

**A breathing space for devolution?
Public attitudes to constitutional issues in a devolved Northern Ireland**

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Executive Summary

- The Belfast Agreement aimed to defer debate about constitutional choices on membership of the UK vs. membership of the Republic of Ireland by establishing power-sharing devolution focused on local decision-making and opening up a space for reconciliation. However Northern Ireland politics has remained focused on conflicting constitutional choices, importing turbulence into the practice of devolved government and leading to successive suspensions.
- Public attitudes on devolution are, against this background, surprisingly positive. There is general approval of the idea of devolution (though with uncertainty as to whether the delivery of public services had improved). Catholics are generally more positive than Protestants. Outright negative views on devolution are rare.
- 40% felt that devolution has made a difference by giving people more say, with only 8% feeling they had less say. A clear majority in all communities feel the Northern Ireland Assembly should have an even fuller role in the government of Northern Ireland. Devolution has considerable public support.
- Representatives of both communities have toyed with the idea of a referendum on Northern Ireland's status, Sinn Féin to establish a trajectory of opinion tending to reunification with Ireland, the Ulster Unionist Party to confirm Northern Ireland's membership of the UK for the foreseeable future. Neither arguable understands the dynamics of public opinion on the issue.
- Support for long-term membership of the UK has fallen from 69% to 50% since 1989 (though still has overwhelming if declining support among Protestants. Support has halved to 15% among Catholics since 1989. Support for a united Ireland has *not* taken up the slack, with figures even among Catholics flatlining since 1989 at around 50%.
- The most popular constitutional option is for a fuller form of devolution on the model of the Scottish Parliament (i.e. with both legislative and taxation powers). 47% of Protestants favour this option, 14% of Catholics and 31% overall. The current, more limited model of devolution attracts the support of a further 12%. The total 43% support for devolution is twice that for a united Ireland and over three times that for direct rule from Westminster.
- The conclusion is clear: the emphasis of Northern Ireland politicians on either-or constitutional choices either misreads or ignores public opinion. More than any other option the people of Northern Ireland want effective devolved government.

Introduction

The promise of the 1998 Belfast Agreement was that tricky constitutional questions could be deferred to the longer-term. In the meantime, local politicians could come together and manage Northern Ireland's problems through a powersharing arrangement. That was the theory and it was woven together with a seductive logic. The unresolved clash of Irish nationalism and Ulster British nationalism had sustained lengthy campaigns of violence, had seriously damaged the legitimacy of any governing authority in Northern Ireland and had facilitated an entrenched sectarianism. In short, Northern Ireland had a chronically dysfunctional political system.

By placing the two sets of nationalism that sustained the conflict in cold storage, a political space could be opened for local politicians to deal jointly with mutual problems. Moreover, a by-product of a successful unionist-nationalist working relationship might be an erosion of antagonistic views of the other side. In this way, constitutional issues might, say, by 2020 or 2030 even become irrelevant. Instead the focus would be on functional cooperation in an era of cross-cutting constitutionalism within a devolved United Kingdom and an enlarged and increasingly borderless Europe. In such circumstances, raising the ghosts of a united Ireland or the Union in its traditional mode would be not only be inappropriate, it would miss the central dynamic of an era multi-layered democracy. Banging on about constitutional imperatives and ethnic particularism would be anachronistic when the game was to

orientate the economy and political system to take full advantage of the opportunities and challenges offered by devolution and globalisation.

But the vision of Northern Ireland's new beginning was quickly derailed. A range of security (or more perhaps more accurately 'insecurity') issues fed a latent mistrust between unionists and republicans. The infant years of devolution were turbulent in the extreme, with the operation of the Assembly and powersharing Executive at first delayed and then subject to suspension. The constitutional issues, seemingly put to bed by the Belfast Agreement, were still present. The post-1998 period was marked by repeated references to constitutional questions, including calls for a referendum on Northern Ireland's constitutional position and much interest in sectarian head-counting through the 2001 census results. This continued interest in constitutional politics stood in stark contrast with the 'consociational', power-sharing nature of the Belfast Agreement and contributed to devolution's difficult infant years.

This paper has three sections. First it will quickly reprise the main constitutional provisions of the Belfast Agreement and make the point that despite all the turbulence, devolution was leaving its footprint on the governance of Northern Ireland. Second, the paper will briefly review how and why constitutional issues were kept at the forefront of Northern Ireland politics despite the 'fresh start' hinted at in the Belfast Agreement. Third, the paper will present public attitudes data showing the dynamic of constitutional attitudes in Northern Ireland over the past decade. It will show fluidity in attitudes, with support for the Union suffering a dramatic decline, yet with support for a united Ireland unable to make anything but modest gains. The paper will then show that traditional constitutional preferences in the form of support

for a United Kingdom/Ireland have been complicated by people's expectations and experiences of devolution. Devolution, it would seem, is popular and Northern Ireland wants more of it.

1. The Agreement and the Footprint of Devolution

The Belfast Agreement recognised the constitutional status quo of Northern Ireland's position in the Union. But it added a conditional element: '...if, in the future, the people of the island of Ireland exercise their right of self-determination ... to bring about a united Ireland, it will be a binding obligation on both Governments to introduce and support in their respective Parliaments legislation to give effect to that wish.'¹ Simultaneously, the Union was re-affirmed and a united Ireland was up for grabs. The Agreement attempted to satisfy a complex matrix of identity aspirations and relationships with an equally complex matrix of institutions. An elected Assembly with a powersharing Executive would attempt to manage fraught relationships within Northern Ireland. An extensive range of competencies would be devolved to Northern Ireland, with an understanding that certain 'reserved' matters could be devolved to Northern Ireland at a future date. A North-South Ministerial Council would allow for functional cooperation on strictly defined matters between the Northern Ireland Executive and the Irish Government. A British-Irish Council would allow for cooperation across a range of elected bodies across a devolved United Kingdom and the Irish Republic. The Belfast Agreement was also replete with a series of guarantees on social, economic and cultural inclusion, judicial reform, policing and prisoners.

¹ *The Agreement: Agreement reached in the multi-party negotiations* (Belfast: HMSO: 1998). An examination of the peace process leading to the Agreement can be found in R. Mac Ginty & J. Darby, *Guns and Government: The management of the Northern Ireland peace process* (Houndmills: Palgrave Macmillan, 2002). Commentary on the Agreement can be found in R. Wilford, *Aspects of the Belfast Agreement* (Cambridge; Cambridge University Press, 2001).

New Human Rights and Equality bodies would be established to add an additional layer of safeguards.²

There is no denying that Northern Ireland's devolution experiment suffered from a baptism of fire. Yet by the time of the fourth suspension of devolution in October 2002, the devolved institutions had made considerable progress in the formulation and implementation of policy programmes. A second Programme for Government had been introduced and a second budget had been unveiled. The Executive could point to a number of initiatives that had been implemented (free public transport for pensioners) or were under discussion (free personal care for those in residential homes). First Minister David Trimble was in no doubt that devolution was capable of delivering on public policy, telling the Assembly that '....we have shown that we can make a difference.'³

While the Assembly was simply not in operation long enough to implement an extensive legislative programme, it was able to have an impact on the style of government. An extensive series of consultation exercises was conducted in key public policy areas. While some complained of 'consultation fatigue' and 'paralysis by analysis' and were frustrated at the seeming indecision of the Executive on key issues, devolution had broadened the ambit of government far beyond that possible under direct rule.⁴ Moreover, immense work had been undertaken to put in place new *systems* of governance. Although the results of these efforts were not immediately

² See, C. Bell, *Peace Agreements and Human Rights* (Oxford: Oxford University Press, 2000) pp. 213-221,

³ Cited in Rick Wilford, 'The Assembly' in *Devolution Monitoring Programme Northern Ireland*, Report 10 (February 2002): <http://www.democraticdialogue.org/devolution.htm>.

⁴ The comments were made by SDLP MLA, Eddie McGrady. Cited in R. Wilford, 'The Assembly' in *Devolution Monitoring Programme Northern Ireland*, Report 9 (November 2001).

discernible, they established the groundwork for future policy implementation. It is possible to say that devolution was leaving its 'footprint'. While Northern Ireland's citizens were unable to point to an extensive corpus of legislation implemented by the Executive, there was general approval of the concept of devolved power and little appetite for a return to direct rule.

Survey evidence on attitudes towards the Assembly and its ability to deliver in key areas of public policy contained a number of distinct messages (details of the survey are at the end of this piece). First there was a significant sectarian differential, with Catholics generally extending greater approval to the devolved institutions than their Protestant counterparts. Second, survey respondents were more likely to hold neutral or non-committal opinions such as 'don't know', 'it's too early to say' or devolution 'is making no difference' rather than hold outright negative opinions. Third, although the actual public experience of devolution was mixed, particularly in terms of service delivery, faith in devolution as a form of government was extremely high.

These findings were reflected in responses to a series of questions on the performance of the Assembly. Responses to the question of whether the Assembly gave people more or less say in how Northern Ireland was run were typical of responses on a range of other questions. Forty percent of respondents felt that people had been empowered, 44% felt that devolution had made no difference and only 8% felt that people had less say under the devolved arrangement (see Table 1). Catholic approval was stronger than that of Protestants (51% against 31%). While 12% of Protestant respondents felt that devolution was giving people less say in how Northern Ireland was being

governed, more than four times as many (50%) held the neutral view that devolution was making no difference.

Table 1: From what you have seen and heard so far, do you think that having a Northern Ireland Assembly is giving people....

	Catholic	Protestant	No Religion	All
	%	%	%	%
More say in how N Ireland is governed	51	31	37	40
Less say	3	12	8	8
Or, is it making no difference	39	50	40	44
(Don't know)	7	7	15	8

Responses to questions of which layer of government held most power, and which layer *ought* to hold most power, were extremely revealing in that they pointed to a strong demand for the extension of devolution. This is remarkable given that Northern Ireland's experience of devolution was limited in terms of time and was subject to the disruptive influences of partisan politics. A slight majority (51%) identified the UK government at Westminster as the most significant power-holder in 2001, 28% identified the Northern Ireland Assembly as holding most influence in how Northern Ireland was run (see Table 2). Results for Catholics and Protestants were broadly similar. When the question became which layer of government *ought* to hold most influence in the running of Northern Ireland, then a strong preference for the local exercise of power through devolution became apparent (see Table 3). A strong majority (65%) opted for the Northern Ireland Assembly, while there was limited support for the Westminster government (17%). Protestant support for the Northern

Ireland Assembly (61%) was more muted than that of Catholics (74%) but still attained a clear majority.

Table 2: Which of the following do you think has most influence over the way Northern Ireland is run?

	Catholic	Protestant	No religion	All
	%	%	%	%
Northern Ireland Assembly	27	29	25	28
UK government at Westminster	53	50	50	51
Local councils	8	6	7	7
EU	5	4	5	4
(Other)	1	3	2	2
(Don't know)	6	8	12	8

Table 3: And which do you think ought to have most influence over the way Northern Ireland is run?

	Catholic	Protestant	No religion	All
	%	%	%	%
Northern Ireland Assembly	74	61	53	65
UK government at Westminster	7	24	23	17
Local councils	8	6	7	7
EU	3	1	3	2
(Other)	1	2	3	2
(Don't know)	7	6	12	8

The key point is that although Northern Ireland's devolution experiment was subject to extreme uncertainty, by late 2001 (when the survey was conducted) devolution had managed to attract considerable public support. This support extended across both the

main communities (though more so among Catholics), and was based more on faith and expectation than on actual experience of devolution.

2. Recurrent Constitutional Claims

For the framers of the Belfast Agreement in London and Dublin, a key aim was to put constitutional issues to bed and allow local politicians to concentrate on the day-to-day governing of Northern Ireland. The attempt to transcend the politics of constitutional absolutes (in the form of a united Ireland or a United Kingdom) faced stiff opposition from local politicians' apparent willingness to simultaneously attempt to work the new devolved institutions *and* engage in constitutional politics. Calls for a referendum on the border and intense speculation surrounding the release of the 2001 census data illustrated that constitutional politics retained a currency in the devolved era.

In order to test the consent principle, the Belfast Agreement makes provision for a referendum on Northern Ireland's constitutional status.⁵ The Secretary of State is empowered to order a referendum 'if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.'⁶ Ostensibly a democratic device, referendums allow for blunt majoritarianism and have a disastrous record in attempting to 'resolve' complex ethnonational conflicts around the world.⁷

⁵ On this issue see, R. Mac Ginty, R. Wilford, L. Dowds & G. Robinson, 'Consenting Adults: The principle of consent and Northern Ireland's constitutional future', *Government and Opposition* 36, 4 (Autumn 2001), pp. 472-492.

⁶ The Agreement, *op. cit.*, p. 3.

⁷ On the dangers of majoritarianism see, T. Sisk, *Power Sharing and International Mediation in Ethnic Conflicts* (Washington DC: United States Institute of Peace, 1996) and B. Reilly & A. Reynolds,

While Northern Ireland's post-Agreement Secretaries of State were able to resist the temptation to call a referendum, Northern Ireland's politicians showed no such restraint. Not surprisingly, Sinn Féin were the most vocal in calls for a referendum on the existence of Northern Ireland. Although strongly committed to parts of the Belfast Agreement, many republicans remained intent on reaching the endgame of a united Ireland. According to Party Chairman Mitchel McLaughlin the mere holding of a referendum would signal a 'countdown to a united Ireland.'⁸ The seeming contradiction of a commitment to the devolved institutions and a willingness to engage in constitutional politics was by no means restricted to Sinn Féin. The most remarkable call for a referendum came from First Minister David Trimble.

Addressing his Party's 2002 AGM he wanted to call 'republican's bluff...put the issue to bed for another generation' and 'make it clear to nationalists that for the next generation the United Kingdom is here to stay.'⁹ While Trimble undoubtedly had one eye on the electoral threat from rival unionists in the DUP, his call amounted to a startling reversion to constitutional basics.

Also trying to ride two horses at once was the SDLP. While strongly committed to the Agreement, the Party professed themselves to be '100% for a united Ireland'.¹⁰ The Democratic Unionists, and those unionists who had become disillusioned with the Agreement, were also inclined to regard the 1998 accord as something of a constitutional 'Trojan horse', the thin edge of a wedge that would lead to a united Ireland. Speculation on the religious breakdown of the 2001 census results also

'Electoral systems and conflict in divided societies', in P. Stern & D. Druckman eds., *International Conflict Resolution after the Cold War* (Washington DC: National Academy Press, 2000).

⁸ Cited in Sinn Féin press release 9 March 2002.

⁹ 'Speech to the Ulster Unionist Party AGM by Rt. Hon. David Trimble MP, MLA' 9 March 2002.

¹⁰ SDLP press release, 'SDLP spells out vision', 5 November 2002.

compounded the concentration on constitutional issues. Republicans hoped that the proportion of Northern Ireland's Catholics would edge towards the magical 50% level, thus stripping Protestants of their majority. In the event, the census results were something of a disappointment for republicans, showing more a modest growth in the number of Catholics than anticipated (the divide was revealed as 53% Protestant and 44% Catholic). Speculation in advance of the release of the figures was intense though, and revealed that sectarian head-counting was alive and well in the devolved era.

The net effect was that constitutional politics never went away. While devolution meant that local politics acquired greater depth and was able to engage with a wider range of policy issues, the context remained defined by the macro-political projects of Irish nationalism and Ulster British nationalism. This added to the sense of impermanence that surrounded the devolution project. Already fragile because of the patent lack of trust between unionists and republicans, devolution had inherited some particularly heavy constitutional baggage.

3. The Devolution Effect: Fluidity in Constitutional Preferences

Constitutional preferences in Northern Ireland have shown considerable movement over the past decade. Time-series data from the Northern Ireland Life and Times survey has shown a steady decline in support for the Union. In 1989 69% of survey respondents believed that the long-term policy for Northern Ireland should be for it to remain part of the United Kingdom (see Table 4). By 2001, support for the Union had eroded to 50%. Catholic support for the Union, which had stood at 36% in 1993, was

15% in 2001. The time-series shows that Catholic support for the Union suffered a serious decline after the Belfast Agreement was reached. Protestant support for the Union remained more robust, at 79% in 2001, but this represented a significant year-on-year corrosion from 93% in 1989.

Table 4: Percentage saying the long-term policy for Northern Ireland should be for it to remain part of the United Kingdom.

	1989	1990	1991	1993	1994	1995	1996	1998	1999	2000	2001
	%	%	%	%	%	%	%	%	%	%	%
Protestant	93	93	92	89	89	86	85	84	87	83	79
Catholic	32	33	35	36	24	34	35	19	16	20	15
No Religion	83	68	78	72	67	68	54	58	65	53	46
All	69	68	71	70	63	64	62	57	56	60	50

While overall support for the Union had fallen to 50% in 2001, this did not mean that support for a unitary Ireland had taken up the slack (see Table 5). Instead, support for a united Ireland had shown variation, reaching highpoints of 27% in the initial aftermath of the ceasefires and onset of the public peace process in 1994 and 1995 and 28% in 2001. Indeed, the survey fieldwork in 2001 coincided with the height of the Holy Cross school dispute and Catholic opinion may have been radicalised.

Catholic support for Irish unity displayed a solid core, not slipping below 42% (2000), but also displayed considerable variation. Protestant support for a united Ireland though was minimal and seemed resistant to changing political circumstances.

Table 5: Percentage saying the long term policy for Northern Ireland should be for it to reunify with the rest of Ireland.

	1989	1990	1991	1993	1994	1995	1996	1998	1999	2000	2001
	%	%	%	%	%	%	%	%	%	%	%
Protestant	3	5	4	5	6	6	8	4	3	4	5

Catholic	56	55	53	49	60	56	47	49	48	42	59
No Religion	14	21	12	14	18	16	20	19	10	15	16
All	24	25	22	20	27	27	24	22	21	17	28

Devolution has had a considerable impact on constitutional preferences, complicating attitudes towards the traditional binary choices of a united Ireland or a United Kingdom. When presented with a broader range of constitutional options – including devolved options - it became clear that the ‘pure’ choices in the form of a united Ireland or a United Kingdom were less attractive to survey respondents (see Table 6). Overall support for direct rule within the Union declined to 13% in 2001, or 17% of Protestants and 8% of Catholics. Support for Irish unification stood at 21%, finding favour with just 1% of Protestants but almost 49% of Catholics. This suggests a strong residual Catholic attachment to the idea of unity but still represents a leaching of Catholic support for unity when compared to the figures of a straight united Ireland/United Kingdom choice. Support for an independent Northern Ireland has been a small but significant constant in constitutional preference surveys in Northern Ireland for many years. This is interesting in that no major political party has championed the idea, yet in 2001 some 10% of respondents favoured some form of independence.

Table 6: Responses to the full range of constitutional options 2001.

	Protestant	Catholic	No Religion	All
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	%	%	%	%
Northern Ireland should become independent				
Separate from the UK and the European Union	2	4	2	3
Separate from the UK but part of the EU	6	9	9	7
Northern Ireland should remain part of the UK				
With its own elected parliament which has law-making <u>and</u> taxation powers	47	14	26	31
With its own elected assembly which has limited law-making powers only	18	4	14	12
Northern Ireland should remain part of the UK without an elected Assembly	17	8	14	13
Northern Ireland should unify with the Republic of Ireland	1	49	8	21
Don't know	9	13	27	13

The introduction of devolution brought considerable change to constitutional preferences in Northern Ireland. A form of devolution more enhanced than that already available gained most overall support, with 31% of respondents. Three times as many Protestants (47%) opted for this choice than Catholics (14%), with the proviso the devolved Northern Ireland would still remain within the United Kingdom perhaps explaining the large sectarian differential. The limited form of devolution already on offer (an Assembly with restricted powers) attracts support from 18% of Protestants, 4% of Catholics and 12% overall. If the results from the devolved options are combined, then 43% of survey respondents favour some form of devolution; double the support for the pure option of a united Ireland and more than three times the support for the Union via direct rule. The finding is significant in that it suggests an appetite for a further devolution of powers from the centre.

Conclusion

It is unrealistic to think that devolution in Northern Ireland could have started with a clean slate. The devolution experience in Wales and Scotland has been shaped largely

by a context of a Westminster-led legislative environment dominated by London-based political parties. Observers of Scottish devolution, for example, have noted how the Scottish Parliament's legislative programme often merely amounted to '... putting a kilt on legislation devised originally in and for England...'¹¹ Of all the devolved regions Northern Ireland's burden was the greatest in that the conflict between unionism and nationalism dominated all else. The consociational settlement was meant to put that conflict on ice, deferring constitutional issues to some undefined period far in the future when, it was hoped, they could be dealt with in a less contentious context.

Instead, constitutional issues retained their saliency. They were compounded by the constant drip-drip effect of the decommissioning, disbandment and security issues that undermined any legitimacy the devolved institutions may have hoped to acquire. Proponents of any devolved powersharing arrangement are faced with a key question that requires urgent attention if devolution is to survive beyond its infancy of arrested development and recurrent suspensions. The question is: how to decouple constitutional issues from a devolved system of government. Clearly the question is difficult in that the very notion of devolution meant a re-ordering of the British constitutional settlement. But the survey evidence would suggest that devolution is popular in Northern Ireland (or at least the concept of devolution is popular given that the actual experience of devolution has been limited). Yet political leaders, and presumably their constituencies, have been able to prioritise ethno-national political aims within the devolved system to the extent that it has jeopardised the very existence of the devolved settlement. In other words, the question becomes: is there a

¹¹ J. Bradbury & J. Mitchell, 'Devolution and Territorial Politics: Stability, uncertainty and crisis', *Parliamentary Affairs* 55 (2002), pp. 299-316 at p. 302.

way to ring-fence and secure the apparent benefits of devolved governance while still attempting to satisfy or manage divergent constitutional aspirations?

Without a breathing space from security and constitutional issues devolution has been unable to survive without serious interruption. Against the odds though, initial public reactions to devolution have been positive. Regret from public service professionals at the fourth suspension of devolution was palpable. One health professional decried that with the reinstatement of direct rule, the incoming Minister would only be able to devote ‘four hours a week’ to health issues.¹² But the survey also suggests early evidence that devolution has facilitated a complication of the traditional either/or approach to constitutional issues. A desire for a greater devolution of powers has eroded support for a united Ireland or a United Kingdom. There is a chance that Northern Ireland’s politicians, still focused on either-or constitutional choices, have misread the intentions of a sizeable number of its citizens.

About the survey

The 2001 survey on public attitudes to devolution and constitutional change was conducted between October and December, having first been piloted. Part of the long-standing Northern Ireland Life and Times survey, it is jointly run by the Queen’s University of Belfast and the University of Ulster. The survey was conducted via face-to-face interviews lasting approximately forty-five minutes with an achieved sample of 1,800 adults across Northern Ireland. A postcode Address File (PAF) sampling frame was used, with one adult from the household selected for interview using a Kish grid method. As is common in Northern Ireland, a simple random sample was drawn and stratified across three regions, but without any clustering. The face-to-face interviews were conducted using a computer-assisted technique. A self-completion supplement was given to each respondent at the end of the interview for the fieldworkers to collect at a later date. The response rate was 67%. Full details of the survey, including survey results and technical information, are freely available online at: <http://www.ark.ac.uk/nilt/>

¹² ‘Minister spends “four hours a week” on health’, *Irish News* 5 November 2002.

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