

## 6.5

# Northern Ireland: devolved government and politics

*Devolved government in Northern Ireland centres around unique institutions, a power-sharing Executive with ministers chosen on a proportional basis, answering to an Assembly elected using PR. It was designed to overcome the inter-communal strife that has characterised Northern Ireland public life: the challenges it has faced have been particularly acute, and its record has, inevitably, been mixed. At the time of writing it is in abeyance for want of political agreement, which may not be found – at least in the short term. At present, there is no political control at all over the Northern Ireland administration. **Alan Whyssall** and the **Democratic Audit team** explore how democratically and effectively the institutions of government have performed in Northern Ireland.*

### **What does democracy require of Northern Ireland's devolved Assembly and Executive?**

There is a long history of community division within Northern Ireland, which is reflected in its voting behaviour. Given this, and since the constitutional issue – whether Northern Ireland should remain part of the UK or join a united Ireland – ceased to dominate political life, there has been wide agreement that in order to function, government needs to be acceptable across the community. In practice this means guaranteeing that parties from each side of the community can participate in government, engaging their political energies and obliging them to work together.

However, since devolution became established, there has been a growing focus on how the system measures up against more conventional criteria for effective democratic government, such as:

- ◆ The Executive should be able to set out a coherent vision across the range of devolved responsibilities, and develop and implement a practical and effective set of policies in pursuit of it.
- ◆ The Executive should in particular tackle cogently the most acute problems of the economy and society, and be capable of responding decisively to events.
- ◆ The devolved government should provide efficient and effective public services.

- ◆ The Assembly should effectively hold the Executive accountable, through conditional support or reasoned opposition, drawing out views and expertise within different parts of the community to improve policy-making, the delivery of public services and the quality of legislation.
- ◆ All involved in the institutions should act in the wider public interest, and in particular should practice financial regularity and prudence, and avoid the reality or the appearance of corruption.
- ◆ The institutions should be recognised by the voting public as meeting these criteria, and as articulating and responding to their concerns.

Since the institutions remain fragile, however, democracy also requires a degree of outside stewardship, notably from the British government, but also the Irish government and others, to help keep them functioning.

In Northern Ireland, the criteria for democratic governance are rather different from elsewhere. For the whole of its 96-year existence as a distinct political entity, the great bulk of voters have backed 'tribal' unionist and nationalist parties. In consequence, the operation of traditional Westminster rules, transplanted to Northern Ireland in the 1920s, led to 50 years of government by the Ulster Unionist Party alone. In response, nationalists denied the legitimacy of any government arrangements in Northern Ireland, arguing that it was an entity contrived to sustain unionist rule. This system collapsed in 1972 following a campaign of abstentions and protests, and physical violence by some groups. More than 30 years of direct rule by Westminster followed.

Devolved government definitively resumed in 2007 under **arrangements** set out in the Good Friday Agreement of 1998, lightly modified by subsequent agreements. The GFA provides for much besides internal government arrangements: under it, inter alia, Northern Ireland's constitutional status, whether within the United Kingdom or a united Ireland – the dominant issue in its politics for 70 years – is established as depending on consent, with provision for 'border polls' to test it; there are guarantees of parity of esteem for the British and Irish identities, and for upholding equality and rights; there are elaborate arrangements for wider relationships, in particular those within the island of Ireland. These, as much as the shape of the domestic institutions, are important elements of the political equation underlying the settlement.

Until they were suspended in January 2017 the essence of the devolved government arrangements were:

- ◆ *An Assembly, now of 90 members*, is elected using a proportional voting system called single transferable vote (see **Chapter 2.3**). Its members designate themselves nationalist, unionist or other.
- ◆ *A First Minister (FM)* is nominated by the largest party in the Assembly, and a *Deputy First Minister (DFM)* by the largest party composed of members of the largest designation apart from the FM's; so in present circumstances there will be a unionist and nationalist. The FM and DFM exercise their powers jointly and equally.

- ◆ *The post of Justice Minister* is, because of its special sensitivities, selected by a cross-community vote in the Assembly; it has been held by the Alliance Party (2010–16) and an independent unionist (2016–17).
- ◆ The remainder of the places in *the power-sharing Executive*, a further seven, are allocated among those parties in the Assembly wishing to take them up, in proportion to the number of seats they hold in the Assembly, using the d'Hondt system. Because any party of sufficient size may thus participate as of right, the Executive is sometimes spoken of as a 'mandatory coalition'.

Across the political spectrum there is agreement that Northern Ireland circumstances require some arrangements to ensure acceptability of government across the community. Some disagree that the current ones are the right way of achieving the objective, though no major party presses for significant change to structures at present.

## Recent developments

Devolution has functioned in a somewhat rocky way following its resumption in 2007. A succession of political crises has threatened its survival. The 2016 Assembly elections were held on the basis of the 'Fresh Start' agreement between the Democratic Unionist Party (DUP) and Sinn Féin (who provided the First Minister and Deputy First Minister respectively). The smaller parties, who had been in the Executive previously, moved into opposition, for which new provision had been made. The DUP and Sinn Féin maintained a public appearance at least of working together until late 2016.

At that point, serious and costly failings in a renewable heat incentive (RHI) scheme became public. The scheme had been introduced by the First Minister, Arlene Foster, when she was in a previous role; around it there were (still unproven) rumours of corruption. It provoked much controversy. Sinn Féin eventually withdrew from the Executive, which led to the calling of a further Assembly election for 2 March, 2017 (see below). This failed to produce any change in Sinn Féin or DUP attitudes and so the Assembly and Executive were suspended.

As this situation dragged on, it became clear that more fundamental tensions had been building within the Executive before the break. Partly this was over the DUP's attitudes to nationalism, and the Irish identity more generally. Aggravating the tensions was Brexit, on which the DUP and Sinn Féin were at odds with each other, and Sinn Féin with the British government.

## The suspension of the Assembly and Executive

By the end of August 2018 (our time of writing), the suspension of Stormont had lasted for 589 days, and created **a new record** for the longest delay in assembling a governing coalition in any European country. It also **generated some citizen protests** as Northern Ireland taxpayers paid out nearly £8m (£78,000 per head) to Assembly members who were essentially doing nothing. In May 2018, the Labour leader Jeremy Corbyn called for the Stormont arrangements to be **revived as a high priority**. But the May government has not been able to achieve any visible progress, and since June 2017 has depended on the DUP to stay in power at Westminster (see below).

Meanwhile, the running of the country fell largely to senior civil servants. Yet the legality of their making decisions over major projects was called into question by a May 2018 court judgment **that struck down** a decision to proceed with a waste incinerator as exceeding their powers. A backlog of major projects had already begun to accumulate, for which political approval was required. In autumn 2018 there may also be a UK Supreme Court case challenging the legality of all administrative decisions taken while Stormont is suspended.

## Brexit and Northern Ireland

In 2016's Brexit referendum, on a turnout of 62% (lower than any other UK region), Northern Ireland voters chose to remain, by 56% to 44% (a smaller margin than Scotland or London, the two other Remain regions). The DUP campaigned to leave; the other main parties, Sinn Féin and the SDLP, Alliance and the Ulster Unionists (UUP), to remain. The great majority of nationalists who voted **appear** to have favoured remain, although turnout was exceptionally low in some nationalist areas; a proportion of unionists also did so. The DUP position appears to be in favour of a hard Brexit, in line with its traditional antipathy to Europe, whilst also opposing restrictions on freedom of movement within the island of Ireland (2017 Westminster **manifesto**, section 6).

Nationalists fear these objectives are incompatible, and point to the possibility of controls of various sorts on the border being reintroduced, after several decades during which it has been scarcely visible. The British government's **statements** throughout the process say there should be no physical infrastructure on the border. This stance was reiterated in **the Chequers proposals** of mid-2018. But their political viability and administrative feasibility is widely doubted, some seeing them as a device to transfer blame for a border made inevitable by a hard Brexit. Any such development is liable to be acutely sensitive politically – manifestations of a border within the island of Ireland are anathema to nationalists. But a sea border between the whole island of Ireland and the British mainland would equally be anathema to the DUP, on whose continued support May relies at Westminster.

There are also potentially very significant economic consequences to Brexit, for both parts of the island, and perhaps also consequences for justice cooperation within it. And the tensions here are putting strains on the partnership between the British and Irish governments, which has been the motor of the peace process.

## The 2017 Assembly election

The March 2017 election was a divisive one. Even though the elections failed to break the Stormont stalemate, the results still marked a significant change in the Northern Ireland political landscape. The nationalist vote, which had been flagging in recent elections, strongly revived, and for the first time unionist parties lost the majority they had enjoyed in all previous assemblies, with only one seat more than nationalists. There was also some movement from both unionist parties, which did relatively badly, to the Alliance Party, which did particularly well.

**Figure 1: The outcomes of the March 2017 Assembly election**

Party	Historically seen as	Vote %	Assembly seats (%)	Executive posts (2016–17)
Democratic Unionist Party (DUP)	'More hardline' unionist party	28.1	28 (31%)	4
Sinn Féin (SF)	'More hardline' nationalist party	27.9	27 (30%)	4
Social Democratic and Labour Party (SDLP)	'More moderate' nationalist party	12	12 (13%)	
Ulster Unionist Party (UUP)	'More moderate' unionist party	12.6	10 (11%)	
Alliance Party (AP)	Centrist, with support from all parts of the community	7.7	8 (9%)	
Green	Environmentalist, also with mixed support	2.7	2	
TUV (Traditional Unionist Voice)	Hardline unionist, opposed to the present structures	2.6	1	
PBP (People before profit)	Left, non-sectarian	1.8	1	
Independent unionist	Personal candidature		1	1
All parties		<b>100</b>	<b>90</b>	<b>9</b>

## The Westminster election of June 2017

Attempts to resume devolved government following the Assembly election had failed to produce any result by the time the UK general election was called in 2017. Westminster elections in Northern Ireland as elsewhere use plurality voting (or first-past-the-post), which favours larger parties.

This election was also particularly polarising, with the sense of being under threat on each side of the community driving people back to traditional voting patterns. The DUP improved on its performance at the Assembly elections to elect ten MPs (55% of seats, on only 36% of the vote), and Sinn Féin gained seven MPs (39% of seats, on 29% of the vote), with one independent unionist.

The middle ground suffered severely: the UUP and SDLP lost all their seats. Since Sinn Féin do not as a matter of principle take their Westminster seats, this means that Irish nationalism is unrepresented in the House of Commons for the first time in centuries.

Lacking a Commons majority, the Conservative Party concluded a 'confidence and supply' **agreement** with the DUP, involving £1bn in extra public spending for Northern Ireland. The spending plans themselves have not been criticised on partisan grounds – indeed they received some welcome even from nationalists – but the Conservatives' dependence on the DUP has caused some to question their ability to be an honest broker among Northern Ireland parties.

Further efforts to resume devolved government following the election have so far been unsuccessful. Northern Ireland at present has no ministers – the devolved ones have gone, and UK ones have no legal authority over the Northern Ireland administration. The statutory deadline for the Secretary of State to call a further Assembly election passed, and political negotiations to resume the Assembly have stalled. Since the end of 2017, the Secretary of State has set the budget for Northern Ireland, but has stopped short of direct rule, leaving much of the political decision-making in the hands of Northern Irish civil servants.

### **Strengths, Weaknesses, Opportunities, Threats (SWOT) analysis**

The foundations of the Northern Ireland system, unlike those in Scotland and Wales, are clearly fragile, and so the ability of outsiders, notably the British and Irish governments, to intervene is also important to the soundness of democratic arrangements.

<b>Current strengths</b>	<b>Current weaknesses</b>
<p>In historical perspective, the devolved institutions had been an enormous success up to 2017, leading to a degree of working across the community that was unthinkable 20 years ago. They permitted the establishment of a government locally accountable to Northern Ireland voters that had previously not been possible.</p>	<p>The core institutions have been beset by regular political turbulence, have at times in the past seemed near to collapse, and have been completely inoperative since January 2017. Consequently they have not provided all the social and economic stability that was previously hoped for, and delivered.</p>
<p>The political settlement paved the way to cross community acceptance of policing. Given the acute social conflicts that went before, this is a remarkable advance.</p>	<p>When it was operating, the Executive had limited success in tackling the serious economic and social problems that beset Northern Ireland. The private sector economy remains very small, and has declining relative competitiveness. Northern Ireland is dependent on <b>public spending</b> – at levels per head that are higher than those of any other UK region. Public services are seriously struggling – significantly more in the case of health, for example, than in England.</p>

Current strengths	Current weaknesses
<p>Power-sharing devolved government has made it much harder for paramilitaries on both sides of the sectarian divide to thrive. They continue to be active, although on a much reduced scale, in occasional limited terrorism and more prevalent gangsterism.</p>	<p>Despite a general commitment to the principle of a ‘shared future’, Northern Ireland society is still in parts seriously tainted with sectarianism. Issues from the past remain unresolved, and are at times a political irritant, for example over ‘legacy’ issues from the time of Troubles, and over flying of flags and other symbols, which created a crisis in government in 2012 in some local councils (see <a href="#">Chapter 6.6</a>).</p>
<p>During the time of the new institutions, most of the remaining inter-community conflicts at street-level disappeared. However, the summer of 2018 saw some nationalist crowds in Derry briefly turn violent.</p>	<p>In political life and the media, there has often seemed to be a lack of interest in good government and in policy-making. The traditional bones of inter-community contention have been a more attractive focus of attention. The Renewable Heat Initiative affair in its early stages is an example of lack of scrutiny.</p>
<p>More broadly, the new institutions at first generated a spirit of optimism and rebuilding that made much social progress possible.</p>	<p>There have been episodes of serious budgetary disorder before the present one. They have not always been regarded as matters of fundamental concern – perhaps in part because new money from the Treasury has often been forthcoming as part of a rescue package.</p>
<p>There has also been some economic success, in particular a good record in securing foreign direct investment. Unemployment is well down from the very high levels once found in Northern Ireland.</p>	<p>The Executive has been frequently unable to make decisions, in large part because the way that it is constituted means that it lacks common purpose. Although it has adopted substantial programmes for government, they have lacked political traction.</p>
<p>People in Northern Ireland do not seem excessively troubled by political difficulties: personal well-being <a href="#">measures</a> are well above the UK national average.</p>	<p>The Assembly has been of limited effectiveness in its scrutiny of government policy or service delivery, has rarely come forward proactively with ideas of its own, and such formal opposition as there has been has tended towards the destructive, rather than the constructive.</p>

Current strengths	Current weaknesses
	<p>There is limited civic society involvement in public dialogue in Northern Ireland: many people keep their heads down. Nor is there much contribution to public policy from outside government: for example, nothing that at present could be called a think tank. The tradition of looking to provision by the state, and the British and other governments, has often prevailed.</p>
	<p>A whiff of corruption remains in political life. The DUP Westminster MP, Ian Paisley Jr, was suspended from the House of Commons for accepting gifts from the Sri Lankan government. Prior to this, there have been significant cases of politicians sailing close to the wind, at times closer than they could have got away with elsewhere, though there is little hard evidence of criminality.</p>
	<p>Given their record, the Northern Ireland institutions are held in particularly low esteem by the electorate, though the principle of devolution still appears to be widely supported. And increasingly they seem to command little enthusiasm even among those who work in them.</p>
	<p>The suspension of the Assembly, and the structure of sectarian politics, has hindered the advancement of rights for women and LGBT citizens compared with the rest of the UK and the Republic of Ireland. Whereas the Republic of Ireland has introduced gay marriage and will introduce legislation to <b>legalise abortion</b>, both supported via referenda, both remain prohibited in the North, putting it at odds with its neighbours and <b>public opinion</b>.</p>

Future opportunities	Future threats
<p>Concern for the success of the peace process is, in particular, evident in the EU approach to Brexit. If there were a united Northern Ireland voice on Brexit issues, it would be very influential.</p>	<p>Hitherto Northern Ireland's crises have often been resolved by negotiation under the auspices of the British and Irish governments, with strong US interest. All those partners are now heavily committed elsewhere. They may now have much less capacity or inclination to resolve Northern Ireland's longer-term problems.</p>
<p>There remains, despite the increasingly divergent positions of the two main Westminster party leaderships, an element of bipartisanship in the approach there to Northern Ireland, which can at times facilitate necessary, sometimes urgent, intervention.</p>	<p>The overtly unionist line that the Conservative Party has taken in UK government since 2010, and its current dependence on the DUP at Westminster, may mean that the British government now has particular difficulties in helping develop political compromise. Its good faith, always to some extent doubted by Northern Ireland parties, is now particularly seriously an issue with nationalists.</p>
	<p>Parliament, too, may be weakened in its ability effectively to oversee Northern Ireland affairs, not least because of the absence of nationalists elected in Northern Ireland.</p>
	<p>More widely, the understanding among British political players of Northern Ireland issues, developed over the decades of the Troubles and subsequent agreements, seems to have rapidly dissipated. Prime Ministers latterly have shown little interest, except so far as Northern Ireland impacted on Westminster arithmetic. Some Brexiteers at Westminster have seemed willing to downplay concerns about the Irish border and maintaining the achievements of the Good Friday Agreement during the Brexit process.</p>

## Can the Northern Ireland institutions be made to work again?

It is still (just) possible to see devolved government resuming in the medium term, despite the current lengthy suspension, and even to envisage **measures** to improve the way it functions and to bolster future stability. The Northern Ireland parties and institutions might then progress beyond achieving the necessary but scarcely sufficient requirement of embodying cross-community working, towards the objective of delivering effective

government, which is the main expectation of political institutions elsewhere. Still more ambitiously, they might set about setting out a positive vision of the future (irrespective of constitutional destiny).

However, for the present, and especially while key Brexit issues remain unresolved, it is not clear we shall reach that point. The two main parties appear to be moving further apart, and reverting to the rhetoric of earlier days. There may not be sufficient commitment to restore devolved government while the Brexit negotiations produce a succession of grounds for disagreement between the parties.

The British government's standing, and its preoccupations elsewhere, mean that it would face very serious and perhaps destabilising challenges if it were to reintroduce direct rule, traditionally the alternative when agreement sufficient to sustain devolved government is not possible, but already much disliked by nationalists. Northern Ireland has drifted for all of 2017 and 2018 without any devolved government. It seems unlikely that any resumption is imminent.

However, at some point, action to establish political authority over the civil servants who are, no doubt to their great discomfort, at present presiding over autopilot government, will as a practical matter become inevitable. If direct rule is restored, the Irish government will under the Good Friday Agreement have a right to make representations about the conduct of government in Northern Ireland – itself a potential source of much contention, and the more so since Brexit is opening serious strains in the relationship between the two governments.

No early majority in a referendum for a united Ireland seems likely – indeed it seems unlikely the Secretary of State will call one. But if such a decision eventually came about by a narrow majority vote, rather than as the product of negotiation involving significant representation of both communities in Northern Ireland, it would be highly destructive and divisive, in both parts of Ireland and beyond.

## Conclusions

We are at a profoundly dangerous point for democracy in Northern Ireland. The consensus underpinning the Good Friday Agreement institutions appears to be fragmenting – and Brexit may speed the process. However, it is hard to see any plausible alternative to those arrangements that could deliver stability. The longer devolved government remains in abeyance, the more difficult it may be to put it back together. Though an immediate increase in violence is unlikely, violent people have in the past flourished when constructive politics was weak.

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*Changes for the 2018 Audit were made by the Democratic Audit team from Alan's 2017 text.*