acceptance of Irish language and culture needs to be implemented in Northern Ireland from the top-down to the citizenry to better promote peace and tolerance. If the end goal is to remain a separate entity from the Republic of Ireland and at least partially autonomous from a direct Westminster rule,³⁰ compromises must be made between the Unionist and Nationalist parties. This, however, does not preclude a more balanced article of legislation, which acknowledges both Gaelic and Ulster-Scots, the other minority language in Northern Ireland. This type of dual legislation was a proposed compromise from the DUP that Sinn Féin has rejected in the past.³¹ To guide the Northern Irish government in making this legislation, Welsh and Scottish language acts should be used because they are examples of what has worked in the United Kingdom. These acts should be examined and tailored for an Irish Language Act with the Unionist and Nationalist goals in mind, with both sides acknowledging respect for the other’s culture.

Part I of this Note will discuss the history of the Northern Ireland conflict and the subsequent uneasy peace that exists in the country and within its governmental structure. It will also examine the influence of both the UK and the Republic of Ireland

28. *Id.* art. 2, ¶ 1.

29. See Meredith, *supra* note 18.

30. Westminster rule, also known as direct rule or home rule, is the ability of the British government to intercede in the event of a complete collapse of the Northern Irish government. See *What is Direct Rule for Northern Ireland?*, BBC NEWS (June 30, 2017), <https://www.bbc.com/news/uk-40462749>. What this would mean for Northern Ireland is that all laws would have to go through London ministers to be passed. *Id.*

31. See *Sinn Féin Rejects DUP’s Irish Language Proposal*, RAIDÍÓ TEILIFÍS ÉIREANN (Sept. 1, 2017), <https://www.rte.ie/news/2017/0901/901416-stormont>.

on the formation and maintenance of Northern Ireland's political structure. Part II of this Note will discuss the history of European decolonization efforts. Additionally, Part II will discuss the push for single-language nations in an attempt to solidify nationalist power, which subsequently marginalized and subjugated minority cultures and mother languages. It will also show the current trend towards preserving and rejuvenating these cultures and languages in an attempt to rectify the wrongs of homogenization and to demonstrate how this push has worked and failed on an international scale. Part III of this Note will discuss these preservation and rejuvenation efforts on the micro-level in Northern Ireland, as they pertained to the Good Friday Agreement, the St Andrews Agreement of 2006, and most recently, the current Stormont Deadlock. Finally, Part IV will discuss a viable conclusion to both preserve Irish language and culture as well as maintain the integrity of Unionist and Nationalist identities.

I. THE UNITED KINGDOM AND IRELAND: A BRIEF LOOK AT THE HISTORY OF THE TROUBLES AND ITS IMPACT ON THE FORMATION OF THE NORTHERN IRISH GOVERNMENT STRUCTURE

An analysis of why a form of Irish language legislation is necessary to keep Northern Ireland autonomous and at peace necessitates an historical understanding of the conflict between the islands of Ireland and Great Britain. The clashing of these two nations has gone on for centuries, with Great Britain subjugating the Irish people throughout the ages. This subjugation resulted in near-extinction of the mother language, with a resurgence only occurring in the late nineteenth century.³²

A. The Colonial Times: Anglo-Norman Invasion of 1169 to the Great Famine of Ireland

The English occupation of Irish land began in earnest with the Anglo-Norman invasion in 1169 A.D.³³ Ireland was made up of small and separate kingdoms with one controlling "High King," a title given to the strongest ruler of the smaller kingdoms at the

32. See Muiris Ó Laoire, *The Language Planning Situation in Ireland*, MULTILINGUAL MATTERS 193, 198 (2008).

33. Gavin Stamp, *Neighbors Across the Sea: A Brief History of Anglo-Irish Relations*, BBC NEWS (Apr. 8, 2014), <http://www.bbc.com/news/uk-politics-26883211>.

time.³⁴ This created an internal struggle that culminated in the ousted and exiled King of Leister, Dermot MacMurrough's enlistment of aid from English King Henry II and Lord Strongbow to regain his throne.³⁵ After a successful invasion, the English forces occupied Dublin, where High King O'Connor was unable to defeat them.³⁶ Thereafter, King Henry II claimed rule over Ireland in 1175 under the Treat of Windsor, granting the Irish rulers limited sovereignty over a small portion of Irish land that was eventually completely overtaken by English nobles.³⁷

Even with this conquest, the Irish rulers were still considered regents of the King of England and possessed the same rights as other semi-autonomous rulers.³⁸ The British government's presence was strongest in the area known as the Pale, which consisted of the coastline from Dundalk to Dalkey, along with "portions of the counties of Dublin, Meath, Louth, and Kildare."³⁹ Generally speaking, however, Ireland remained a mostly autonomous colony of England, with each of its smaller territories negotiating separately with the English King's regents,⁴⁰ even persisting past the time that Henry VIII was titled the of King of Ireland in 1541.⁴¹

Minor rebellions often beset this fragile peace, but most did not significantly effect change.⁴² In 1594, however, Tyrone's Rebellion, or the Nine Years' War⁴³ as it is now known, began when the Earl of Tyrone and Irish chieftain, Hugh O'Neill, gathered

34. To learn more about Medieval Irish ruling hierarchy, see *Gaelic Kingdoms—Kingdom of Ireland*, HIST. FILES (2018), <http://www.historyfiles.co.uk/KingListsBritain/GaelsIreland.htm>.

35. Catherine Hines, *Reaping the Turmoil Within: How Ireland's Kings Triggered the Anglo-Norman Invasion*, 2 TENOR OF OUR TIMES 22, 25 (2013).

36. *Id.* at 26.

37. *Id.*

38. *Id.*

39. For more information on the breakdown of English strongholds in Ireland, see *Ireland: A Colony of Retreat, 1350–1541*, NAT'L ARCHIVES, <http://www.nationalarchives.gov.uk/utk/ireland/retreat.htm> (last visited Jan. 14, 2018).

40. *Id.*

41. Stamp, *supra* note 33.

42. See Steven Ellis, *Turning Ireland English*, BBC (Feb. 17, 2011), http://www.bbc.co.uk/history/british/tudors/elizabeth_ireland_01.shtml.

43. For more information, see PATRICK WESTON JOYCE, A CONCISE HISTORY OF IRELAND 433–443 (Patrick Weston eds., Longmans, Green, and Co. 1903).

his allies, including a force of Spanish troops, and started a guerrilla war against the British occupiers throughout Ulster.⁴⁴ This rebellion lasted until March of 1603, when the new deputy Lord Mountjoy managed to turn the tide of conflict and force the Earl to unconditionally surrender.⁴⁵ Another rebellion of this scope was not seen until 1641, fomented because of the rise of religious persecution of Catholics in Ireland by the Protestants.⁴⁶ After 1641, there began another period of unrest that lasted until 1690 with the end of the Williamite-Jacobite War in Ireland, cementing Protestant, and therefore British, rule.⁴⁷

Tied to this religious conflict was the struggle of maintaining the Irish language. Most of the Catholic poor were Irish-speaking,⁴⁸ while the Protestant elite were English speakers and, therefore, capable of holding better positions of power and offices in the new Anglo-Irish seat of power.⁴⁹ Even the Catholic parishes, however, began sermonizing in English due to the changing political climate.⁵⁰ Consequently, the Irish language slowly began to decline as more speakers began speaking primarily in English for better living and career prospects.⁵¹ State-sponsored schools that only taught English also accelerated this decline

44. See DR. WILLIAM PALMER, *THE PROBLEM OF IRELAND IN TUDOR FOREIGN POLICY* 129 (Boydell & Brewer Ltd. 1994). Ulster is a province in Northern Ireland and a small portion of the Republic of Ireland that is made up of nine counties. Informally, Ulster is now used as a term for all of Northern Ireland. *Ulster*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/ulster> (last visited Nov. 29, 2018).

45. See PALMER, *supra* note 44.

46. For more information on the 1641 Rebellion, see David Plant, *The Irish Uprising, 1641*, BCW PROJECT (Feb. 28, 2011), <http://bcw-project.org/church-and-state/confederate-ireland/the-irish-uprising>.

47. For more information on the Williamite-Jacobite War, see JOHN CHILDS, *A MILITARY HISTORY OF IRELAND* 188, (Thomas Bartlett & Keith Jeffery eds., Cambridge Univ. Press 1997).

48. See Ó Laoire, *supra* note 32, at 197.

49. See Éamon Ó Cuív, *An Gorta Mór — the Impact and Legacy of the Great Irish Famine*, Lecture Delivered at the University of Toronto, Canada 15 (May 8, 2009), available at <http://www.irishfamine.ie/wp-content/uploads/2015/11/2009-05-08-FINAL-speech-for-University-of-Toronto-Lecture.pdf>.

50. Ian Kennedy, *The Decline of the Irish Language in the Nineteenth Century*, Lecture Delivered at the Drew University Atlantic Connections Conference 33 (Jan. 16, 2015), available at <http://www.yeatssociety.com/news/2015/03/09/the-decline-of-the-irish-language-in-the-nineteenth-century/>.

51. See Ó Laoire, *supra* note 32, at 199.

over time, solidifying the British culture at the expense of native Irish speakers and their culture.⁵²

The Irish Potato Famine⁵³ most notably exacerbated this decline.⁵⁴ On the eve of the Famine, the percentage of Irish speakers was at its highest because of the population boom in the early nineteenth century.⁵⁵ Out of the 8.5 million people living on the island, 3.5 million spoke Irish as their native language or of an equivalent fluency.⁵⁶ As the potato blight set in from the late summer of 1845 up until the early 1850s, however, these numbers dramatically decreased due to the subsequent deaths and emigrations.⁵⁷ Specifically, the Irish population decreased overall from 8.5 million to 6.6 million people by 1851.⁵⁸ Out of that population, approximately 300,000 reported to only speak Irish, while over 1.5 million people purported to speak both English and Irish.⁵⁹ These numbers continued to decrease over the years

52. See Kennedy, *supra* note 50, at 41.

53. The Irish Potato Famine, also known as the Great Famine or an Gorta Mór in Gaelic, was caused by blight on Irish potatoes from 1845 until the early 1850s. The Irish people, particularly the poor, were reliant on potatoes for food; with nearly 60 percent of the population's food needs coming from potato crops. See Jim Donnelly, *History: The Irish Famine*, BBC (Feb. 17, 2011), http://www.bbc.co.uk/history/british/victorians/famine_01.shtml. The crop loss, combined with the British government's reluctance to help and a questionable rise in agricultural exports to the UK mainland, led to the deaths of between 750,000 to one million people, along with a vast migration movement. For more information on the Irish Potato Famine, see Cuív, *supra* note 49, at 1–2; see also ERICK FALC'HER-POYROUX, *THE GREAT FAMINE IN IRELAND: A LINGUISTIC AND CULTURAL DISRUPTION* 1–2 (Yann Bévant 2014).

54. For more information on the effects of the Irish Potato Famine on the population of Irish speakers, see Cuív, *supra* note 49, at 11–13.

55. *Id.* at 3–4.

56. FALC'HER-POYROUX, *supra* note 53, at 2. The exact number of Irish speakers is disputed due to a lack of good linguistic census data prior to the Famine. For other estimates, see Cuív, *supra* note 49, at 15; see also CHRISTINE KINEALY, *A DEATH-DEALING FAMINE: THE GREAT HUNGER IN IRELAND* 198 (Pluto Press 1998).

57. See Cuív, *supra* note 49.

58. *Id.*

59. *Id.* These numbers are more definitive than the pre-1841 estimates because the census added a language speaker inquiry to the questionnaire. There are some theories that this was to see how well the gentrification of Ireland had worked, or to see where the heaviest population lay. For more about the census, see Matthew Woolward, *Language Questions in Ireland*, HISTPOP (2007), <http://histpop.org/ohpr/servlet/AssociatedView?path=Browse&active=yes&mno=2072&associtle=Language%20questions%20in%20Scotland&assocpagelabel=> (last visited Jan. 14, 2019).

as the previous effects of social pressure and educational enforcement persisted and as more Irish citizens emigrated for better prospects.⁶⁰ By 1871, only 15 percent of the Irish population was recorded as Irish speaking.⁶¹ Irish-only speakers continued to live in poverty—a phenomenon explained by locals in the following way: “Irish [language] will butter no bread,” or “Irish [language] belongs to the age of the foot-plough and the sailing ship.”⁶²

B. Northern Ireland and the United Kingdom: From 1801 to Present

To understand the political structure of the Northern Irish government and the political roadblocks to Irish language recognition, one must start from when Ireland and England united “into one kingdom,” beginning what is now known as the United Kingdom of Great Britain and Northern Ireland.⁶³ After the Irish Rebellion of 1798, the British Prime Minister, William Pitt the Younger, concluded that unification was necessary for peace.⁶⁴ Pitt brought about the Union Act,⁶⁵ bringing together Britain and Ireland in a way never previously implemented.⁶⁶

Unification predictably did not come easily, nor was it popular on either side of the Irish Sea.⁶⁷ The Irish people perceived unification as a loss of identity and a forfeiture of the semblance of independence that the Irish Parliament represented.⁶⁸ For a

60. See Cuív, *supra* note 49, at 13.

61. *Id.*

62. See FALC’HER-POYROUX, *supra* note 53, at 3 (quoting REG HINDLEY, *THE DEATH OF THE IRISH LANGUAGE* 198 (Rutledge 1990)).

63. See Union with Ireland Act 1800, 39 & 40 Geo. 3 c. 67, §1 (Eng.).

64. The way this peace would be established is hotly contested, with Irish scholars claiming the British government wanted a means of abolishing the Irish Parliament by establishing Home Rule, while British scholars maintain that it was to give greater weight to “accomodat[ing] Irish interests.” See PATRICK BUCKLAND, *THE ACT OF UNION, 1800: IRELAND IN SCHOOLS* (The Warrington Project 1998), available at http://www.iisresource.org/Documents/OA5_02_Act_Of_Union.pdf.

65. *Id.* at 9.

66. See Allan I. Macinnes, *Acts of Union: The Creation of the British Empire*, BBC HIST. (Feb. 17, 2017), http://www.bbc.co.uk/history/british/empire_sea-power/acts_of_union_01.shtml.

67. See JOYCE, *supra* note 43, at 474–75.

68. The Irish Parliament was heavily regulated by the British and was often an ineffective government for the majority of Irish people, both due to internal and external pressures. Internally, it only adequately represented a minority

smaller number of British individuals, the concern was racial.⁶⁹ They believed Irish labor was cheaper and could undermine British industry,⁷⁰ and others simply did not want to work with Irishmen in Parliament.⁷¹ The Act's supporters argued for economic prosperity and the modernization of Irish industry that, up to this point, was almost strictly agrarian.⁷² For British supporters, the Act constituted relief from at least one warfront with France.⁷³ Battles with France stemming from the French Revolution were stretching Britain thin,⁷⁴ and supporters of the Act recognized that peace with Ireland would mean one less conflict to worry about, as well as the addition of new troops.⁷⁵

Despite opposition and a false start, the bill for the Act of Union passed both English and Irish Parliaments in 1800 due, in large part, to unsavory closed-doors dealings and promises that went unfulfilled.⁷⁶ Prime Minister William Pitt's promise of Catholic Emancipation, a substantial draw at a time when a majority of the population could not stand for Parliament,⁷⁷ was broken because of monarchal opposition from Britain.⁷⁸ Thus,

of the Irish population due to the enactment of the Penal Laws, which forbade Catholics from having a voice in Parliament. See Ian Machin, *British Catholics*, in *THE EMANCIPATION OF CATHOLICS, JEWS, AND PROTESTANTS: MINORITIES AND THE NATION-STATE IN NINETEENTH-CENTURY EUROPE* 11 (Rainer Liedtke & Stephan Wendehorst eds., Manchester Univ. Press 1999). Externally, legislation in Ireland still had to be approved by the Westminster Parliament, as well as the British-appointed lieutenant general. For more information, see *Hanoverians: The Union with Ireland, 1800*, HIST. PARLIAMENT TRUST, <http://www.historyofparliamentonline.org/periods/hanoverians/union-ireland-1800> (last visited Jan. 13, 2019) [hereinafter *Hanoverians*].

69. See BUCKLAND, *supra* note 64.

70. *Id.*

71. *Id.*

72. See THOMAS HEYCK & MEREDITH VELDMAN, *THE PEOPLES OF THE BRITISH ISLES: A NEW HISTORY FROM 1870 TO THE PRESENT* 285 (Oxford Univ. Press 2014).

73. See BUCKLAND, *supra* note 64, at 9–10.

74. *Id.* See *Hanoverians*, *supra* note 68.

75. See generally DESMOND KEENAN, *IRELAND WITHIN THE UNION, 1800–1912* 17 (Xlibris Corp. 2008).

76. The business dealings came in the form of bought peerages, monetary “rewards” for disfranchised boroughs (all but thirty-one boroughs were abolished in the Union), and dismissing any of those in opposition from Parliament. See BUCKLAND, *supra* note 64, at 13. See also JOYCE, *supra* note 43, at 473–74.

77. See Machin, *supra* note 68.

78. See JOYCE, *supra* note 43, at 479. According to Joyce, the King felt that allowing a Catholic Emancipation would be a “breach to his coronation oath;”

the same sense of disfranchisement occurred during this period of union as it had when the Irish Parliament was in effect.⁷⁹ Given the rocky history and opposition from the onset, it came as no surprise when this union between the two countries produced conflict and attempted rebellion, the first of which occurred a mere year later.⁸⁰ The rebellion was short-lived, but it did reflect the discontent at the treatment of Irish people under direct British rule.⁸¹

The promised Catholic Emancipation did not come to fruition until April 1829, nearly three decades after the initial passage of the Act of Union.⁸² While this allowed for Catholic Irishmen to hold most offices in the government⁸³ for the first time in a century, it also contained language that further disenfranchised a large percent of poorer Catholics by increasing the freeholder price needed to vote.⁸⁴ A measure of relief, however, came in the form of national education reform in 1832, which greatly expanded educational opportunities for Catholic children.⁸⁵ Yet, the families were still subject to an oppressive tithe tax paid due to their religious beliefs.⁸⁶ All of the tension culminated in the

however, there is some question as to whether Pitt's attempt to save the Emancipation article was in earnest. *Id.*

79. See *Hanoverians*, *supra* note 68.

80. See JOYCE, *supra* note 43, at 477.

81. *Id.*

82. The final vote for emancipation in Westminster occurred when Daniel O'Connell was voted into Parliament and then not allowed into the building due to the enacted Penal Laws. See JOYCE, *supra* note 43, at 483. This action, done legally, inspired the tide of popular opinion to turn in favor of the Catholics, and the rest of Parliament realized that in order to prevent civil war, it needed to vote in favor of Catholic Emancipation. *Id.*

83. See HEYCK, *supra* note 72, at 284.

84. Freeholders were property owners whose land yielded a net income of forty shillings, or £2. After the Catholic Emancipation Act of 1828 was enacted, Irish freeholders needed a net profit of 10£ instead, which was much higher than most Irish landowners could claim. For calculations on how badly the new law affected Irish voting bases, see STEPHEN FARRELL, *THE HISTORY OF PARLIAMENT: THE HOUSE OF COMMONS, 1820–1832* (D.R. Fisher ed., Cambridge Univ. Press 2009), available at <http://www.historyofparliamentonline.org/volume/1820-1832/survey/iv-ireland>. See also HEYCK, *supra* note 72, at 287.

85. The National System provided for same literary teaching but separate religious teachings in all schools in Ireland, while prior to this schools were always run as Protestant institutions. It also forbade interference with students' religious education. See JOYCE, *supra* note 43, at 486.

86. These tithes were called Church-rate or Church-cess, and they were paid out to keep Protestant churches in repair. If a Catholic citizen was unable to

Tithe Wars, where many tithe-collectors were tortured and murdered, the rest of the community shunned tithe-payers, and police officers that tried to intervene were killed.⁸⁷ This, in turn, led to the massacre of many peasants who were part of the uprisings.⁸⁸ The conflict went on until 1838, when the tithe was reduced by a quarter.⁸⁹ Additionally, Irish landlords collected the tithe with their rent instead of by tithe-collectors. The tithe itself, however, was not abolished completely until 1869 with the Irish Church Act.⁹⁰

In 1910, the Irish Parliamentary Party presented Parliament the first Home Rule Act to allow an Irish government to form on Irish soil in an effort to rectify some of the past wrongs against the Catholic majority.⁹¹ It would be the first of three similar acts presented to Parliament, with the Home Rule Act finally being enacted in 1914, only to be temporarily suspended at the onset of World War I.⁹² During World War I, an opportunity presented itself to the Irish Republican Brotherhood (IRB),⁹³ a group that

pay, his or her cattle, furniture, and other goods were seized to make up the difference. See JOYCE, *supra* note 43, at 487.

87. See RICHARD BARRY O'BRIEN, *IRISH WRONGS AND ENGLISH REMEDIES* 242 (Kegan Paul, Trench & Co. 1887).

88. *Id.*

89. See JOYCE, *supra* note 43, at 487.

90. See *THE COURSE OF IRISH HISTORY* 375 (T.W. Moody & F.X. Martin eds., Mercier Press 1967); see also Irish Church Act 1869 c. 42; see also *What Was the Easter Rising?*, RAIDÍÓ TEILIFÍS ÉIREANN (2013), <https://www.rte.ie/centuryireland/index.php/articles/what-was-the-easter-rising> (last visited Jan. 16, 2019).

91. The Home Rule Act was, unsurprisingly, not popular with Ulster Protestant Unionists, who believed it would give the Catholics too much power if the government was maintained in Dublin. This led to the formation of the Ulster Volunteer Force, a paramilitary group dedicated to stopping home rule. See Brendan Lynn, *Chronology of Key Events in Irish History, 1800 to 1967*, CAIN, <http://cain.ulst.ac.uk/othelem/chron/ch1800-1967.htm> (last visited Oct. 6, 2018).

92. *Id.*

93. In the leaders' own words, the IRB is an organization dedicated to "establish[ing] and maintain[ing] a free and independent Republican Government in Ireland," so long as that is the will of the people. See Joseph E.A. Connell, *History—Irish Republican Brotherhood*, IRISH REPUBLICAN BROTHERHOOD, <http://www.irishrepublicanbrotherhood.ie/history-irb.html> (last visited Nov. 29, 2018). The IRB was primarily responsible for organizing Easter Rising; however, the fighting force was supplemented with rebels from other groups, including the Irish Citizen Army and the Irish Volunteers. *Id.*

wanted full Irish independence and a united Ireland.⁹⁴ The War led to the 1916 Easter Rising and subsequent execution of Irish nationalist leaders.⁹⁵

Ironically, while the tide of popular opinion was against the rebels during the Rising, the execution of key leaders led to a shift in public opinion towards supporting Irish independence from British rule.⁹⁶ This shift in public opinion was the catalyst to the 1919 Irish War of Independence,⁹⁷ which paved the way for the Anglo-Irish Treaty of 1921 that gave Irish independence to the southern part of the island.⁹⁸ The northern portion of Ireland, including Ulster, chose to remain in the United Kingdom.⁹⁹ With this division, the United Kingdom of England and Northern Ireland was created.

The official government of Northern Ireland, as a part of the United Kingdom, was established in the form of the Northern Ireland Parliament, which was a Unionist-controlled government that maintained most social services and law and order.¹⁰⁰ In 1974, the Northern Ireland Parliament was abolished by the

94. See Lynn, *supra* note 91.

95. Easter Rising, or the Rising as it is colloquially known, was an act of rebellion that started on Easter Monday 1916, where more than a thousand rebels overran Dublin and took over key municipal buildings, including the Post Office. See *What Was the Easter Rising?*, *supra* note 90; see also Rozina Sabur, *Easter Rising: How the 1916 Insurrection Shaped Modern Irish History*, TELEGRAPH (Apr. 24, 2017), <http://www.telegraph.co.uk/news/2016/03/24/easter-rising-centenary-how-the-1916-insurrection-shaped-modern/>. Once the rebels controlled these buildings, they proclaimed Ireland a republic and set up a provisional government. *Id.* The rebellion only lasted five days, but the death toll was over 400 people, including the execution of fifteen rebel leaders. For more information on Easter Rising, see *id.*

96. *Id.*

97. The war officially began when IRA members killed two Royal Irish Constabulary stationed in Tipperary, Ireland, on January 19, 1919. For more information on the beginning of the war, see *Nationalism and the War of Independence*, NAT'L ARCHIVES, <http://www.nationalarchives.gov.uk/cabinetpapers/themes/nationalism-war-independence.htm> (last visited Oct. 6, 2018).

98. For more information about war itself, see *The Anglo-Irish War*, BBC (Sept. 24, 2014), <https://www.bbc.co.uk/history/british/easterising/aftermath/af04.shtml>.

99. *UK Politics Quarter Century After First Assembly's Fall*, BBC NEWS (May 28, 1999) http://news.bbc.co.uk/2/hi/uk_news/politics/354539.stm [hereinafter *UK Politics*].

100. *Id.*

British government due to its ineffectiveness, which was demonstrated by its handling of the 1972 Bloody Sunday massacre.¹⁰¹ In its place, direct rule from Westminster was reinstated as a temporary measure.¹⁰² This direct rule would continue until, after multiple false starts,¹⁰³ the Good Friday Agreement was signed in 1999.¹⁰⁴

The government set up after the Good Friday Agreement's enactment includes the ninety seats in the Northern Ireland Assembly,¹⁰⁵ eighteen seats in the British Parliament, and eleven local district seats.¹⁰⁶ The Northern Irish Executive consists of Ministers who are in charge of running the local government functions. The First Minister and the Deputy First Minister, collectively known as the Executive Office, lead the Northern Irish Executive.¹⁰⁷ The number of seats that each party wins in the Assembly election determines the proportionality of the political parties in the Executive.¹⁰⁸ As of April 2019, neither the First Minister nor the Deputy First Minister seat is filled since the

101. Bloody Sunday occurred on January 30, 1972, when demonstrators marched down the streets of Derry in protest of Unionist gerrymandering and internment practices against Catholics. Fourteen people were killed when British paratroopers open fire, posted there because Northern Irish forces were unable to control the town. For more information, see *Archive: Bloody Sunday*, BBC, http://www.bbc.co.uk/history/bloody_sunday (last visited Jan. 13, 2019).

102. See Northern Ireland (Temporary Provisions) Act 1972 c. 22, available at http://www.legislation.gov.uk/ukpga/1972/22/pdfs/ukpga_19720022_en.pdf.

103. The Good Friday Agreement was only signed after two years of discussions, and it only came about after the Irish Republican Army, a militaristic Nationalist group, vowed to stop bombings in the early 1990's. For more information, see *What Was the Good Friday Agreement?*, BBC (Apr. 10, 2018), <https://www.bbc.co.uk/newsround/14118775>.

104. The Good Friday Agreement, signed by both the Republic of Ireland and the United Kingdom, acknowledges Northern Ireland's ability to choose their own country based on popular vote. See *UK Politics*, *supra* note 99.

105. The Northern Ireland Assembly is the legislative branch of the government. The seats are allocated based on a proportional democracy by popular vote. See *The Northern Ireland Assembly*, N. IR. ASSEMBLY, <http://www.niassembly.gov.uk/> (last visited Jan. 13, 2019).

106. See *The Assembly and the Executive*, N. IR. ASSEMBLY, http://education.niassembly.gov.uk/post_16/the_assembly_and_executive (last visited Jan. 9, 2019).

107. *Id.*

108. *Id.*

late Deputy First Minister, Martin McGuinness, resigned and forced First Minister Arlene Foster to leave the office.¹⁰⁹

The collapse of the Northern Irish Executive stemmed from a variety of issues, but the main sticking point to this day has been the Irish Language Act.¹¹⁰ Without Sinn Féin, the second most powerful political party in Northern Ireland, the power-sharing government cannot operate.¹¹¹ Sinn Féin will not nominate a Deputy First Minister until the Unionist party agrees to a form of Irish Language recognition.¹¹² The UK has the power to bring direct rule back to Westminster if the Northern Irish political parties do not come to an agreement, but it has allowed five deadlines to pass without imposing this governance.¹¹³ Westminster and Northern Ireland's Secretary of State James Brokenshire,¹¹⁴ however, have opted to implement a budget in Northern Ireland in order to keep the currently deficient government running.¹¹⁵ Neither the majority of Northern Ireland's population nor that of the Republic of Ireland will accept a Home Rule option.¹¹⁶ The alternative to restored power-sharing is a snap vote

109. First Minister Arlene Foster was unable to lead on her own due to Northern Ireland's power-sharing structure. For more information on the power sharing structure, see *Power Sharing*, N. IR. ASSEMBLY, http://education.niassembly.gov.uk/post_16/snapshots_of_devolution/gfa/power_sharing (last visited Jan. 10, 2019).

110. See Page, *supra* note 3.

111. See *Power Sharing*, *supra* note 109.

112. See *Sinn Féin Rejects DUP's Irish Language Proposal*, *supra* note 31.

113. See Iain McDowell, *Stormont Deadlock: What You Need to Know*, BBC NEWS (Nov. 1, 2017), <http://www.bbc.com/news/uk-northern-ireland-politics-41723268>.

114. On January 8, 2018, James Brokenshire resigned from the role of Secretary of State of Northern Ireland due to ill health; his replacement as of the writing of this Note is Karen Bradley. See Amanda Ferguson, *UK PM May Names New Northern Ireland Minister After Brokenshire Resigns*, REUTERS (Jan. 8, 2018), <https://www.reuters.com/article/us-britain-politics-nireland/british-northern-ireland-secretary-brokenshire-resigns-on-health-grounds>.

115. Henry McDonald, *Westminster Imposes Budget on Northern Ireland*, GUARDIAN (Nov. 13, 2017), <https://www.theguardian.com/uk-news/2017/nov/13/northern-ireland-minister-james-brokenshire-steps-closer-to-transferring-power-london-regional-budget>.

116. Elaine Edwards, Mary Minihan, & Vivienne Clarke, *Leo Varadkar, UK Election Results Should Rule Out Hard Brexit*, IRISH TIMES (June 9, 2017), <https://www.irishtimes.com/news/ireland/irish-news/leo-varadkar-uk-election-results-should-rule-out-hard-brexit-1.3113685>.

for Irish unification of the entire island, which could lead to another civil war and is an outcome that many Unionist Northern Irish would not accept.¹¹⁷ Given that the major sticking point is the Irish Language Act, it is necessary to understand why this and mother tongue legislation, in general, is such a hot button issue.

II. THE HISTORY OF CULTURAL HOMOGENIZATION IN EUROPE, INCLUDING MOTHER AND MINORITY LANGUAGE SUPPRESSION AND ERADICATION

To understand why minority language preservation is a fundamental part of cultural heritage, it is necessary to survey the historical suppression of said languages, both in Ireland and on the greater European continent. It is also necessary to examine efforts to remedy these past injustices on the international scale, as well as States' responses to their international obligations to preserve and protect these languages.

A. History of Mother Language/Minority Language Suppression

The concept of a unified language as a means of cultural homogenization is not a new concept.¹¹⁸ The rise of consolidated nation-states and colonial conquest created a need for "linguistic homogeneity" on the part of the conquering power in order to create a single national identity, as well as an innate sense of cultural and linguistic superiority.¹¹⁹ The noted linguist, Peter Trudgill,¹²⁰ explained this phenomenon perfectly when he said, "linguistic subjugation (or unification, depending on one's point of view) is . . . an important strategy in implementing political

117. See Stephen O'Brien, *Northern Non-Voters Prefer to Stay in UK*, SUNDAY TIMES (Oct. 22, 2017), <https://www.thetimes.co.uk/edition/ireland/northern-non-voters-prefer-to-stay-in-uk-ldcnc6gjh>.

118. See generally Ranka Bjeliac-Babic, *Languages: Conflict or Coexistence? 6,000 Languages: An Embittered Heritage*, UNESCO COURIER, Apr. 2000, at 18, available at <http://unesdoc.unesco.org/images/0011/001194/119473e.pdf#page=17>.

119. *Id.*

120. Peter Trudgill is a noted professor and widely published author on the subject of sociolinguistics. For more information on Trudgill's body of work, see *Talking Norwich!*, UNIV. E. ANGLEA, <https://www.uea.ac.uk/lcs/research/research-groups/talking-norwich> (last visited Nov. 29, 2018).

subjugation (or unification).”¹²¹ UNESCO estimates that anywhere between 30,000 and 500,000 native languages have died out since records have been kept.¹²² In the past 300 years, Europe alone has lost twelve native languages,¹²³ Australia has lost 230, and Brazil has lost 540 since the Portuguese conquest.¹²⁴

Another factor that plays into language homogenization in the new world is the rise of industry, technology, and science and the research of all disciplines that takes place across state borders since the nineteenth century.¹²⁵ This, in turn, has affected school systems worldwide because of the increased necessity of international students to learn the dominant language, which has furthered governments’ concepts of language and cultural homogeneity. As the anthropologist, Zvi Bekerman,¹²⁶ explains, school systems help “unif[y] different local groups they were successful in subordinating to their power, under one flag, one language, and one narrative.”¹²⁷ Additionally, the rise of technological and scientific development globally has raised “failure to communicate” issues, leading some scholars to dismiss concerns about language preservation and to advocate for a mono-linguistic global society.¹²⁸ Some scholars, such as Ranka Bjeliac-

121. See Zhenja La Rosa, *Language and Empire: The Vision of Nebrija*, LOY. U., STUDENT HIST. J. (2003), <http://www.loyno.edu/~history/journal/1995-6/rosa.htm> (last visited Jan. 12, 2019).

122. See Bjeliac-Babic, *supra* note 118.

123. This is a low number could conceivably due to the fact that most conquering nations came from the European continent, thereby preserving more European languages. As this Note will explain, that does not negate the danger some native European languages still face.

124. See Bjeliac-Babic, *supra* note 118.

125. *Id.*

126. Zvi Bekerman is an anthropology professor at the Hebrew University of Jerusalem and published author whose main body of work focuses on the anthropology of education and cultural identity. For more information on Bekerman’s work, see *Zvi Bekerman*, ACADEMIA, <http://zvibekerman.academia.edu> (last visited Dec. 3, 2018).

127. See ZVI BEKERMAN & MICHALINOS ZEMBYLAS, *PSYCHOLOGIZED LANGUAGE IN EDUCATION: DENATURALIZING A REGIME OF TRUTH* 12 (Palgrave MacMillan 2018).

128. See Bjeliac-Babic, *supra* note 118. While most factions in the international community do not advocate for this monolingual approach, the end of the nineteenth century saw a rise in people creating artificial languages to perfect the ideal. *Id.*

Babic,¹²⁹ also argue that a third problem that minority languages face is the rise of digital media, going as far as to say, "A language not on the Internet is a language that 'no longer exists' in the modern world."¹³⁰ Recent trends in social media, however, have indicated otherwise.¹³¹

It is only in recent years, even after the era of decolonization, that the world has made an actual push towards preserving and celebrating minority and mother languages and heritage.¹³² The push in the international community may not be enough, with some estimates saying that more than half of the world's 6,000 or so remaining languages will be extinct before the century is over, given that most of the approximately 2,000 languages on the endangered language list have less than 10,000 speakers.¹³³

B. Current Attempts by International Bodies at Revitalizing Critically Endangered Minority and Mother Cultures and Languages

Due to the inclination in international law to decolonize and rebrand native populations, the international community has also attempted to revitalize and, in some cases, bring back from the dead critically endangered mother languages and cultures.¹³⁴ First, UNESCO adopted the Universal Declaration on

129. Ranka Bjeliac-Babic, a respected psycholinguist, is an associate professor with the Paris Descartes University. For a full list of her publications, see *Ranka Bjeliac-Babic*, UNIV. PARIS DESCARTES, <http://lpp.parisdescartes.cnrs.fr/people/ranka-bijeljic-babic/> (last visited Dec. 3, 2018) (Fr.).

130. See Bjeliac-Babic, *supra* note 118. This article was written in 2000, when there was less language dissemination occurring on the Internet. The newer trend in the relationship between language and the Internet has been a greater preservation and education of minority and mother languages.

131. See, e.g., Alissa Stern, *Technology to the Endangered Language Rescue?*, HUFFINGTON POST (Jan. 26, 2015), https://www.huffingtonpost.com/alissa-stern/technology-to-the-engage_b_6225900.html. For an example of how media is helping Gaelic specifically, see Monica Hunter-Heart, *Duolingo Is Keeping Dying Languages on Life Support*, INVERSE INNOVATION (June 23, 2017), <https://www.inverse.com/article/32786-duolingo-preserve-extinct-endangered-languages>.

132. See generally Bjeliac-Babic, *supra* note 118.

133. See Deidre McPhillips, *Half of the World's Languages Could Be Extinct by 2100*, U.S. NEWS (May 23, 2017), <https://www.usnews.com/news/best-countries/articles/2017-05-23/half-of-worlds-languages-could-be-extinct-by-2100>.

134. See generally MOSELEY, *supra* note 15. For Irish language revitalization efforts specifically, see Cuív, *supra* note 49, at 16. See also Hunter-Heart, *supra* note 131.

Cultural Diversity in 2001, which calls on member states to “giv[e] support to expression, creation and dissemination in the greatest possible number of languages,” as well as “encourage linguistic diversity . . . at all levels of education.”¹³⁵ It also states that cultural rights are included in human rights, and that “all persons have therefore the right to express themselves . . . and disseminate their work *in the language of their choice, and particularly in their mother tongue*.”¹³⁶ This declaration was followed by the Convention for the Safeguarding of Intangible Cultural Heritage in 2003,¹³⁷ which declared that “language [is] a vehicle of . . . intangible cultural heritage.”¹³⁸ This move protected mother and minority languages more fully as a part of cultural heritage.¹³⁹

Rita Izsák, at the time the Independent Expert on minority issues for the United Nations Human Rights Council (UNHRC),¹⁴⁰ went as far as to say that the protection of minority languages is a human rights obligation.¹⁴¹ Support for this

135. U.N. Educational, Scientific and Cultural Organization [UNESCO], Universal Declaration of Cultural Diversity, annex II, ¶¶ 5–6 (Nov. 10, 2001) [hereinafter Universal Declaration of Cultural Diversity].

136. *Id.* art. 5 (emphasis added).

137. UNESCO, Convention for the Safeguarding of the Intangible Cultural Heritage (Oct. 17, 2003) [hereinafter Convention for the Safeguarding of Intangible Cultural Heritage]. 176 states have ratified, and/or accepted this document; however, the UK is not one of them. *See The States Parties to the Convention for the Safeguarding of the Intangible Cultural Heritage*, UNESCO, <https://ich.unesco.org/en/states-parties-00024> (last visited Dec. 3, 2018).

138. *See* Convention for the Safeguarding of Intangible Cultural Heritage, *supra* note 137, art. 2, ¶ 2(a). Here, “language as a vehicle of the intangible cultural heritage” is listed as a manifestation of intangible cultural heritage, which the document aims to protect. *See also* UNESCO, Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage, ch. IV, ¶ 107(a) (amended June 1, 2016), which details that states should “implement measures . . . aimed at promoting the role of intangible cultural heritage as an instrument of integration and intercultural dialogue, and promoting multilingual education to *include vernacular languages*.” (emphasis added).

139. *Id.*

140. For more information on Rita Izsák’s work as the Independent Expert on minority issues for the UNHRC, see *Rita Izsák-Ndiaye (Hungary)*, U.N. OFF. HIGH COMM’R HUM. RTS., <https://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/RitaIzsak.aspx> (last visited Dec. 3, 2018).

141. *See Protection of Minority Languages is a Human Rights Obligation, UN Expert Says*, U.N. (Mar. 12, 2013),

stance was clearly demonstrated by the international community when the UN General Assembly released the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.¹⁴² This declaration asserts that minority communities not only have a right to practice their own languages, but also that states have the affirmative duty to bear the cost of education for language revitalization efforts.¹⁴³ States must also make efforts to improve the conditions of native speakers and create an environment conducive for minority cultures, heritage, and languages to be reborn and adapted by younger generations.¹⁴⁴

In Europe, the Council of Europe (CoE) adopted the Charter for Regional or Minority Languages (ECRML) in 1992,¹⁴⁵ which establishes similar guidelines as the UN with respect to safeguarding citizens' rights to use and learn minority languages.¹⁴⁶ This treaty also adds another layer of protection, as ratifying states must "take into consideration the needs and wishes expressed by the groups which use such languages."¹⁴⁷ The ECRML also explicitly calls for ratifying states to "eliminate . . . any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of it."¹⁴⁸ The CoE indicates in this document that it "respect[s] an inalienable and commonly recognized right [of citizens] to use a regional or minority language,"¹⁴⁹ demonstrating

<http://www.un.org/apps/news/story.asp?NewsID=44352#.Wgr96hNSxE4>. This article notes that the expert in question was "appointed by the Human Rights Council to examine and report back, in an unpaid capacity, on specific human rights themes." *Id.*

142. See G.A. Res. 47/135, *supra* note 27, ¶¶ 2, 4.

143. *Id.*

144. *Id.* ¶ 4.

145. European Charter for Regional or Minority Languages, May 11, 1992, E.T.S. No.148 [hereinafter ECRML]. It is important to note that the United Kingdom of Britain and Northern Ireland signed and ratified this Treaty.

146. *Id.* at preamble: "Considering that the right to use a regional or minority language in private and public life is an inalienable right. . . ." *Cf.* G.A. Res. 47/135, *supra* note 27, art. 2, ¶ 1: "Persons belonging to . . . linguistic minorities . . . have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language."

147. *Id.* art. 7, ¶ 4.

148. *Id.* art. 7, ¶ 2.

149. See ECRML, *supra* note 145, at summary.

its belief that the use of a mother tongue is a part of its human rights obligation.¹⁵⁰

C. State Responses to the International Law Efforts to Revitalize Endangered Minority Languages

While the international community, as a whole, has generally recognized the need for the preservation of mother and minority languages,¹⁵¹ the individual states that take part in the international organs have mixed responses and conflicting implementations.¹⁵² Given natural time and space constraints, it would be impossible to do a full study of every state's stance on linguistic preservation. Some case studies, however, are necessary to evaluate the UK's actions with regard to mother tongue preservation, or the lack thereof.

Spain is a good case study for minority language legislation, since it has a large amount of regional minority languages that were marginalized up until the late twentieth century.¹⁵³ After 1977, when Spain completely overhauled its governmental structure,¹⁵⁴ it implemented a new, democratically enacted constitution that allows for semi-autonomous regions within the State, all of whose minority languages are officially recognized

150. This conclusion can be inferred from the use of the word "inalienable," which, according to Oxford Dictionaries, means, "Not subject to being taken away from or given away by the possessor." *Inalienable*, OXFORD UNIV. PRESS, <https://en.oxforddictionaries.com/definition/inalienable> (last visited Jan. 16, 2019). In international law, inalienable rights are human rights. See G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948) ("Whereas recognition of the inherent dignity and of the equal and *inalienable rights* of all members of the human family is the foundation of freedom, justice and peace in the world") (emphasis added).

151. See generally sources cited *supra* notes 135, 138, and 141.

152. See, e.g., *News About the European Charter for Regional or Minority Languages*, COUNCIL EUR. <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/news> (last visited Dec. 3, 2018); Innocent Maja, *Towards the Protection of Minority Languages in Africa*, N.Y.U HAUSER GLOBAL L. SCH. PROGRAM (Apr. 2008), http://www.nyulawglobal.org/globalex/Minority_Languages_Africa.html.

153. For more information regarding Spain's transition from a dictatorship to a democracy, see generally CHARLES POWELL, REVISITING SPAIN'S TRANSITION INTO DEMOCRACY, ARAB TRANSITIONS IN A MODERN WORLD (Institut Europeu de la Mediterrania (IEMED) ed. 2016).

154. *Id.*

by the State.¹⁵⁵ This recognition is borne from Spain's desire to "respect and protect" its linguistic and cultural heritage¹⁵⁶ under its constitution and its international obligations.¹⁵⁷

Spain is a good case study because of the recent issues that have arisen due to its position on regional and minority languages.¹⁵⁸ While this recognition seems to be ideal, the regional language recognition is only applicable within the specific autonomous region's borders; the only fully recognized national language of Spain is Spanish.¹⁵⁹ The recognition of specific languages in specific areas, as compared to the whole country, creates a tension with Article 3:3 of the Spanish Constitution regarding the languages of Spain.¹⁶⁰ This selective recognition has created tensions in everyday Spanish politics as well.¹⁶¹ In October 2017, Spain's largest minority language group, the Catalonians, voted to secede from the country, only to have Spain implement direct rule over the region for the first time since 1977.¹⁶² Opponents of Spain's language policy have cited other countries, including Switzerland and Belgium, where citizens have an affirmative duty to learn all of the country's official languages.¹⁶³ This could have potentially solved the issue of linguistic tension

155. Ferran Ferrer, *Languages, Minorities and Education in Spain: The Case of Catalonia*, 36 COMP. EDUC. 187, 189 (2000). See also CONSTITUCIÓN ESPAÑOLA [CONSTITUTION] Dec. 6, 1978, § 3 (Spain) [hereinafter Spanish Constitution].

156. See Spanish Constitution, *supra* note 155.

157. See G.A. Res. 47/135, *supra* note 27; see also ECRML, *supra* note 145. Spain is bound by both documents as a member of the CoE and the UN.

158. See R. Joseph Huddleston, *The Roots of the Catalan Independence Crisis, and What Madrid's Next Steps Should Be*, FOREIGN AFF. (Oct. 30, 2017), <https://www.foreignaffairs.com/articles/spain/2017-10-30/roots-catalan-independence-crisis>.

159. Ferrer, *supra* note 155. Ferrer clarifies this full recognition by saying that the Constitution only "requires citizens to know, and guarantees their rights to use" Spanish as compared to the regional minority languages. *Id.* (emphasis added).

160. See Spanish Constitution, *supra* note 155, § 3.3 ("The wealth of the different linguistic forms of Spain is a cultural heritage which shall be especially respected and protected.")

161. See Dr. John Walsh, *The Catalan Language is Key to Catalonia's Political Crisis*, RAIDÍÓ TEILIFÍS ÉIREANN (Nov. 27, 2017), <https://www.rte.ie/eile/brainstorm/2017/1127/923110-the-catalan-language-is-key-to-catalonias-political-crisis/>.

162. Huddleston, *supra* note 158.

163. See R.L.G., *Johnson: Languages of Spain — How to Make a Country for Everybody*, ECONOMIST (July 30, 2014), <https://www.economist.com/blogs/prospero/2014/07/johnson-languages-spain>.

before it reached this point, and it could have prevented the marginalization forced on regional linguistic subgroups of Spain.

On the other end of the language spectrum is France, which has done nothing in the way of supporting its minority languages through education, preservation, or dissemination.¹⁶⁴ Its opposition to recognizing minority and regional languages is codified in Article 2 of the French Constitution, which states, “The language of the Republic shall be French.”¹⁶⁵ When France signed the ECRML, the French government refused to ratify it due to the wording of the French Constitution.¹⁶⁶ Only in 2014 did the French government create an amendment that permitted the Senate to approve the ratification.¹⁶⁷ As of 2017, France still has not ratified the ECRML due to concerns of “breaking the unity of the French nation.”¹⁶⁸

Of the seven languages in France that the ECRML would help to protect,¹⁶⁹ half are considered endangered under UNESCO’s

164. For more on France’s notably unsupportive language policies, see *French National Assembly Rejects More Protection for Minoritised Languages in Education, Media*, NATIONALIA (Jan 15, 2016), <https://www.nationalia.info/new/10693/french-nationalia-assembly-rejects-more-protection-for-minoritised-languages-in-education-;> see also Joshua Melvin, *Hypocrisy? France and Its Regional Languages*, LOCAL (Jan. 23, 2014), <https://www.thelocal.fr/20140123/in-france-there-is-only-one-language>.

165. CONSTITUTION FRANÇAISE DU 4 OCTOBRE 1958, Oct. 4, 1958, art. 2 (Fr.) (“La langue de la République est le française.”).

166. See *Declaration Contained in the Full Powers Handed to the Secretary General at the Time of Signature of the Instrument (Fr.)*, COUNCIL EUR. (May 7, 1999), https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/declarations?p_auth=Ne9MJ9tg. France’s Constitution does not allow for other languages to be spoken in a governmental capacity; it does not allow for co-recognition of any other language besides French; and it does not allow for individual minority subsets of French citizens, regardless of region, to have individualized protections that the Charter affords to linguistic minorities. *Id.*

167. See *Promoting Ratification of the European Charter for Regional or Minority Languages in France*, COUNCIL EUR., <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/promoting-ratification-in-france> (last visited Jan. 13, 2019).

168. *French Senate Buries Ratification of European Charter for Regional and Minority Languages*, NATIONALIA (Oct. 28, 2015), <https://www.nationalia.info/new/10635/french-senate-buries-ratification-of-european-charter-for-regional-and-minority-languages>.

169. See *Promoting Ratification of the European Charter for Regional or Minority Languages in France*, *supra* note 167.

standards.¹⁷⁰ France's language policing agency, the Académie française,¹⁷¹ has a lot of power over what can and cannot come into France linguistically, even going as far as preventing baby names that employ minority languages.¹⁷² Internationally, France's policies are considered backwards and contrary to the cultural heritage preservation movement.¹⁷³ David Hicks, chief of the NGO Eurolang, has gone as far to say that France is a "pariah"¹⁷⁴ and a "rogue state . . . [that] just has not kept up with European development."¹⁷⁵

A final case study to contextualize the Northern Ireland language problem is neighboring Republic of Ireland, which shares the same cultural background. The Republic of Ireland's Gaelic language policy should be examined as a case study because of its geographical proximity, identical minority language in question, and shared history of language repression and near-eradication. In Ireland, there are still communities residing in Gael-tacht¹⁷⁶ that solely speak Gaelic,¹⁷⁷ a fact that distinguishes Ireland from Northern Ireland, where the entire population of

170. See MOSELEY, *supra* note 15. See also *French Senate Buries Ratification of European Charter for Regional and Minority Languages*, *supra* note 168.

171. See generally *Accueil*, ACADÉMIE FRANÇAISE, <http://www.academie-francaise.fr/> (last visited Nov. 10, 2017).

172. Rory Mulholland, *French Court Bans Parents from Using Breton 'ñ' in Baby Name Saying Incompatible with Law*, TELEGRAPH (Sept. 14, 2017), <http://www.telegraph.co.uk/news/2017/09/14/french-court-bans-parents-using-breton-n-baby-name-saying-incompatible/>.

173. See Simon Hooper, *France a "Rogue State" on Regional Languages*, AL JAZEERA (Mar. 30, 2012), <http://www.aljazeera.com/indepth/features/2012/03/201232943156736852.html>; see also *Promoting Ratification of the European Charter for Regional or Minority Languages in France*, *supra* note 167.

174. See Hooper, *supra* note 173. In the same article, expert Davyth Hicks compares the UK's recognition of Welsh as a co-official language favorably against France's policy of non-recognition, but does not mention the non-recognition of Gaelic. *Id.*

175. *Id.*

176. "Gaeltacht" refers to any geographical location in Ireland where Gaelic is the primary language, as determined by the Irish government. See generally *The Gaeltacht*, ÚDARÁS NA GAELTACHTA, <http://www.udaras.ie/en/an-ghaigelge-an-ghaeltacht/an-ghaeltacht/> (last visited Oct. 7, 2018). Currently, the government identifies parts of seven counties on the main island as part of the Gaeltacht, as well as six offshore islands. *Id.*

177. *Id.*

Gaelic speakers is learning Gaelic as a second language.¹⁷⁸ Ireland's obligations to preserve and promote Gaelic as a mother tongue and minority language are more internal than the UK's international obligation, since Ireland never signed or ratified the ECRML.¹⁷⁹ Ireland, however, has made a dedicated effort to the cause and has cited international strategies for the promotion and integration of minority languages.¹⁸⁰ The Irish Constitution officially recognizes Gaelic as the first official language of the State, with English being the second.¹⁸¹ This theme is continued in the naming of the country.¹⁸² In Article 4, the Constitution declares, "The name of the state is *Éire*, or, in the English language, *Ireland*."¹⁸³ The Constitution was merely declaratory, however, and since its ratification, many pieces of Irish legislation have been enacted to further promote Gaelic in order to change its status from minority to equal footing with English.¹⁸⁴

178. See MOSELEY, *supra* note 15. Gaelic is "extinct as a first language" in Northern Ireland. *Id.*

179. *Chart of Signatures and Ratifications of Treaty 148*, COUNCIL EUR., <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/signatures> (last visited Nov. 9, 2017).

180. The Department of Culture, Heritage and the Gaeltacht writes that its 20-year strategy for the Irish language "promotes a holistic, integrated approach to the Irish language which is *consistent with international best practice*." *20-Year Strategy for the Irish Language*, DEP'T CULTURE, HERITAGE & GAELTACHT (Mar. 7, 2015), <https://www.chg.gov.ie/gaeltacht/20-year-strategy-for-the-irish-language-2010-2030/> (emphasis added).

181. See CONSTITUTION OF IRELAND, July 1, 1937, art. 8, ¶¶ 1–2.

182. *Id.* art. 4.

183. *Id.* (emphasis added).

184. These efforts have included setting up an agency to protect the shrinking Gaeltacht, see *Ról, ÚDARÁS NA GAELTACHTA*, <http://www.udaras.ie/faoin-udaras/ar-rol> (last visited Dec. 3, 2018); requiring that Gaelic be taught in schools, see generally *20-Year Strategy for the Irish Language, 2010–2030*, DEP'T. EDUC. & SKILLS (July 25, 2013), <https://www.education.ie/en/Publications/Policy-Reports/20-Year-Strategy-for-the-Irish-Language-2010-2030.pdf>; and implementing the Official Languages Act 2003 to guarantee that public bodies utilize Gaelic, see generally OFFICE OF AN COIMISINÉIR TEANGA, REVIEW OF OFFICIAL LANGUAGES ACT 2003 (Apr. 2014), *available at* <https://www.chg.gov.ie/app/uploads/2016/08/review.pdf>. The Official Languages Act 2003 is considered the most widespread language scheme since it is the first time that the government statutorily mandated that all public services must be offered in Gaelic as well as English. See OFFICE OF AN COIMISINÉIR TEANGA, OFFICIAL LANGUAGES ACT 2003 GUIDEBOOK 1 (2016), *available at* <https://www.chg.gov.ie/app/uploads/2015/07/Guidebook-Oifig-an-Choimisineara-Teanga-Version4.pdf> [hereinafter OFFICIAL LANGUAGES ACT 2003 GUIDEBOOK] (last visited Jan. 8, 2019).

While these efforts to promote the Gaelic language have varied in success, the Official Languages Act of 2003 has been the most extensive.¹⁸⁵ The Act mandated that all public services, administrative functions, government proceedings, and documents be offered in both English and Gaelic, helping to tip the scales in favor of language equality.¹⁸⁶ The Official Languages Act also created an entirely new administrative arm of the government just for the Gaeltacht, so that native Irish speakers could be adequately represented.¹⁸⁷ This initiative is supported by regular language scheme action updates, as well as a twenty-year strategy plan whose goal is to have 250,000 regular Irish speakers by 2030.¹⁸⁸ In 2007, the same year that the Taoiseach¹⁸⁹ unveiled the plan, Ireland managed to have Gaelic recognized as an official EU language.¹⁹⁰ In 2005, the EU announced that Gaelic would be a “full working language” by 2022, meaning that all current and future EU documents will be translated and made available in Gaelic.¹⁹¹

III. PRESERVATION OF MOTHER AND MINORITY LANGUAGES IN THE UNITED KINGDOM OF BRITAIN AND NORTHERN IRELAND

The UK has, in its territories other than Northern Ireland, closely followed the ECRML.¹⁹² Not only did the UK facilitate

185. OFFICIAL LANGUAGES ACT 2003 GUIDEBOOK, *supra* note 184, at 2.

186. See *About the Act*, AN COIMISINÉIR TEANGA, <https://www.coimisin-eir.ie/faoin-acht?lang=EN> (last visited Oct. 7, 2018).

187. OFFICIAL LANGUAGES ACT 2003 GUIDEBOOK, *supra* note 184, at 2.

188. See *20-Year Strategy for the Irish Language*, *supra* note 180.

189. Taoiseach is the Gaelic “chieftain” or “leader,” and is the official name of the Irish Prime Minister. To learn more about the role of the Taoiseach, see *Role of the Taoiseach*, ROI AN TOISIGH, https://www.taoiseach.gov.ie/eng/Taoiseach_and_Government/About_the_Taoiseach/Role_of_the_Taoiseach/ (last visited Dec. 3, 2018).

190. David McKittrick, *Ireland Becomes the 23rd Official Language of the EU*, INDEPENDENT (Jan. 3, 2007), <http://www.independent.co.uk/news/world/europe/ireland-becomes-the-23rd-official-language-of-eu-430615.html>.

191. Ann Cahill, *Gaeilge to Become a Full Working Language of the European Union*, IRISH EXAMINER (Mar. 9, 2016), <http://www.irishexaminer.com/ireland/gaeilge-to-become-a-full-working-language-of-the-european-union-386308.html>.

192. See European Charter for Regional or Minority Languages: Application of the Charter in the United Kingdom, 4th Monitoring Cycle, COUNCIL EUR. §1.3, ¶ 11 (Jan. 15, 2014), <https://rm.coe.int/16806dcc8d>. The report says that besides lack of census or progress in Northern Ireland “the fourth periodical

mother tongue legislation for both Scotland and Wales,¹⁹³ but it also established a comprehensive future action plan in Scotland, including long-term goals and an actionable timeline.¹⁹⁴ In Wales, the government releases action plans for every fiscal year, as well as an implementation plan for future actions.¹⁹⁵

Although the UK has enacted this legislation in Wales and Scotland¹⁹⁶ and has implemented future action plans, Gaelic speakers in Northern Ireland have not received the same courtesy.¹⁹⁷ Given the way that power is shared between Westminster and each territory's home government, this lack of language legislation says more about the Northern Irish government than it does about Westminster,¹⁹⁸ since most of the progress that occurred and is still occurring in Wales and Scotland is due to at-

report is more coherent . . . and deals with most of the relevant issues that had been raised in the previous monitoring round." *Id.* (emphasis added). It goes on to give favorable progress reports on almost all previous recommendations for other UK languages (Cornish, Welsh, Ulster-Scots, etc.) except for Irish language policy and implementation. *Id.* at 7–15.

193. See Wales Act, *supra* note 9.

194. See generally *The Scottish Government Gaelic Language Plan, 2015 to 2020*, SCOTTISH GOV'T (RIAGHALTAS NA AH-ALBA) (Apr. 27, 2015), <https://beta.gov.scot/publications/scottish-government-gaelic-language-plan-2015-2020-draft-consultation/>. This plan includes education initiatives, staffing and training in the language, and media usage. *Id.*

195. See generally *Welsh Language Strategy: Action Plan*, LLYWODRAETH CYMRU WELSH GOV'T, <http://gov.wales/topics/welshlanguage/welsh-language-strategy-and-policies/welsh-language-policies-upto-2017/wl-strategy-action-plan-2015-2016/> (last updated Mar. 1, 2016).

196. See Wales Act, *supra* note 9; see Scotland Act, *supra* note 9. Each of these pieces of legislation made their regions' respective mother tongues co-official with English and also reaffirms commitments to preservation and dissemination of the languages through education, administration, media, and other platforms. The Wales Language Act states, "English and Welsh languages should be treated on a basis of equality, to make further provision relating to the Welsh language, to repeal certain spent enactments relating to Wales, and for connected purposes." See Wales Act, *supra* note 9, at preamble. The Gaelic Language (Scotland) Act of 2006 declares its purpose as "securing the status of the Gaelic language as an official language of Scotland commanding equal respect to the English language" and details the exact areas of implementation. See Scotland Act, *supra* note 9, at preamble.

197. See European Charter for Regional or Minority Languages: Application of the Charter in the United Kingdom, 4th Monitoring Cycle, *supra* note 192.

198. *Id.* at 5. The UK has devolved "the responsibility of competence with regard to regional or minority languages . . . to the Northern Ireland Assem-

home legislation.¹⁹⁹ Both the Northern Irish Assembly and Westminster, however, have made promises in that thread, enshrined in the Good Friday Agreement²⁰⁰ and later in the St Andrews Agreement.²⁰¹

The overarching paragraph regarding Gaelic in the Good Friday Agreement specifically cites the UK's signing of the ECRML and its ongoing commitment to uphold its principles.²⁰² The Agreement also states, however, that the British government will only take action "where appropriate and *where the people so desire it*."²⁰³ The agreement goes on to list its goals with regards to the language, including education, media, and, "facilitat[ing] and encourag[ing] the use of the language in . . . public and private life."²⁰⁴ Notably, the last provision in the Agreement allows the Northern Irish Assembly the power to implement these changes.²⁰⁵ The Agreement states, "[The British Government will] encourage the parties to secure agreement that this commitment will be sustained by a new Assembly in a way which takes account of the desires and sensitivities of the community."²⁰⁶ Implementation efforts by the government included²⁰⁷

bly," and the experts were told that the Assembly has not implemented language policy due to the "need to obtain consensus within the power sharing administration." *Id.*

199. *See generally* ECRML, *supra* note 145. Throughout the report are details of Welsh and Scottish governments' implementing language policies in education, administration, and media to better preserve their mother tongues.

200. *See* Good Friday Agreement, *supra* note 12, at 24, ¶ 4.

201. *See* St Andrews Agreement, *supra* note 4, pt. 1, ¶ 15. "The Executive Committee shall adopt a strategy setting out how it proposes to enhance and protect the development of the Irish language." The Northern Ireland (St Andrews Agreement) Act of 2006 was written after a period of unrest and Northern Ireland Assembly suspensions that resulted in Westminster taking over direct rule, ending with another devolution of power to a new Northern Ireland Assembly and reaffirmation of the Good Friday Agreement. *Id.* *See also* *The St Andrews Agreement (2006) and the St Andrews Agreement Act (2007)*, N. IR. ASSEMBLY, http://education.niassembly.gov.uk/post_16/snapshots_of_devolution/st_andrews (last visited Nov. 10, 2017). The section in question is meant to add to the original language in the Good Friday Agreement. *Id.*

202. *See* Good Friday Agreement, *supra* note 12, at 24, ¶ 3.

203. *Id.* (emphasis added).

204. *Id.*

205. *Id.*

206. *Id.*

207. For an exhaustive list of implementation efforts, see Kroc Institute for International Peace Studies, *Official Language and Symbol: Northern Ireland*

an island-wide agency that promotes Gaelic and supports education reforms to incorporate language classes²⁰⁸ and the creation of the Center Community Relations Unit (CCRU).²⁰⁹ The CCRU was created specifically to help develop a language use policy that would reincorporate Gaelic into the community.²¹⁰

The St Andrews Agreement takes commitment to language preservation a step further, stating that “[t]he Government will introduce an Irish Language Act reflecting on the experience of Wales and Ireland and work with the incoming Executive to enhance and protect the development of the Irish language.”²¹¹ The Act was signed by Sinn Féin, the DUP, and the British government; however, there is a debate as to whether all parties were in agreement with this provision.²¹² This uncertainty has yet again led to unrest, since the DUP argues that the government mentioned in Annex B of the Act is Westminster; therefore, Britain agreed to an Irish Language Act, not the DUP.²¹³ The DUP further argues that given the language of the agreement, all it has to do is “work . . . to enhance and protect the development of the Irish language”²¹⁴ The DUP argues it has done that.²¹⁵ On the other side, Sinn Féin argues that because it signed the St

Good Friday Agreement, U. NOTRE DAME (2015), <https://peaceaccords.nd.edu/provision/official-language-and-symbol-northern-ireland-good-friday-agreement>.

208. See generally *The Functions of Foras na Gaeilge*, FORAS NA GAELIGE, <http://www.forasnagaeilge.ie/about/about-foras-na-gaeilge/?lang=en> (last visited Nov. 10, 2017).

209. See *Background Information on CCRU*, CENTER COMMUNITY REL. UNIT (Feb. 1, 2018), <http://cain.ulst.ac.uk/ccru/background/background.htm>.

210. See *CCRU Home*, CENTER COMMUNITY REL. UNIT, <http://cain.ulst.ac.uk/ccru/> (last visited Nov. 9, 2017). This unit became defunct in 2000. *Id.*

211. See *Agreement at St Andrews*, *supra* note 12, annex B, at 11. Note that this section is entitled “HUMAN RIGHTS, EQUALITY, VICTIMS AND OTHER ISSUES,” showing the UK’s acknowledgment that minority language preservation is a human right. *Id.*

212. See *FactCheck: Did the DUP Really Never Commit to an Irish Language Act?*, THE JOURNAL.IE (Jan. 28, 2017), <http://www.thejournal.ie/factcheck-irish-language-act-3209218-Jan2017/>. See also Jonny Bell, *DUP Never Agreed to Irish Language Act at St. Andrews, Says Edwin Poots*, BELFAST TELEGRAPH (Jan. 17, 2017), <https://www.belfasttelegraph.co.uk/news/northern-ireland/dup-never-agreed-to-irish-language-act-at-st-andrews-says-edwin-poots-35373553.html>.

213. See *Agreement at St Andrews*, *supra* note 12.

214. *Id.*

215. *Id.*

Andrews Agreement, the DUP must also uphold the agreement and work with Britain and Sinn Féin to implement the Act.²¹⁶ This has led to the current deadlock of Stormont.

IV. ANALYSIS OF THE PREVIOUSLY PROPOSED SOLUTIONS TO THE NORTHERN IRELAND ASSEMBLY DEADLOCK AND A NEW PROPOSAL

Since the Stormont Deadlock, which occurred in January 2017, many negotiations have occurred between Sinn Féin and the DUP to restore the Assembly, but one of the major sticking points has been the proposed Irish Language Act.²¹⁷ Sinn Féin has argued that the DUP has not upheld all of its commitments to the Good Friday Agreement and the St Andrews Agreement.²¹⁸ Sinn Féin also argues that the true reason for the DUP's reticence on an Irish Language Act is discrimination against nationalists.²¹⁹ The DUP argues that an Irish Language Act is too expensive for the stated benefit, and that there are other ways to preserve and promote Gaelic without a dedicated Act.²²⁰ The DUP's rebuttal to accusations of discrimination is that Sinn Féin is using the language as a "'Trojan Horse' to fracture Unionism,"²²¹ as Gerry Moriarty²²² aptly explained, and that nationalists want the DUP to go beyond what was bargained for.²²³

216. See *FactCheck: Did the DUP Really Never Commit to an Irish Language Act?*, *supra* note 212.

217. *Id.*

218. See John Manley, *What Would an Irish Language Act Actually Mean?*, IRISH NEWS (Feb. 8, 2017), <http://www.irishnews.com/news/political-news/2017/02/08/news/what-would-an-irish-language-act-actually-mean—924164/>.

219. Gerry Moriarty, *Why is the Irish Language Choking Up Politics in the North?*, IRISH TIMES (Oct. 30, 2017), <https://www.irishtimes.com/news/politics/why-is-the-irish-language-choking-up-politics-in-the-north-1.3273354>.

220. See Manley, *supra* note 218.

221. See Moriarty, *supra* note 219. The Irish leader Danny Morrison once said, "Every word of Irish spoken is like another bullet being fired in the struggle for Irish freedom," which has been cited by the DUP as showing Sinn Féin's true motives as to why its members are pushing an Irish Language Act. *Id.*

222. Gerry Moriarty is the Irish Times' editor who covers Northern Ireland news. For more of his work, see *Gerry Moriarty*, IRISH TIMES, <https://www.irishtimes.com/profile/gerry-moriarty-7.1837417> (last visited Jan. 15, 2019).

223. See Moriarty, *supra* note 219.

A. The DUP and Sinn Féin's Past and Current Stances on the Irish Language Issue

The original position of the DUP was that of outright opposition; it has since shifted this opinion, with Arlene Foster promising that the DUP will legislate an Irish Language Act “within a set period of time” if Sinn Féin breaks the deadlock and restores power-sharing.²²⁴ Sinn Féin rejected this proposal, finding it not to be credible and wanting a more permanent solution.²²⁵ Sinn Féin leader, Michelle O’Neill, speaking about the proposal, said, “Let’s agree to quickly conclude talks on implementation and rights, that is the only way to build a sustainable Executive that will last.”²²⁶

The DUP’s other stance on a standalone Irish Language Act is that it should be encompassed into a larger “Culture Act,” which would include language protection for both Gaelic and the country’s other minority language, Ulster-Scots.²²⁷ To Sinn Féin and its supporters, this proposal is unacceptable because Ulster-Scots does not have the same historical tension with the English language or the same history with the island of Ireland.²²⁸ Sinn Féin also argues that the Gaelic-speaking community is more marginalized by the Unionists than Ulster-Scots speakers.²²⁹ There is also a question as to the DUP’s motivations in offering such a compromise.²³⁰ The Ulster-Scots community is less concerned with language recognition on a governmental level than

224. Suzanne Breen, *Sinn Féin Dismisses Arlene Foster’s Proposal to Legislate for Irish Language in a Revived Stormont*, BELFAST TELEGRAPH (Sept. 1, 2017), <https://www.belfasttelegraph.co.uk/news/northern-ireland/sinn-féin-dismisses-arlene-fosters-proposal-to-legislate-for-irish-language-in-a-revived-stormont-36089669.html>.

225. *Id.*

226. *Id.*

227. See Ciaran Dunbar, *Northern Ireland Assembly Divided by Irish language*, BBC NEWS (June 28, 2017), <http://www.bbc.com/news/uk-northern-ireland-38601181>.

228. *Id.*

229. *Id.* There are also less Ulster-Scots speakers than Irish speakers, but only marginally: 8 percent of the population, or about 140,000 people, speaks Ulster-Scots, while 10 percent of the population, or approximately 179,000 people, speaks Irish Gaelic. See Robbie Meredith, *Ulster-Scots ‘Forgotten in Some Ways,’* BBC NEWS (June 28, 2017), <http://www.bbc.com/news/uk-northern-ireland-40437157>.

230. See Henry McDonald, *Irish Language Act Hampering Northern Ireland Power-Sharing*, GUARDIAN (June 27, 2017), <https://www.theguardian.com/uk-news/2017/jun/27/irish-language-act-hampering-northern-ireland-power->

with the need for funding in education, cultural development, and media.²³¹ The community would prefer legislation to promote respect of the language and help keep it alive.²³² Jack Kyle, a fluent Ulster-Scots speaker from Ballymoney, was quoted as saying that “[t]he stakes are high . . . we just don’t want to see it [Ulster-Scots] dying out.”²³³ With only an estimated 100,000 native speakers of Ulster Scots left, the concern is very real for the community.²³⁴

Sinn Féin has also, in some ways, softened from its original stance on affirmative Irish language legislation, but it still insists on a standalone bill.²³⁵ Sinn Féin’s original stance originated from an Irish language proposal set forth in 2015 by the Department of Culture, Arts and Leisure, which called for affirmative action in civil service positions of native Irish speakers.²³⁶ Some news reports, which have since been debunked, said that the proposed legislation would require 10 percent of the civil service positions to go to Irish speakers.²³⁷ Sinn Féin eventually ruled out any form of this portion of the proposal, only supporting the other provisions, which include co-official language status with English in the government and bilingual signage.²³⁸ Its current position supporting an Irish Language Act is

sharing-talks (“The DUP had tried to incorporate aspects of Ulster Scots language and culture . . . as political cover against criticism from hardline unionist opponents.”).

231. See Meredith, *supra* note 229.

232. *Id.*

233. *Id.*

234. See *An Introduction to the Ulster-Scots Language*, ULSTER SCOTS AGENCY, <https://www.ulsterscotsagency.com/what-is-ulster-scots/language/> (last visited Jan. 17, 2019).

235. See Jonathan Bell, *Sinn Féin Rules Out Affirmative Action for Irish Speakers in Civil Service*, BELFAST TELEGRAPH (Sept. 6, 2017), <https://www.belfasttelegraph.co.uk/news/northern-ireland/sinn-féin-rules-out-affirmative-action-for-irish-speakers-in-civil-service-36102729.html>.

236. For the original proposal, see TOGRAÍ FAOI CHOINNE BILLE GAEILGE (PROPOSALS FOR AN IRISH LANGUAGE BILL) (An Roinn Cultúir, Ealaíon agus Fóilíochta (Department of Culture, Arts and Leisure)) 12 (2015).

237. Jonathan Bell, *Sinn Féin Dismisses 10% Irish Speakers in Civil Service Demand Claim as ‘Bunkum’*, BELFAST TELEGRAPH (July 5, 2017), <https://www.belfasttelegraph.co.uk/news/politics/sinn-féin-dismisses-10-irish-speakers-in-civil-service-demand-claim-as-bunkum-35898048.html>.

238. See Bell, *Sinn Féin Rules Out Affirmative Action for Irish Speakers in Civil Service*, *supra* note 235.

a standalone act that protects Irish Gaelic as a minority language with equal status to English, similar to the Welsh language in Wales.²³⁹ This status would allow for translations of all court proceedings, bilingual signage, Gaelic name recognition of towns, and improved Gaelic language instruction in public schools.²⁴⁰

The DUP argues that the Irish Language Act is Sinn Féin's way of seeking "cultural supremacy,"²⁴¹ and that the proposed legislation forces non-Irish speakers to deal with the language "even where it's not wanted," as DUP MP Sammy Wilson has explained.²⁴² The DUP's other argument, which has since been shelved with its unveiling of the Cultural Act proposal,²⁴³ addressed the cost of an Irish Language Act on the tax base.²⁴⁴

239. See Sean Murray, *Adams Says Young People Will Be Radicalised by the DUP's Refusal to Embrace Their Rights*, THEJOURNAL.IE (Aug. 31, 2017), <http://www.thejournal.ie/irish-language-act-gerry-adams-3573478-Aug2017/>.

240. *Id.*

241. See Henry McDonald, *Sinn Féin Denies Seeking 'Cultural Supremacy' via Irish Language Act*, GUARDIAN (July 7, 2017), <https://www.theguardian.com/politics/2017/jul/02/sinn-fein-denies-seeking-cultural-supremacy-via-irish-language-act>.

242. Rónán Duffy, *DUP MP Says Act for 'Failing' Irish Language Would Be Discriminatory*, THEJOURNAL.IE (Sept. 6, 2017), <http://www.thejournal.ie/sammy-wilson-irish-language-act-3583868-Sep2017/>. The comment regarding "wanting" bilingual signage may be in response to the multiple instances of vandalized bilingual signs that have occurred already in Northern Ireland. See Gareth McKeown, *Irish Language Council Sign Defaced Yet Again*, IRISH NEWS (Feb. 10, 2017), <https://www.irish-news.com/news/2017/02/10/news/irish-language-council-sign-defaced-yet-again-926852/>.

243. DUP leader Arlene Foster proposed the Culture Act, which encompasses language recognition to both Ulster-Scots and Gaelic, as a way to compromise with Sinn Féin, but would not agree with a standalone Irish Language Act. See *Why Is There an Impasse in Northern Ireland Over the Irish Language?*, BELFAST TELEGRAPH (Feb. 14, 2018), <https://www.belfasttelegraph.co.uk/news/northern-ireland/why-is-there-an-impasse-in-northern-ireland-over-the-irish-language-36604629.html>. This proposed legislation would also be less comprehensive than any Irish Language Act with regard to protections, since it would not include translating road signs or be making room for Gaelic-speaking workers. *Id.*

244. John Manley, *What Would an Irish Language Act Cost? And What Might the Legislation Contain?*, IRISH NEWS (Oct. 2, 2017), <https://www.irish-news.com/news/2017/10/02/news/irish-language-act-content-and-cost-1150668/>.

There is also a question as to whether a standalone Irish Language Act would be contrary to the equality provision²⁴⁵ in the Good Friday Agreement.²⁴⁶

The long-term goal of Sinn Féin—or at least the organization's more senior members—is for a new referendum on the unification of Northern Ireland with the Republic of Ireland.²⁴⁷ Sinn Féin leader, Gerry Adams, has expressed his party's hope for a referendum to unite Ireland in the next five years, but will not seek a referendum during the Stormont Deadlock.²⁴⁸ The DUP, while “supremely optimistic” that a poll would fail to unite Ireland at this time,²⁴⁹ does not want to hold a referendum because it would be “destabilizing to the body politic, to the economy and wider society and [the DUP doesn't] believe it is wise at this time.”²⁵⁰ Another factor that all parties are waiting on is the outcome of the Brexit debacle, which studies have suggested would influence a united Ireland referendum.²⁵¹

B. Proposed Solution to the Irish Language Act Controversy for an End of the Stormont Deadlock

One matter that the DUP, Sinn Féin, and their allies all agree upon is that moving the government back to Westminster under direct rule would not be best for devolution or for peace in Northern Ireland. The DUP, however, would be willing to allow direct rule to happen.²⁵² Sinn Féin's hardline attitude is reflected in its

245. See Good Friday Agreement, *supra* note 12, at 24, § 3.

246. Henry McDonald, *Proposed Irish Language Act Could Breach Good Friday Deal, Lawyer Says*, GUARDIAN (July 10, 2017), <https://www.theguardian.com/uk-news/2017/jul/10/proposed-irish-language-act-could-breach-good-friday-northern-ireland-deal-lawyer-says>.

247. *Adams Seeks Irish Unity Referendum Within Five Years*, RAIDÍÓ TEILIFÍS ÉIREANN (Sept. 5, 2017), <https://www.rte.ie/news/politics/2017/0905/902351-sinn-Féin-think-in/>.

248. *Id.*

249. *Id.* In the same interview, the speaker, ex-DUP Economic Minister Simon Hamilton, also compared an Irish unification referendum to the failed 2014 Scottish referendum and its destabilizing effect. *Id.*

250. *Id.*

251. Ben Kelly, *Why Is There No Government in Northern Ireland and How Did Power-Sharing Collapse?*, INDEPENDENT (Jan. 9, 2019), <https://www.independent.co.uk/news/uk/politics/northern-ireland-talks-latest-updates-stormont-power-sharing-deal-what-deal-look-sinn-fein-dup-deal-a8711691.html>.

252. Michael Staines, *New Northern Ireland Secretary “Absolutely Determined” to Restore Powersharing*, NEWS TALK (Jan. 10, 2018),

unwillingness to consider a Culture Act. The stubbornness of both parties, however, has already resulted in a budget being passed by Westminster.²⁵³ This action has marked a step closer to direct English rule, demonstrating Westminster's belief that neither party is capable of putting aside its differences long enough to keep the Northern Irish government operational.²⁵⁴ The threat of a no-deal Brexit also looms, promising consequences ranging from an even more unpopular direct rule scenario, to an increased chance of a successful Irish unification referendum.²⁵⁵

In order to end the Stormont Deadlock with the Northern Irish government intact, the DUP and Sinn Féin must compromise on legislation that will frame the Irish language as equal to English in Northern Ireland. The DUP's excuse that it did not agree to this legislation in the St Andrews Agreement may be correct.²⁵⁶ To maintain its slim majority, however, the DUP must stop alienating the populace with outright discriminatory policies and rhetoric.²⁵⁷ Given that the DUP's Culture Act proposal seemed to be in good faith, Sinn Féin should suggest separate Acts that would sufficiently encompass the needs of both the Gaelic speakers and the Ulster-Scots speakers. These separate but equal language Acts would not necessarily need to present a matching timeline for the two languages to be integrated, or identical funding allocation. The Acts should be equally protective of Ulster Scots and Gaelic, however, to sufficiently appease the DUP and avoid direct rule.

A proposal that includes Ulster Scots and Gaelic would also prevent Sinn Féin from losing any more seats to the current DUP majority, which would upset the power sharing structure.²⁵⁸ Lastly, and perhaps most importantly, supporting equal language legislation for both of Ireland's minority languages promotes cultural heritage preservation, and indicates Sinn

<http://www.newstalk.com/New-Northern-Ireland-Secretary-absolutely-determined-to-restore-powersharing>.

253. Ronan Duffy, *'This is British Direct Rule' Says SDLP Leader, as Westminster Passes North Budget*, THEJOURNAL.IE (Nov. 14, 2017), <http://www.thejournal.ie/northern-ireland-budget-3695641-Nov2017/>.

254. *Id.*

255. Ben Kelly, *supra* note 251.

256. See *FactCheck: Did the DUP Really Never Commit to an Irish Language Act?*, *supra* note 212.

257. See, e.g., *supra* notes 14, 16–18.

258. See *Power Sharing*, *supra* note 109.

Féin's acceptance of the diverse linguistic population. As Peter Robinson, the previous First Minister and DUP founding member, has asked, "Who can complain if there are those who cherish Irish language or who passionately support Ulster-Scots culture? Who can find it unacceptable for arrangements to be put on a statutory basis to protect and support both? Both can be accommodated."²⁵⁹ He is correct in that both languages should be equally protected as minority languages in Northern Ireland, and Sinn Féin can only strengthen its position by supporting both languages.

Given the way that DUP leader, Arlene Foster has acted in the past year and her purported refusal to entertain a deal such as the one outlined above,²⁶⁰ it is clearly time to have a change of leadership through a snap election²⁶¹ in order for comprehensive and all-encompassing language legislation to be presented and implemented. The current political climate²⁶² in the UK and the twentieth anniversary of the St Andrews Agreement's passage in April 2018²⁶³ suggest that the time for compromise is now if the government of Northern Ireland wished to maintain its autonomy from both the UK and the Republic of Ireland. If Foster

259. See McDonald, *supra* note 230.

260. In February 2018, there was conflicting reports that Sinn Féin proposed a deal that would include both Ulster Scots and Gaelic language bills. Jonathan Bell, *Sinn Féin Reveal Details of DUP Deal: Irish and Ulster Scots Language Acts, Petition of Concern Review and Justice Ministry Change*, BELFAST TELEGRAPH (Feb. 15, 2018), <https://www.belfasttelegraph.co.uk/news/northern-ireland/sinn-fein-reveal-details-of-dup-deal-irish-and-ulster-scots-language-acts-petition-of-concern-review-and-justice-ministry-change-36608559.html>. Foster stated that the deal was not one she could bring to her party, seeming to indicate that a deal was proposed and quickly shut down. *Id.*

261. A "snap election" is a form of election in parliamentary democracies when "the party in power . . . initiate[s] a general election sooner than the fixed-term deadline." See *Snap Election*, MACMILLAN DICTIONARY, <http://www.macmillandictionaryblog.com/snap-election> (last visited Jan. 16, 2019). In 2017, Sinn Féin initiated a snap election in response to McGuinness' resignation and First Minister Arlene Foster's refusal to resign. The results closed the gap in seat majority that the DUP held over Sinn Féin from ten seats to one. For more information on the 2017 snap election, see Kristin Archick, *Northern Ireland's Snap Elections: Outcome and Implications*, FED'N AM. SCIENTISTS (Mar. 7, 2017), <https://fas.org/sgp/crs/row/IN10663.pdf>.

262. See generally Alex Hunt & Brian Wheeler, *Brexit: All You Need to Know About the UK Leaving the EU*, BBC NEWS (Jan. 4, 2018), <http://www.bbc.com/news/uk-politics-32810887>.

263. See *Northern Ireland: New Faces, Old Problems*, WEEK (Jan. 11, 2018), <http://www.theweek.co.uk/90865/northern-ireland-new-faces-old-problems>.

is not the leader that she needs to be, an election must be held to redistribute the party lines and bring in more accountable leaders.

CONCLUSION

This article discussed, in length, the history of Anglo-Irish tensions, how those tensions culminated in the government that exists today, and why that tenuous peace is so important to maintain in one of Europe's most conflicted areas. It also discussed the need to not only acknowledge, but to also correct the wrongs committed against minority language speakers and those who wish to explore their cultural heritage in the aftermath of colonialism. These needs must be balanced with the need for political stability and the rights of the people to reclaim their heritage through language. To reclaim and sustain this cultural heritage, factions must put aside their differences, drill a hole in the wall, and chance the arm. That is the only way to keep Northern Ireland safe, stable, and culturally robust.

*Samantha F. Sigelakis-Minski**

* B.A., SUNY Stony Brook University; J.D., Brooklyn Law School (expected 2019); Executive Notes and Comments Editor of the *Brooklyn Journal of International Law* (2018–2019). I would like to extend a thousand thanks to the past and present Journal staff for all of their work in the publication process. I would like to give special thanks to Matthew Hurowitz, whose efforts and guidance made the most difficult parts of the writing process appreciably smoother. Special thanks as well to George Somi and Wynnee Ngo for their support and feedback during publication. My husband Michael Williams deserves a particular acknowledgment for unconditionally supporting me throughout multiple ups and downs in pursuing my dreams. Finally, I would like to thank my parents, who have been my rocks all through my life. I could not have made it here without them. All errors or omissions are my own.