

**Leverhulme-funded monitoring programme**

**Northern Ireland report 2**

**February 2000**

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## Summary

The last monitoring report from Northern Ireland was unique in the tripartite study because only in Northern Ireland had powers not been transferred to the new devolved institutions. This, second, report is also unique in that, whatever crises the Scottish and Welsh executives have experienced, the Northern Ireland Executive Committee has, within the space of a little over two months, not only come but also, for the moment at least, gone. If ever the point needed proving that the region is, constitutionally and politically, *sui generis*, this latest episode on the roller coaster blandly described as the Northern Ireland ‘peace process’ surely underscored it.

This report is therefore, in its tenor, once more a victim of the hypertrophy of politics in Northern Ireland. Relatively little emphasis is given to the ‘normal’ concerns addressed elsewhere, compared with the iterative reworking of the already well-worn themes in the political discourse—of decommissioning and devolution. As a result, what would come under the headings of the devolved government and the assembly/parliament in the other reports here focuses more on the establishment of the institutions than on their substantive work. And there is inevitably a long exegesis of the process leading to their demise.

Nevertheless, we provide an overview of the instigation of the key political elements of the architecture of the Belfast agreement—the Executive Committee, the North-South Ministerial Council, the British-Irish Council and the British-Irish Intergovernmental Conference. And we look at the wider context of this variable geometry in the contemporary evolution of the European Union.

At the time of writing, the UK and Dublin governments were anxious that the suspension would be as brief as possible. But an early resumption of the reins of power by David Trimble, Seamus Mallon and their ministers was unlikely. Indeed, there was a mainly unspoken, but palpable, fear that a prolonged hiatus could see not just politics, but the peace, unravel.

## Getting going

When Westminster moved the Devolution Order on November 30<sup>th</sup> 1999, the Northern Ireland secretary, Peter Mandelson, remarked that ‘after a quarter of a century, the curtain is to fall on direct rule’. A little over two months later his words carry a somewhat hollow ring.

### **Institutional creation**

During the 72 days of devolution, its institutional expressions quickly took shape. Following the decision by the Ulster Unionist Party to back its leader, David Trimble, over the outcome of the review of the implementation of the Belfast agreement conducted by the former talks chair, George Mitchell, the shadow assembly reconvened on November 29<sup>th</sup>. The 11 departments-in-waiting agreed almost a year earlier were established and their ministers allocated by the d’Hondt rule. The next day Westminster approved—by 318 votes to 10—the transfer of powers, devolution coming into effect shortly after midnight on December 2<sup>nd</sup>.

As the nominating officers of the four assembly parties eligible for Executive Committee seats rose, in order, to make their nominations, it was evident the choice of portfolios had not been agreed. And, as the process unfolded, the greatest surprise was the nomination of Martin McGuinness as minister of education.

The nomination of ministers completed, the shadow assembly embarked on the nomination of the chairs and deputy chairs of the statutory committees, again via d’Hondt. These committees, each 11-strong and with memberships broadly reflecting the relative strengths of the parties in the assembly (see appendix), were charged to scrutinise their subject departments, advise them on policy and exercise the power to initiate legislation within their subject areas. They were intended to embody the power-sharing principle underlying the agreement in at least two senses: by virtue of their broadly proportional composition and in terms of their relationship with the relevant department. Moreover, this principle was reinforced by the fact that neither the chairs nor the deputy chairs were drawn from the same party as the appropriate minister.

The tempo was maintained when, on the morning of December 2<sup>nd</sup>—‘devolution day’—the republic’s government changed articles two and three of its 1937 constitution, revoking the irredentist claim to Northern Ireland and replacing it with the aspiration to unite the peoples of the island. Shortly afterwards, the London and Dublin governments exchanged papers formally establishing the North-South Ministerial Council and the British-Irish Council—the confederal dimensions of the agreement. Within a week, the BIC met for the first time in London. And, on December 13<sup>th</sup>, the NSMC held an inaugural meeting in Armagh—the island’s ecclesiastical capital—at which the six all-Ireland implementation bodies and the six areas for north-south co-operation were set in train.

Thus, within 11 days of devolution having come into effect the major institutions of the agreement were up and running. (At the time of suspension there was one institution yet to be established, the Civic Forum; at oral questions, the first minister, Mr Trimble, had had said it should be in operation by May 2000.) The Executive Committee held its first meeting on December 2<sup>nd</sup>, but the two Democratic Unionist Party ministers—Nigel Dodds and Peter Robinson—boycotted the occasion, a stance they maintained throughout the 10 weeks of devolved powers. DUP assembly members did not, however, adopt this attitude towards the committees, both statutory and standing, in which they sat along with SF MLAs. The latter practice did not meet universal acclaim: during a visit to a fishing port in early February, DUP members of the Agriculture and Rural Development Committee were assailed by angry loyalists.

### **Assembly committees**

The statutory committees—commonly and rather misleadingly represented in the media only as scrutiny bodies—began their work in early December. Each held a series of private sessions with civil servants and interest groups, to be briefed on the agendas and resources of their ‘target’ departments. These meetings continued up until the week direct rule was reimposed—which must have lent an air of unreality to their proceedings.

Relatively few of the statutory committees held public sessions (just 17 out of 62 meetings involving all ten committees were fully public), preoccupied as they were with agreeing a programme of work. All but one—Culture, Arts and Leisure (**where the minister had a bad bout of flu**)—met their relevant minister before suspension, and there were a number of site visits. By the time direct rule was back in place, all had planned to embark on at least one major inquiry.

The paucity of public sessions means information about the dynamics of committee activities is in short supply. However, one committee—Health, Social Services and Public Safety—was involved in a very public disagreement with the minister, Sinn Féin’s Bairbre de Brun. One decision she was required to make concerned maternity services in Belfast. The question had been on the public agenda for years and had involved two inquiries and a judicial review. At issue was whether maternity services should be relocated from Belfast City Hospital, in the south of the city, to the Royal Victoria in west Belfast—the minister’s own constituency as well as that of three other Sinn Féin MLAs and two SDLP assembly members, including the chair of the committee, Joe Hendron.

After sifting through expert advice, meeting the contending lobby groups and discussing the matter with the committee, Ms de Brun decided in favour of the Royal Victoria. Her decision was taken against the majority view of the committee, which had earlier voted by seven votes to four in favour of the City. The minister informed Dr Hendron by telephone of her decision shortly after she had met the committee in private, but the other members were only to learn of the decision from the media. When the vote of the

committee was disclosed, Dr Hendron made a press statement indicating that he had voted for the west Belfast option, which immediately soured relations with other members: a GP in the area, he was roundly criticised for indicating his preference and subsequently apologised to the committee for his action. In the wake of the decision the controversy spilled on to the floor of the assembly, where members voted by a simple majority in favour of the City option.

The controversy excited widespread debate in Northern Ireland, as to not just the merits of the decision but also the relationship between the statutory committees and the executive. It appeared to some that the manner in which the decision had been made—against the advice of a majority of the committee—was wholly inconsistent with the spirit, if not the letter, of the agreement. Ms De Brun, however, was acting under the terms of executive authority: since the decision did not require legislation, it was her responsibility to make it. Nor was collective responsibility for the decision required, unlike the budgetary allocations to the departments announced by the minister of finance and personnel, Mark Durkan, in December. (As a ‘key decision’, as defined by the agreement, the allocations required unanimity within the Executive Committee and cross-community support within the assembly.)

Ms De Brun was also the source of controversy on other matters—one procedural, another symbolic, the third more substantive. As one of the more fluent of Irish speakers in the assembly, she answered oral questions in both English and Irish. At question time—held each Monday when three ministers faced questions for 30 minutes each—her insistence on using both languages limited the questions she could be asked, a practice that irritated the assembly (and not only its unionist members). The symbolic issue was her decision to stop the flying of the Union flag from the department’s headquarters on public holidays, which enraged unionists. The third related to the minister’s role as chair of the region’s Advisory Committee on the Misuse of Drugs. Because the committee includes a representative of the RUC, it seemed the minister was reluctant to act in that capacity and she referred the matter to the Executive Committee for discussion. (Sinn Féin MLAs, including the party’s two ministers, have refused to have RUC officers as their bodyguards. Instead they provide their own ‘minders’ from within the republican movement, each of whom is licensed to carry a personal weapon.)

Besides the statutory committees, the assembly established a number of standing committees, including Public Accounts, Standards and Privileges, Audit, Procedures, and Business. These, too, were broadly proportional in their composition and proved relatively uncontroversial. But a row developed about the scrutiny of the Office of the First and Deputy First Minister.

As our November report observed, both the agreement and the subsequent Northern Ireland Act 1998 are inexplicit on the accountability of the office. The multi-party shadow Committee on Standing Orders—co-chaired by the UUP and the Social Democratic and Labour Party—was unable to agree how the issue would be resolved, as was the shadow assembly. The shadow committee was, however, agreed that there should be a Committee on Conformity with Equality Requirements that would test the

consistency of any legislative or policy measure against the statutory obligation to promote equality of opportunity. Given that an Equality Unit constitutes one part of the Office of First and Deputy First Minister—now designated as the ‘Office of the Centre’—it meant a symbiotic relationship would develop between the unit and the proposed CCER.

The simmering dissatisfaction within the assembly about the partial accountability afforded by the CCER boiled over shortly after the transfer of powers. On December 6<sup>th</sup> the Standing Orders Committee revisited the matter and proposed, instead of the CCER, two new standing committees: Equality, Human Rights and Community Relations; and European Affairs. These were intended to enable members to scrutinise most matters administered by the Office of the Centre and were duly endorsed by the assembly. On December 14<sup>th</sup> David Ford, an Alliance MLA, tabled a draft standing order to create a third standing committee, to examine and report on the exercise of the office’s remaining functions, thereby bringing it fully into the realm of accountability to the assembly. However, the first and deputy first ministers tabled an amendment, seeking to revoke the two standing committees agreed a week earlier and replace them with a single Committee of the Centre, to examine and report on a limited range of functions carried out by their office. The effect of this was to insulate the external—or confederal—roles of the office and the Executive Committee from the focused scrutiny of the assembly. As the deputy first minister, Seamus Mallon, put it in moving the motion (*Official Report*, 14 December 1999),

It is essential that discussions which take place in determining the decisions reached by the Executive Committee or the negotiating position for the Northern Ireland administration in relation to the North-South Ministerial Council or the British-Irish Council should remain private.

The view of Messrs Mallon and Trimble was that such matters were more properly dealt with on the floor of the assembly than in a committee room. But their motion drew opposition from, among others, SF, the DUP, the Progressive Unionist Party and the Women’s Coalition, all concerned at the lack of scrutiny afforded by the committee. Nevertheless, the combined weight of UUP and SDLP members assured that the will of the first and deputy first ministers prevailed. Thus, where there were two—and potentially three—standing committees charged with scrutinising their office, now there was one, itself possessed of a limited remit. The unease within the assembly suggested this was an issue to which members would wish to return.

### **Junior ministers**

The Office of the Centre was also the focus of another controversy, over the nomination of two junior ministers. The nominations—the only such junior positions pre-suspension—were made through a joint determination tabled by Messrs Trimble and Mallon on December 14<sup>th</sup>. Section 19 of the Northern Ireland Act 1998 provides that they, acting jointly, may at any time determine that a number of members should be

appointed as junior ministers and the functions they should exercise. In effect, such appointments provide one of the few opportunities available to the first and deputy first ministers to exercise executive patronage—provided the assembly approves, on a simple-majority vote.

The party affiliations of the nominees—Dermot Nesbitt (UUP) and Denis Haughey (SDLP)—angered a number of parties. Nigel Dodds (DUP), a fellow minister, interpreted the choice as ‘jobs for the boys’, a view shared by Mitchel McLaughlin (SF), who commented that ‘the Office of the Centre is to become a closed shop for the Ulster Unionist Party and the SDLP’. Mr McLaughlin also observed that the determination—which stated that the junior ministers ‘would assist the first and deputy first minister in the exercise of their functions’—was woefully imprecise: ‘[It] has to qualify as the most indeterminate determination possible.’

Because Messrs Nesbitt and Haughey were drawn from the same parties as the first and deputy first ministers, many members argued that their nominations belied the spirit of inclusivity embedded in the agreement—a view rebutted by Messrs Trimble and Mallon on the ground that the persons appointed had to command their confidence. Following a lengthy and spirited debate, the nominations were accepted by 49 votes to 38, the UUP and SDLP voting *en bloc* in favour.

### **Legislation and assembly debates**

Work on the Programme of Government by the Executive Committee was renewed in the immediate wake of the transfer of powers. The ministers were seeking to meet a tight schedule: unanimity within the executive and cross-community support within the assembly by end March, so that the Northern Ireland ministerial team would be fully prepared for the next round of the UK-wide Comprehensive Spending Review.

This work, like all else, was brought to an abrupt halt on February 11th. The assembly did have an initial legislative programme, but much of this was designed to achieve parity with the relevant British legislation. Announced by the first minister on January 31<sup>st</sup>, it proved relatively uncontroversial. (The legislative programme included the following bills: Equality (Disability etc); Financial Assistance to Parties; Appropriation (two); Child Support, Pensions and Security; Trustee Amendments; Ground Rents; Deregulation (Weights and Measures); Dogs; Fisheries Amendment; Adoption (Intercountry Aspects); Health and Personal Social Services Amendment; and Street Trading.)

The assembly held 10 plenary sessions between December 6<sup>th</sup> and February 8<sup>th</sup>. Among the more significant issues debated were:

- the budget proposals announced by the finance and personnel minister, Mr Durkan (SDLP), on December 15<sup>th</sup>;
- the Patten report (rejected) the same day;
- pre-school nursery provision, on January 25<sup>th</sup>;



- the Health, Social Services and Public Safety Committee’s vote (endorsed) in favour of the City hospital as the site for Belfast’s maternity provision, on January 31<sup>st</sup>;
- the crisis in the agriculture industry, on February 1<sup>st</sup>; and
- an Alliance motion encouraging the UK government to proclaim St Patrick’s Day a public holiday in Northern Ireland, the same day.

The assembly also nominated the chairs and deputy chairs of its standing committees on January 24<sup>th</sup> (see appendix) and, a week later, elected three deputy speakers by means of cross-community consent. (The three were Donovan McClelland (SDLP), Sir John Gorman (UUP) and Jane Morrice (Women’s Coalition). The DUP’s nominee, William Hay, failed to be elected. The speaker, Lord Alderdice, has not been elected—formally, he remains as the assembly’s ‘initial presiding officer.’)

The final session of the assembly was held on February 8<sup>th</sup>, amid a growing mood of uncertainty and some acrimony. The tone was set by the third attempt by the DUP to exclude Sinn Féin from ministerial office for 12 months—as provided for under the Northern Ireland Act—on the ground that it was not committed to non-violence and exclusively peaceful and democratic means. The motion, by way of a ‘petition of concern’, failed to acquire the 30 signatures required to trigger a cross-community vote. In tabling the motion, the DUP perhaps fittingly fulfilled the biblical prophecy that those who are first shall be last: it had sought to exclude the party by way of the same device at the first session of the shadow assembly, on July 1<sup>st</sup> 1998.

## **Conclusion**

While the assembly’s committees continued to meet during the rest of the second week of February, the focus of debate and activity turned from Stormont towards the continuing attempts to encourage the republican movement to make some move on the decommissioning issue. In the event, amid some confusion, spin and counter-spin, the secretary of state announced that the suspension of the institutions would take effect at midnight on February 12th. Within the space of ten weeks and two days, the curtain of direct rule had risen again.

## Appendix: committee memberships

### *Statutory Committees*

#### *Agriculture and Rural Development:*

Alliance	David Ford
DUP	Dr Ian Paisley* Gardiner Kane Ian Paisley Jnr
Sinn Féin	Francie Molloy Gerry McHugh
SDLP	Dennis Haughey P J Bradley
UUP	George Savage** Billy Armstrong
UUAP***	Boyd Douglas

**Note:** \* signifies chair and \*\* deputy chair, \*\*\*United Unionist Assembly Party. Dennis Haughey resigned from the committee following his appointment as a junior Minister; he was replaced by John Dallat.

#### *Culture, Arts and Leisure*

Alliance	Kieran McCarthy
DUP	Jim Shannon David Hilditch
Sinn Féin	Mary Nelis** Barry McElduff
SDLP	Eamonn O'Neill* Eugene McMenamin
UUP	Ian Adamson Ivan Davis Jim Wilson
UUAP	Fraser Agnew

*Education Committee*

Alliance	Eileen Bell
DUP	Sammy Wilson** Oliver Gibson
Sinn Féin	Barry McElduff Gerry McHugh
SDLP	John Fee Tommy Gallagher Patricia Lewsley
UUP	Danny Kennedy* Tom Benson Ken Robinson

*Enterprise, Trade and Investment*

Alliance	Sean Neeson**
DUP	Gregory Campbell Wilson Clyde
NI Women's Coalition	Jane Morrice
Sinn Féin	Pat Doherty* Dara O'Hagan
SDLP	Alex Attwood Patricia Lewsley Alasdair McDonnell
UUP	David McClarty Duncan Shipley-Dalton

*Environment*

Alliance	David Ford
DUP	William McCrea* Edwin Poots
Sinn Féin	Mitchel McLaughlin Mick Murphy

SDLP Carmel Hanna\*\*  
Arthur Doherty

UUP Tom Benson  
Joan Carson  
James Leslie

UUAP Denis Watson

*Finance and Personnel*

Alliance Seamus Close

DUP Oliver Gibson  
Gardiner Kane

Sinn Féin Francie Molloy\*  
Alex Maskey

SDLP John Dallat  
Donovan McClelland

UUP James Leslie\*\*  
William Bell  
Dermot Nesbitt  
Peter Weir

**Note:** Dermot Nesbitt resigned from the committee on his appointment as a junior Minister and was replaced by Derek Hussey. Alex Attwood replaced John Dallat on January 24<sup>th</sup>.

*Higher & Further Education, Training & Employment*

DUP Mervyn Carrick\*\*  
William Hay

NI Unionist Party Roger Hutchinson

NI Women's Coalition Monica McWilliams

Sinn Féin John Kelly  
Mary Nelis

SDLP Joe Byrne  
John Dallat

UUP	Esmond Birnie* Roy Beggs R J Coulter
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*Health, Social Services and Public Safety*

DUP	Paul Berry Iris Robinson
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NI Women's Coalition	Monica McWilliams
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Sinn Féin	John Kelly Sue Ramsey
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SDLP	Joe Hendron* Tommy Gallagher** Carmel Hanna
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UUP	Pauline Armitage Joan Carson Alan McFarland
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**Note:** Including the minister, it is noticeable that half of the assembly's 14 female members are sequestered in health and social services.

*Regional Development*

DUP	William Hay Jim Wells
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NI Unionist Party	Roger Hutchinson
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Progressive Unionist Party	David Ervine
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Sinn Féin	Conor Murphy
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SDLP	Dennis Haughey* Joe Byrne Alban Maginness
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UUP	Alan McFarland** Derek Hussey John Taylor
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**Note:** Denis Haughey resigned from the committee on his appointment as a junior minister and was replaced by P J Bradley.

### *Social Development*

DUP	Mark Robinson Sammy Wilson
Progressive Unionist Party	Billy Hutchinson
Sinn Féin	Michelle Gildernew** Gerry Kelly
SDLP	Danny O'Connor Eamon O'Neill John Tierney
UUP	Fred Cobain Sir John Gorman David McClarty

### *Standing Committees*

#### *Public Accounts*

Chair	Billy Bell (UUP)
Deputy Chair	Sue Ramsey (SF)
	Pauline Armitage (UUP)
	Roy Beggs (UUP)
	Mervyn Carrick (DUP)
	Seamus Close (Alliance)
	John Dallat (SDLP)
	David Hilditch (DUP)
	Donovan McClelland (SDLP)
	Jane Morrice (NIWC)
	Danny O'Connor (SDLP)

#### *Standards and Privilege*

Chair	Donovan McClelland (SDLP)
Deputy Chair	Roy Beggs Jnr (UUP)
	Ian Adamson (UUP)
	Arthur Doherty (SDLP)
	Sir John Gorman (UUP)
	Kieran McCarthy (Alliance)

Pat McNamee (SF)  
Danny O'Connor (SDLP)  
Dara O'Hagan (SF)  
Edwin Poots (DUP)  
Jim Wells (DUP)

*Committee of the Centre*

Chair  
Deputy Chair

Gregory Campbell (DUP)  
Oliver Gibson (DUP)  
Eileen Bell (Alliance)  
Esmond Birnie (UUP)  
P J Bradley (SDLP)  
Fred Cobain (UUP)  
David Ervine (PUP)  
Michelle Gildernew (SF)  
James Leslie (UUP)  
Patricia Lewsley (SDLP)  
Alex Maskey (SF)  
Alisdair McDonnell (SDLP)  
Mitchel McLaughlin (SF)  
Eugene McMenamin (SDLP)  
Ken Robinson (UUP)  
Jim Shannon (DUP)  
John Taylor (UUP)

*Procedures*

Chair  
Deputy Chair

Conor Murphy (SF)  
D Shipley-Dalton (UUP)  
Fraser Agnew (UUAP)  
Alex Attwood (SDLP)  
Tom Benson (UUP)  
Roger Hutchinson (NIUP)  
Alban Maginness (SDLP)  
David McClarty (UUP)  
Pat McNamee (SF)  
Maurice Morrow (DUP)  
Sammy Wilson (DUP)

*Audit*

Chair  
Deputy Chair

John Dallat (UUP)  
Billy Bell (UUP)  
Billy Hutchinson (PUP)  
Gerry McHugh (SF)

Mark Robinson (DUP)



## The media

During the short period in which the devolved institutions were operating, the assembly and its ministers did receive a reasonable amount of coverage in the regional media. Short of a thorough content analysis, it can be said there was an undoubted focus on controversial decisions—in particular that of the health minister, Bairbre de Brun, on the location of regional maternity services. The decision attracted criticism that she was acting in the interests of her own party and of the Catholic inhabitants of her constituency.

The story provided the regional media with an issue that could be covered within the familiar nationalist/unionist pattern of political conflict. Given its significance, the extent of the coverage is not surprising. But the regional newspapers also latched on to lesser stories that fitted the same paradigm. For example, the nationalist *Irish News* (February 2<sup>nd</sup> 2000) reported that the regional development minister, Peter Robinson—also deputy leader of the Democratic Unionist Party—would not be giving priority to a Belfast-Dublin motorway link. A few days earlier, it reported that Mr Robinson was being accused of being ‘ungracious, ungenerous and unministerial’ after allegedly snubbing Sinn Féin at an announcement giving the go-ahead for a new bypass (January 26<sup>th</sup> 2000). The following day, it reported that an assembly committee dealing with equality issues had broken up ‘in a furious row as two Sinn Féin members accused the Democratic Unionist Chairman of treating them as second class citizens’.

Two characteristics underpinning much news coverage within and without Northern Ireland are controversy and entertainment. The early signs from ‘colour’ write-ups of assembly proceedings suggested journalists were a little disappointed on this front. As Geoff Hill put it (*News Letter*, February 1<sup>st</sup> 2000),

Politics in Northern Ireland is now almost like the real thing.

Close your eyes, and apart from the home-spun accents ... you could be in the House of Commons, listening to carefully reasoned dialectic on the minutiae of the Dogs (Northern Ireland) Order 1983.

Not to mention the Fisheries Act, the equality legislation, the Child Support Bill ... all discussed earnestly by men who once ran around in balaclavas and damp duffle-coats and now dress like Bangor solicitors ...

In short, with devolution, politics here has gone from all sound and fury signifying nothing to quiet, reasoned debate signifying everything.

It is entirely worthy, entirely necessary and splendidly dull.

Likewise, Chris Thornton of the *Irish News* (January 25<sup>th</sup> 2000) observed:

David Trimble, Seamus Mallon, Environment Minister Sam Foster and Regional Development supremo Peter Robinson all stood at Question Time for the first time and actually said things about running Northern Ireland, like policy, paying for road improvements and gritting icy country lanes.

And the shocking thing was, it was incredibly boring.

Indeed, there was less coverage—and, in particular, less prominent and probing coverage—of assembly proceedings than one might have expected, given the novelty of the institution. One reason for this, however, was that journalists were unable to report directly most meetings of the departmental committees. Of the 62 meetings held by these committees, only 17 were fully open to the media and the public (two were partially open). The Northern Ireland Assembly Information Service claimed that many committees had been receiving briefings from departments and officials during their meetings and many had not agreed their programmes of work. A spokeswoman emphasised that, once these briefings were completed and the work programmes agreed, most committee meetings would be open unless there was a very good reason to the contrary.

Yet this latter approach was adopted by the Scottish Parliament and the Welsh National Assembly from the outset. Indeed, the practice adopted by the Northern Ireland committees stands in stark contrast. A spokesperson for the Scottish Parliament said 95 per cent of its meetings were in ‘full view of the public’ and had ‘a full official report of their proceedings’. Similarly, the Welsh Assembly Committee Secretariat said almost all meetings had been open from the start. Neither had the Scottish or Welsh committees seen it necessary to have a round of briefings by officials before beginning work. As the Welsh Committee Secretariat put it, ‘There was a public commitment [from politicians] to the Assembly being open.’ Some Welsh committees have, more recently, received informal, private briefings from officials, but these are not regarded as committee meetings.

It is somewhat surprising that the approach taken by committees in Northern Ireland attracted no public protest from editors or individual politicians before the suspension of the assembly. BBC Northern Ireland’s evening news programme, *Newsline*, did run a feature on the issue (January 17<sup>th</sup> 2000) but it did not include any comparison with Scotland and Wales. If the regional media are to make a substantive contribution to democracy in Northern Ireland—if and when the assembly is revived—it would certainly be useful if they could establish themselves a little more firmly as ‘watchdog’ for the cause of open government.

## Finance

On December 15<sup>th</sup> 1999, Mark Durkan, the SDLP minister of finance and personnel, lay before the assembly the first budget agreed by the Executive Committee. The proposals were a roll-forward of the plans inherited on devolution: there was insufficient time to prepare budget proposals for 2000-01 that reflected regional preferences and views as to the purpose and distribution of public expenditure.

Mr Durkan signalled that efforts were in train, however, to develop a programme of government which would form the basis of future public-expenditure allocations. Such a programme would ‘express the vision’ and government spending plans would be ‘one of the most important means of delivering that programme’. As the minister acknowledged this would require a change in the role of the region’s politicians: ‘We must graduate from making demands to making decisions; from making demands against each other to making decisions with each other for each other.’

He recognised that not all public expenditure in Northern Ireland was subject to the full discretion of the devolved administration. Indeed, only £5 billion or 56 per cent of the £8.9 billion public expenditure forecast for 2000-01 fell into that category. The remainder includes such items as social security benefits and ring-fenced expenditure as on New Deal.

The presentation of the budgetary proposals by Mr Durkan reflected the new institutional arrangements in Northern Ireland, with ten departments (plus the Office of the Centre) instead of the six under direct rule. The new departments, which have survived suspension, vary considerably in their importance, measured in terms of public expenditure. The two largest—Education, and Health, Social Services and Public Safety—account for two-thirds of the £5 billion discretionary expenditure. There are two departments with budgets under £100 million: Culture, Arts and Leisure (£64 million and Environment (£84 million).

The proposals also provided an indication of the anticipated costs of devolution. A first approximation for 2000-01 was £73 million. The costs included: Office of the First Minister and Deputy First Minister, £27 million; the assembly, £38 million; and the north-south bodies, £8 million. To some extent this overestimates the bill because some of this spending would have occurred without devolution—such as the creation of the Equality Commission, which comes under the Office of the First Minister and Deputy First Minister, or the Foyle Fisheries Commission, which comes within the ambit of the Department of Agriculture and Rural Development and has existed for some years. However, not included in the £73 million were the extra administrative costs arising from the additional departments.

The one instrument under devolution that could be used to raise revenue by the assembly is the regional rate. As with the plans for public expenditure, Mr Durkan

proposed that the inherited increased for the regional rate would also be rolled forward.

In sum, the devolved administration would not have put its *imprimatur* on public-expenditure priorities and allocations until the programme for government had been developed. By the summer the results of the UK comprehensive spending review, spanning 2001-02 to 2003-04, should be available. This would provide a secure basis, in terms of overall public expenditure for Northern Ireland, on which to implement a programme of government, were the suspension not to persist.

## Intergovernmental relations

### Introduction

The Blair government's devolution programme and the provisions of the Belfast agreement signalled a new era in intergovernmental relations: within the UK itself; between north and south in Ireland; between UK governments and the European Union; in the arena of British-Irish relations; and in respect of relationships within 'these islands' in general. The new bodies and links established, and those which yet may be established, will be crucial to the workability of devolution and the suspended Belfast agreement. They will also be integral to the structure of multi-layered governance which pertains to Northern Ireland as well as the other parts of the UK.

### The North-South Ministerial Council

The establishment of the North-South Ministerial Council and the six implementation bodies, as a result of the Good Friday agreement, the December 1998 agreement between the first and deputy first ministers and the conclusion of the Mitchell review, represented an excursion into uncharted waters for both parts of the island. The Council of Ireland arising from the 1920 Government of Ireland Act was stillborn, as was that following from the 1973 Sunningdale agreement. It is of course true that, since the 1985 Anglo-Irish Agreement, administrative co-operation between Dublin and Belfast has been greatly enhanced, and there has been much non-governmental activity such as that involving the business community and reconciliation groups, but this third attempt in a century to develop a *politically-led* response to the challenge created by partition was a substantial one (Coakley, 1999).

The political dimension itself got off to a good start with the inaugural meeting of the NSMC on December 13<sup>th</sup>. Though the two DUP members boycotted the event, the 10 other members of the northern Executive Committee and the whole cabinet from the republic attended. Indeed, the only political *frisson* of the day was caused by the spectacle of the huge fleet of black ministerial Mercedes snaking their way into Armagh from Dublin. Noteworthy was the absence of any significant protest—a reflection of the fact that the differentiated 'strand two' architecture of the agreement has nothing like the proto-state appearance associated with the 1974 Council of Ireland, notoriously described by one SDLP figure at the time as 'a vehicle for trundling unionists into a united Ireland'.

The communiqué grandly declared that the council 'should play a central role in promoting reconciliation within, and in ensuring a better future for all the people on the island' (*Irish Times*, December 14<sup>th</sup> 1999). The worthiness of such sentiment notwithstanding, inertia is as big a danger in intergovernmental relationships as in those internal to government and the routinisation of north-south co-operation—while this would be welcome in one sense—could also see it reduced to a relatively

minimalist, technocratic exercise. It is noteworthy in this regard that only two major actors in the field, the IBEC/CBI Joint Business Council (1998) and the SDLP (1999), have produced significant substantive north-south policy platforms. And it should be recognised that the experience of cross-border co-operation on a wider canvass is not all that encouraging, because of the obvious problems of administrative and financial discrepancies, ‘turf’ protectionism, and so on (Christiansen, 1999).

In practical terms, in line with the December 1998 agreement between the first and deputy first minister on the implementation of ‘strand two’ (NNIA report 7, February 15<sup>th</sup> 1999), the December 13<sup>th</sup> meeting agreed a memorandum of procedure for the council. It agreed the location of the six implementation bodies, as well as members of their boards, and of the all-Ireland tourism company. It also agreed an ‘outline programme of work’, with regard to the six areas of policy co-operation, to be explored in the subsequent meetings ‘in sectoral format’.

A number of meetings took place in the succeeding weeks between ministers bilaterally, and of the implementation bodies, but increasingly under the shadow of the prospect of suspension. The bodies will not, however, be immediately wound up, unlike the devolved institutions, because of contractual obligations.

### **The British-Irish Council**

The British-Irish Council, also known as ‘the council of the isles’, constitutes one part of ‘strand three’ of the Belfast agreement. It came into effect on December 2<sup>nd</sup> 1999. Membership of the BIC comprises representatives of the London and Dublin governments and devolved institutions in Northern Ireland, Scotland and Wales, together with representatives of Jersey, Guernsey and the Isle of Man. According to the agreement, its objective is to ‘promote the harmonious and mutually beneficial development of the totality of relationships among the people of these islands’. The BIC is also the subject of an international treaty between the UK and the Republic of Ireland.

Between the agreement and the inaugural meeting of the BIC, on December 17<sup>th</sup> 1999, the governments in London and Dublin held meetings to discuss how the body would operate, the Northern Ireland secretary met counterparts in Scotland and Wales to discuss topics for consideration, and the republic’s government opened consulates in Edinburgh and Cardiff. Ideas for a work programme for the BIC were brought forward early in 1999 (*Irish Times*, January 16<sup>th</sup> 1999).

Concomitantly, the role of the body was discussed in the media (*The Herald*, October 15<sup>th</sup> 1998; *Irish News*, December 4<sup>th</sup> 1999) and academic circles (Constitution Unit, 1998; Bogdanor, 1999). Meanwhile, commentaries on the future of Scottish-Irish relations—occasioned by the visit of the republic’s president, Mary McAleese, to Scotland in November 1999—focused on the significance of the BIC (*Irish Times*, *The Scotsman*, November 30<sup>th</sup> 1999; see also Walker, 1999).

The inaugural session of the BIC in London approved a memorandum on its procedures, and drew up a list of issues for initial discussion and consultation. Different administrations were assigned to take the lead in each key area, in preparation for the next summit meeting, planned for Dublin in June 2000. The five areas specified were: drug trafficking and abuse (the republic's government), the main issue for discussion in June; social exclusion (the Scottish executive and the Welsh cabinet); transport (the Northern Ireland executive); the environment (the UK government); and the knowledge economy (Jersey). Other appropriate issues for the council were specified, including interparliamentary links. In response to questioning at Stormont that day, the deputy first minister, Seamus Mallon, said assembly members would be encouraged to participate in any interparliamentary activity arranged through the BIC.

The Ulster Unionist Party, whose leader, David Trimble, described the inauguration of the BIC as a 'revolutionary political development', had produced a document ahead of the meeting on how it might function. The suggestion which received most publicity was that a successful future bid on the part of England to host the World Cup football tournament should result in some matches being played in Northern Ireland and in the republic. For the UUP, the BIC will re-connect the republic to the affairs of the UK (*Irish Times*, December 17<sup>th</sup> 1999) and, following the inaugural meeting, the taoiseach, Bertie Ahern, emphasised the renewal of relationships within the islands. Mr Ahern said the new institutional architecture, of which the BIC was part, signalled the widening of these relations beyond the connotations of 'Anglo-Irish' hitherto (*Irish Times*, December 18<sup>th</sup> 1999).

It was not clear after the inaugural meeting where the BIC secretariat was likely to be based, how its projects would be funded and whether it might prove more than just a consultative body. Unionist opponents of the Belfast agreement have consistently compared the BIC, unfavourably, with the NSMC, in terms of the latter's decision-making powers (*News Letter*, December 23<sup>rd</sup> 1999). But the agreement does provide for two or more members of the BIC to develop bilateral or multilateral arrangements to the point of 'joint decision-making'. Another question not addressed at the inaugural meeting, though it has been the subject of media and academic comment, is that of the representation of England in the BIC (*Irish Times*, January 4<sup>th</sup> 1999; Bogdanor, 1999). As matters stand, the UK government appears to be assuming this role.

### **The British-Irish Intergovernmental Conference (BIIC)**

The British-Irish Intergovernmental Conference, inaugurated too on December 17<sup>th</sup> 1999, also arises from 'strand three' and subsumes the Anglo-Irish Agreement of 1985. The inaugural meeting was jointly chaired by the prime minister, Tony Blair, and the taoiseach, Bertie Ahern, and was attended by representatives of the London and Dublin governments and the Northern Ireland executive. The body is designed to promote bilateral co-operation between the former administrations, at all levels and on all matters of mutual interest within their combined competence.

A communiqué after the meeting listed topics which would form a programme of work. These included: asylum and immigration, EU and international issues, social security and fraud detection, education, misuse of drugs and organised crime, and fiscal issues. Also adumbrated for attention were non-devolved Northern Ireland matters, including rights, policing (implementation of the Patten report), criminal justice, normalisation of security, cross-border security co-operation, victims of violence, prison issues, drugs and drug trafficking, and broadcasting. The conference also envisaged that its next meeting at summit level would take place during the first half of 2000, and that its first meeting on non-devolved Northern Ireland matters would take place in January (*Irish Times*, December 18<sup>th</sup> 1999).

### **The Joint Ministerial Committee and *concordats***

The Joint Ministerial Committee on Devolution was heralded by a government spokesperson in the Lords in July 1998 (Constitution Unit, 1998). This body has been created primarily to deal with disputes arising from the devolution settlement, and it brings together representatives of the UK government with the devolved administrations in Scotland, Wales and Northern Ireland.

The JMC held its first official meeting on December 9<sup>th</sup> 1999, to discuss an action plan to tackle poverty among children and pensioners. Government ministers stressed the need for co-operation between the parliaments/assemblies to take effective measures on common problems, but the concept of joint ministerial committees was attacked by the Scottish National Party as an alleged device for London to control the devolved administrations (*The Herald*, December 9<sup>th</sup> 1999). It has yet to arouse significant debate in Northern Ireland.

Similar Scottish nationalist objections were raised in response to the publication in October 1999 of the *concordats*, a set of ground rules regulating relations between Westminster and the devolved administrations (Cm 4444). They each comprise a memorandum of understanding on general principles, plus stipulations on European issues, international relations, financial assistance to industry, and statistics. They are not legally binding but it is expected they will be regarded as a set text for defining the rights and responsibilities of the different administrations. They will be reviewed annually.

### **Conclusion**

It is too early to draw any firm conclusions about the direction of the above bodies. But issues of potential overlap in roles remain to be resolved. These may arise between matters subject to devolution and the deliberations of the BIC, in the impact of EU affairs on all the bodies under discussion, and in any implications for the UK administrations of issues decided by the NSMC.



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## **Relations with the European Union**

### **Introduction**

The suspension of the Northern Ireland executive in February 2000 overshadowed difficulties faced by the fledgling institutions over the renewal of financial support from the European Union.

The general plan submitted from Northern Ireland, under the direct-rule administration, was accepted by the European Commission as complete. It was accompanied by two operational programmes, one for the next round of mainstream structural funding and the other for the second Special Support Programme for Peace and Reconciliation (SSPPR). These could have been submitted later than the general plan—which might have enabled them to be more persuasive than they were. They were not accepted because, while the SSPPR is an initiative for special internal and cross-border purposes, its operational programme did not show the distinctiveness of its aims and activities from those in the mainstream programme. Moreover, it dealt only with the northern side of north-south partnerships and could not be examined by the commission in the absence of information about both.

In a surreal coincidence, Michel Barnier, commissioner for regional policy, arrived in Northern Ireland to discuss matters with the devolved government on the very day the secretary of state was informing Westminster of the legislative timetable for the assembly's suspension. And the issue figured on the agenda of the last meeting of the Executive Committee, two days before suspension took effect.

It is ironic that one of the last policy problems facing the region's briefly empowered politicians should have involved Europe. As Rory O'Donnell has noted, 'one of the striking things' about the Belfast agreement is that anyone familiar with the EU would immediately recognise that it was written by people also familiar with the EU (O'Donnell, 1999: 70). This can be seen in the design of the institutions and the policy competences allocated to them. It is also possible to discern an EU impact on the underlying political thinking which facilitated agreement and, conversely, on the divergent aspirations for its outworking.

### **Institutions**

The Belfast agreement depended upon a new British-Irish agreement, dealing with legislation in both states to implement the former and, specifically, its north-south and 'east-west' dimensions. The EU is less obvious in the constitution of the assembly than in the design of the bodies responsible for 'the totality of relationships'. But more broadly conceived European influences can be seen in, for example, the consociational features of the assembly and the wider acceptance than hitherto of power-sharing devices. EU

models were deliberately examined by the party which proposed the Civic Forum as a second, advisory chamber, the Northern Ireland Women's Coalition.

The North-South Ministerial Council, explicitly defined in the agreement as interdependent with the assembly, is more obviously analogic. In plenary form, the NSMC's design is comparable with the European Council, comprising as it does the taoiseach and the 'heads' of Northern Ireland, the first and deputy first ministers. It was also intended that it should meet in sectoral form, like the Council of Ministers, under the leadership of various ministers from both sides according to the topic. It was to use 'its best endeavours' to reach agreement on the adoption of common policies for separate implementation in each jurisdiction.

In 'east-west' terms, the British-Irish Council is less like the European Council, given the status of the majority of its members and its functions. In contrast to the NSMC requirement to use 'best endeavours', it remained only 'open to' representatives of the whole set of devolved institutions attending the BIC, as well as the two governments, to move beyond consultation and co-operation to common policies and common actions. But the BIC would meet 'in summit level' and in specific sectoral formats with appropriate ministers.

### **Policy competences**

Devolution was to give Northern Ireland a three-dimensional route to the EU. The agreement envisaged that terms would be reached to ensure a Northern Ireland input into UK EU policy-making—possibly including attendance at relevant meetings of the Council of Ministers. It remains to be seen whether anything like this will be a feature of renewed direct rule.

Awareness of connections between the EU and north-south policy interests predates the Belfast agreement, being first apparent in the 60s in an initiative between the taoiseach, Sean Lemass, and the then Northern Ireland prime minister, Terence O'Neill. It developed more fully in the decade after accession by both states as an intergovernmental programme; co-operation arising from the 1985 Anglo-Irish Agreement was increasingly influenced by the EU agenda, especially the Single European Market (Tannam, 1999: 81). As for the Belfast agreement, socio-economic co-operation (over agriculture, fisheries, transport, waterways, tourism, urban and rural development, education, health, certain aspects of social security, and the environment) was to fall under the remit of the NSMC. And its views on EU matters were to be taken into account and represented at relevant EU meetings.

At the first NSMC plenary meeting the six implementation bodies established included Special European Union Programmes. It was intended that the EU body would deal with projects arising from the INTERREG programme, the cross-border dimension of the SSPPR and the common chapter of the structural-funds programme. The Northern Ireland Department of Finance and Personnel—as the authorised institution of the member

state—would remain responsible for legal and financial rectitude, and, as noted, the submission of the two operational programmes for new funding predated the establishment of the north-south body. But it could have expected a substantial work programme in allocating the remaining budgets for the current funding of north-south partnerships.

The 60s and 80s agendas were informed by the potential and actual impact of the EU on north-south trade and business relations and industrial policy in each jurisdiction. But the new EU implementing body would have had no responsibility for such macro-policy connections and, because of pressure from the republic's Industrial Development Agency, as well as unionist reluctance to cede too much to north-south decision-making, industrial policy was excluded from the remit of the Trade and Business Development body.

### **Underlying political thinking**

Questions of sovereignty and the EU were, and to some extent still are, seen differently in the republic and the UK, but the two states' common membership of the EU facilitated co-operation over Northern Ireland. Some acknowledgement by all participants of the interdependence lying behind 'pooled sovereignty' in the EU also informed agreement to the institutions which were to link the component parts of the two islands.

However, knowledge of functionalism, neo-functionalism and intergovernmentalism in the EU context also tends to reinforce differences between unionists and nationalists. Nationalists see the EU as a model for the resolution of conflict over disputed territory and have a neo-functionalist understanding of the declining significance of borders and the dynamics of attitudinal and institutional change. For unionists, co-operation must be predicated on confirmation of the importance of the border and be limited to specific, self-contained functions, with no 'spillovers' into 'ever closer union'. At the same time, understanding the neo-functionalist outlook, they are wary that, if they were to say 'no' to further co-operation in some cognate area, their rejection would be interpreted as irrational. These competing understandings of the dynamics of integration explain why the negotiations over the powers and scope of the NSMC were so difficult.

In civil society, there is considerable experience of trying to accomplish co-operation of the type envisaged by the INTERREG programme and the cross-border component of the SSPPR. Projects funded under these programmes are not meant to be 'back-to-back' and intergovernmental. Rather, while projects may begin by co-ordination between two public bodies and/or non-governmental groups on each side of the border with a common purpose, the conceptualisation and delivery of activities will ideally become carried out by a joint organisation. Some members of community groups are more ready to contemplate cross-border co-operation under the auspices of the EU because they see it as a more neutral actor than either of the two governments.

However, even those willing to co-operate, and to the extent hoped for by the EU, find it difficult to do so in a fully integrated manner. Apparently simple things, such as where to lodge the bank account, have an edge in a context where there are different rules, currencies and a background of territorial conflict. The choice of one jurisdiction or the other lends a certain status to that part of the partnership from the same side of the border—diminishing the ‘neutrality’ initially lent by the EU. If the absence of information about both sides of partnerships also reflects a concern in the commission that there may be insufficient integration in the management of projects, it could prove difficult to reach agreement.

Nevertheless, the EU partnership philosophy has found fertile ground within Northern Ireland. The partnership boards set up under the first SSPPR round, along with a pre-existing disposition towards partnerships in community politics, contributed to a more widespread willingness by otherwise contending parties to work together. Community politics in general—where women are especially visible and ‘networked’ with one another—and the partnership model inspired the Women’s Coalition to propose that the agreement include the Civic Forum. The idea was not simply to symbolise political inclusion but was rooted in the view that, for normative and practical reasons, institutions should be able to draw upon people experienced in socio-economic policy-making at community and, sometimes, cross-community level. Such an outlook is consistent with the EU justification for partnerships—that policy-making is more effective when grassroots knowledge is utilised. For such reasons, and because of an opinion that the north-south implementing bodies were packed by party faithfuls, there was a growing demand—even on the eve of crisis—that the Belfast agreement’s provision for a possible north-south civic forum be activated.

## **Conclusion**

To the different forces in Northern Ireland, acknowledgement (albeit in various ways) of the problems the founders of the EU hoped it could ameliorate, and subsequent EU-sponsored approaches—interdependence, pooled sovereignty and horizontal relationships—contributed to the devolution agreement of 1998. Similarly, in 2000 they mean that opponents of further progress—with or without decommissioning—coexist with a broad swathe of people who believe the settlement could be made to work, even while they fear that all is lost for a long time.

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## Public policies

The most important task of the short-lived Executive Committee, as a collegiate body, was preparatory work on the Programme of Government, the potential ‘glue’ of the four-party, involuntary coalition. As indicated in our previous report, this represented a major challenge, inexperienced as were the Northern Ireland political class in the exercise of executive responsibility at any significant level of government.

At its first, December 2<sup>nd</sup>, meeting, a paper was presented providing ‘a baseline analysis’ of all 11 departments’ work—their aims, objectives, major programmes and financial allocations—as a ‘preliminary background’. The December 14<sup>th</sup> meeting approved the draft budget for 2000-01, clearing the way for work to begin on the programme, for 2001-02 and beyond. On December 22<sup>nd</sup>, the first and deputy first ministers wrote to ministers asking them to identify by January 14<sup>th</sup> ‘a limited number of priority issues as well as cross cutting issues’ which should be included in a programme. (As mentioned before, this replicated a previous such request in late 1998, to which permanent secretaries of the six old departments responded.)

The latter point reflected some anxiety among those close to Messrs Trimble and Mallon that ministers would merely come forward with what one adviser called ‘departmental wish lists’. This concern was exacerbated by the refusal of the DUP ministers to attend executive meetings. The party had sought to have the first and deputy first minister meet them before such meetings and brief them afterwards, but this request was refused.

In the new year, the Economic Policy Unit within the Office of the First and Deputy First Minister became operational, with the appointment of its head, a senior civil servant. A paper endorsed by the Executive Committee on January 11<sup>th</sup> described the remit of the EPU as to assist the FM/DFM ‘in determining, within the Executive Committee, the Administration’s detailed strategic goals and inputting them to the Programme of Government and the allocation of financial resources (in conjunction with the Minister for Finance and Personnel)’.

The paper proposed that the programme should contain ‘long term strategic objectives’, even if firm commitments could only be given ‘for the life of this Assembly’ (to 2003, theoretically) and the programme would be subject to ‘annual revision, annual incorporation of a budget and annual approval by the Assembly’. It made clear that, while the FM/DFM would lead the exercise, each minister was required to participate in, ‘and to operate within the framework of’, the programme. It is the nearest thing the Executive Committee would ever have to collective responsibility.

The January 11<sup>th</sup> meeting set out the following agenda for action:

- the FM/DFM would meet each minister to discuss their replies to the December 22<sup>nd</sup> letter;
- the FM/DFM would meanwhile meet the leadership of each of the assembly parties;
- ‘firm proposals on cross cutting themes’ were to be made;

- ‘appropriate material’ would be sent to the departmental committees;
- business, trade unions and the voluntary sector would be invited ‘to submit their views on priorities’ (a responsibility allocated to the two junior ministers in the Office of the Centre);
- there would be regular reports to, and discussion in, the Executive Committee; and
- a draft programme would be produced by the executive in March, to go to the assembly.

Ministers were urged to treat this work as a priority but it was of course terminated by the suspension of the institutions. Officials and advisers had entertained the hope that in this eventuality ministers would revert to ‘shadow’ mode—and that this might, ironically, allow them to allocate more time to work on the programme, away from the burden of exercise of immediate departmental responsibilities. The removal of the ministers from office denied this possibility, however. Nevertheless, at the time of writing officials were still anxious to determine whether the preparatory work could continue in some form, under direct rule, perhaps with the alternative *imprimatur* of the secretary of state—precisely to avoid a situation where renewed devolution left ministers once more distracted by their departments.

## Into suspension

### The review unravels

The last Northern Ireland report concluded with the sadly prophetic suggestion from a participant in a focus group conducted last spring to the region's political class: 'They need to get their act together.' In November 1999, it seemed they had, with the apparently successful outcome of the Mitchell review. But, critically, there were three loose ends remaining, in so far as the responsibilities of the republican movement were concerned.

Months earlier, the Sinn Féin president, Gerry Adams, had urged the Ulster Unionist leader, David Trimble, to 'jump together' with him to end the dual crisis over devolution and decommissioning. In the end, the review required Mr Trimble to jump first. He was now at last countenancing the establishment of the Executive Committee (the Belfast agreement had implied that this should have happened before October 31<sup>st</sup> 1998), including two representative of Sinn Féin, through the operation of the d'Hondt rule—actual devolution of power. The only simultaneous reciprocation by republicans was to be the appointment of an IRA interlocutor to the Independent International Commission on Decommissioning chaired by Gen John de Chastelain—not actual decommissioning. A progress report by the general was nevertheless pencilled in for January.

The three loose ends were these:

- On the one hand, for the first time, SF was accepting that decommissioning was 'essential'; on the other, republicans continued to insist it was 'voluntary'—the former implying an obligation and an urgency, the latter neither.
- Despite the known overlap between membership of the *ard chomhairle* (executive) of SF and the army council of the IRA, SF continued to insist it did not 'speak for' the latter.
- Crucially, in the light of the above, there was no clarity as to the status of Gen de Chastelain's January report: the UUP, and indeed the SDLP, understood it to mean that that would be the point when republicans would jump—in terms of the actual onset of decommissioning—but SF and the IRA insist they were party to no such understanding.

To secure majority support for the deal at a meeting of his party's ruling UUC on November 27<sup>th</sup>, the UUP leader, Mr Trimble, offered his party president a post-dated resignation letter, to be effected in February if no decommissioning had by then taken place. Even then, he only secured a modest 58 per cent majority; he would probably have failed—and, likely, fallen—had he not followed the course he did, one long urged upon him by a Queen's University Irish historian and confidant, Prof Paul Bew. But republicans reacted with outrage.

The loose ends were already appearing. In the United States, two of the four overlapping members of the SF executive and the IRA army council, Martin Ferris and Pat Doherty, were reported as saying that it would be inconceivable that the new institutions should be pulled down if the IRA did not decommission. Republicans claimed the views of Messrs Ferris and Doherty had been misrepresented, but unionists were rattled.



Perhaps most important of all, in terms of what was to follow, it became apparent at a private meeting with the Northern Ireland secretary, Peter Mandelson, involving the author in late January, that he endorsed the view of the constitutional parties as to the nature of the understanding allegedly reached in the Mitchell review. Republicans were by then describing as an artificial deadline *outwith the review* the reconvened meeting of the UUC, planned for February 12<sup>th</sup>, by which time the resignation letter would be activated in the absence of IRA decommissioning. But Mr Mandelson insisted February 12<sup>th</sup> was hardly ‘a flicker on the radar screen’, and that January 31<sup>st</sup> was the key moment. Decommissioning, he said, had to be ‘in motion’ by then; otherwise, he clearly indicated, the institutions would be suspended.

### **Trying *transformismo***

The governments in London and Dublin had been keen as soon as the Mitchell review was completed to sustain momentum, moving swiftly to see the Executive Committee established, with its two SF ministers. A sharp intake of breath on the unionist benches in the assembly was echoed within the wider Protestant community as a third member of the IRA army council, Martin McGuinness, was appointed by a fourth, the SF president, Gerry Adams, as minister of education. In Northern Ireland’s segregated schools, protests quickly erupted in the ‘controlled’ (*de facto* Protestant) sector—though there were allegations of orchestration by the anti-agreement Democratic Unionist Party.

The Executive Committee established a pattern of businesslike operation at its first meeting that week. One day later, the IRA said it had appointed a figure to liaise with the decommissioning commission, and Mr Mandelson announced a review of security arrangements. This was an implicit linking of the ‘demilitarisation’ long sought by republicans to the decommissioning demanded by others of the latter—though it is a link republicans themselves have always abjured.

A pattern of developments linked to republicanism, carrying the aura of intimidation, continued however to raise the ethnic temperature in the Protestant community. Notable were an attempt to secure the removal of Mgr Denis Faul from his parish in Carrickmore, Co Tyrone, because of his involvement in a local liaison committee with the Royal Ulster Constabulary. Controversy extended to the health, social services and public safety minister, Bairbre de Brun of SF, who dismissed as an ‘operational’ matter concerns about the intimidation of social-service personnel when a meeting of the committee in December was broken up by crowd led by a local SF representative.

A bizarre episode took place in the same county in January 2000, when an SF activist brought about the withdrawal of an invitation from a school to the Duchess of Abercorn, a descendant of Pushkin and founder of a prize in the writer’s name to promote creative writing—on the mistaken belief that she was (a) British and (b) a member of the royal family. In this case the relevant SF minister, Mr McGuinness, eventually brought about a quiet climbdown.

Of explosive significance, in terms of the impact on Protestant opinion, was the decision by Mr Mandelson to accept in full the recommendations of the report of the commission on policing, set up under the former Northern Ireland Office minister and Hong Kong governor Chris Patten. Though the Patten report was widely praised by objective observers, an odd feature was the failure by the commission, and subsequently by the Northern Ireland secretary, to endorse a suggested compromise on the name of the force: 'the RUC: Northern Ireland's Police Service'. This subtle suggestion followed an earlier 'rebranding' by Ulster Television, which as part of its (successful) drive to expand across Ireland as a whole had redefined itself as 'UTV', removing its offensive (to Catholics) 'Ulster' element. The other element in the compromise was to retain the abridged version of the old name of the force *alongside* the name preferred by most Catholics, rather than the latter substituting for the former.

The suggestion had emanated from Mgr Faul—a voice of moderate Catholic opinion and a consistent critic of human-rights abuses by the state and paramilitaries—following his experience of talking to relatives of some of the 302 members of the force killed during the 'troubles'. As a result of these conversations, he anticipated that to replace the Royal Ulster Constabulary name altogether would be seen by the bereaved as airbrushing police victims from history. His expectation was borne out by the distraught reaction of police widows when Mr Mandelson preferred 'the Police Service of Northern Ireland' as the new title (*Irish Times*, January 22<sup>nd</sup> 2000).

It was the name change which most inflamed Protestant opinion in the aftermath of the report, allowing the Police Federation to assemble a protest petition with more than 300,000 signatures—a huge proportion of adult Protestants. That particular decision, together with the timing of Mr Mandelson's announcement on Patten's three-month-old report—just 12 days before the end of January—indicated that his crucial audience was the republican movement. Yet while the SDLP responded by urging young Catholics to join the reformed force, SF remained non-committal, claiming its response would depend on the nature of the enacting legislation.

In further, almost desperate, attempts to extract reciprocation from republicans on decommissioning, on January 13<sup>th</sup> the Northern Ireland secretary had written to the region's political leaders indicating he intended to allow facilities at Westminster for the two SF MPs, Messrs Adams and McGuinness—worth up to £100,000—to 'assist in their development as a party committed to democratic and peaceful means' (*Guardian*, January 14<sup>th</sup> 2000). And on January 24<sup>th</sup> a Home Office bill was introduced in the Commons to remove the ban on members of the Oireachtas (the two houses of the republic's parliament) sitting in Stormont or Westminster. The only party that stood to benefit was SF, as it seeks to build upon its 'peacemaker' credibility and populist appeal to the socially excluded to win four or five seats in the Dáil (it currently has one) in the anticipated 2001 general election. The bill had earlier been described as 'a calculated move by the British government to tie Sinn Féin ever closer into the political fold while the question of IRA decommissioning remains unresolved'—a link which SF, via Mr Adams, once more disavowed (*Irish Times*, December 22<sup>nd</sup> 1999).

In 1973, a year after the introduction of direct rule, the British government produced a white paper proposing that a legislative assembly be restored to Northern Ireland (Northern Ireland Office, 1973). But, unlike the Stormont *ancien régime*, the assembly would be elected by proportional representation and, crucially, from its members would be drawn an executive shared between unionism and constitutional nationalism, rather than the former exercising a monopoly of power. In a telling phrase, the document defined the problem, in terms of the executive, as ‘binding the minority to the support of new political arrangements’ (NIO, 1973: 13). In other words, what was envisaged was a process akin to that characterised by Antonio Gramsci, in his analysis of modern Italian history, as *transformismo*—the extension of a dominant political group by the accretion of individuals or groups who previously occupied oppositional positions (Hoare and Nowell Smith, 1971).

The ‘peace process’ of the 90s is in that context best understood in part as an attempted project of *transformismo* directed principally by the government of the republic, but with the support of the government in London (and the US administration), and aimed at those defined in the 1973 document as ‘violent, subversive, or unconstructive elements’—principally the IRA. But here a crucial difference emerges which places a huge question-mark over the ultimate success of the project.

### **Republican Kremlinology**

While the SDLP in 1973, as a constitutional-nationalist party, was willing to be ‘bound’ to the new political arrangements, the republican movement was and remains a Leninist type of organisation which has no intention of ‘betraying’ its ‘revolutionary’ pretensions by becoming a conventional liberal-democratic party. The disingenuous distancing of SF from the IRA is in that context to insulate the latter, guardian of the revolutionary flame, from any such transformist effects, while using its existence to secure political concessions accruing to the former.

Moreover, the republican movement identifies itself—not either of the governments—as the principal author of the project, which it sees as the product of the ‘peace strategy’ it elaborated in the late 80s. Far from this strategy implying the republican movement would be ‘bound’ to anything, the thinking was that the construction of a ‘nationalist consensus’ *around itself*—drawing in constitutional nationalism, a Fianna Fáil-led Dublin government and an Irish-America-influenced White House—would isolate the British government, prevail over unionism and issue in a united Ireland in the medium term.

The author of a sympathetic book on the IRA, Kevin Toolis, made it all brutally frank in a recent article (*Guardian*, January 26<sup>th</sup> 2000), sections of which are worth reproducing at length. Toolis begins by cutting through the usual ‘blather’ about republicans and identifying what, for them, are the ‘basic rules of the game’:

First, the principal protagonists in Ulster's long nightmare are the British government and the IRA (as represented by Sinn Féin). The Ulster peace process is predicated on a rough but well defined bargain between both sides; take away the IRA bombs and we will take away the Brits. The unionists ... run a poor but necessary third.

Second, we are not playing by Westminster rules and we never will be. Gerry Adams and Martin McGuinness have devoted much of their adult lives trying to destroy, with guns and bombs, the British state in Ireland. Many of their close friends have been killed in what they see as the historic struggle, others have spent decades of their lives in British prisons. Both men were members of the same republican leadership that tried to assassinate the entire British cabinet on two occasions—in 1984 at Brighton and in 1991 in Downing Street. Their fingers may not have been on the detonator but only a fool could not believe they were not party to the act.

Both men are leaders of a political movement that has endured against incredible odds. They are adherents to an age-old political passion—the republican dream of a united Ireland ... They are the same IRA men today as they were 30 years ago ...

Sinn Féin/IRA is not like any other political movement in Europe. It remains wholly immune to outside scrutiny. It does not leak and the leadership never squabbles in public. Its internal decision-making process is utterly opaque. To listen to one Sinn Féin interview is to listen to all of them ... Clearly in this sense Sinn Féin is not a political party at all. It is the public relations division of the IRA and all of its political positions are pre-formulated somewhere beyond our gaze.

The third rule of Ulster politics is the oddest: that the IRA can generally be trusted to tell the truth. The IRA may have futilely murdered the innocent in great numbers but they do not lie about it. The other thing the IRA do not lie about is decommissioning; there is not going to be any.

(It should be noted that what is claimed in the second paragraph of this piece about the two SF MPs puts what the *Guardian* said about Jonathan Aitken in the ha'penny place; evidently, no libel action was anticipated by the newspapers lawyers, and none has resulted.)

### **No surrender**

This bleak assessment is underscored (*Irish News*, February 17th 2000) by the reported designation by the IRA of its reputed chief of staff, Brian Keenan, as its interlocutor with the de Chastelain commission. At a funeral oration in west Belfast some years ago, Mr Keenan notoriously declared that the only think to be decommissioned would be 'the

British state in Ireland'. After the failed talks on decommissioning at Hillsborough last spring, involving the two prime ministers, he told an Easter Rising commemoration in Monaghan: 'I don't know where they get this word decommissioning, because it strikes me they mean it like it is a surrender. There will be no surrender.'

And so the anticipated de Chastelain report, withheld literally until the 11<sup>th</sup> hour on January 31<sup>st</sup> (indeed into the early hours of the next day) reported neither any decommissioning nor any commitment to that effect—by the IRA or anybody else. But the republican movement was taken aback by the reaction to the report. First, Mr Mandelson made good on his warning that he would initiate the suspension of the institutions, setting the necessary legislative process in train. Secondly, and more important from the point of view of the republican movement's strategy, there was an unprecedented wave of antipathy in the media in the United States (*Sunday Tribune*, February 13<sup>th</sup> 2000).

By February 3<sup>rd</sup>, as the de Chastelain report sunk in across the Atlantic, the leader-writers had got to work. Declaring that the Northern Ireland peace agreement was in jeopardy, the *Washington Post* contended: 'The fault lies squarely with the Irish Republican Army, which has taken no steps towards handing in its arms.' The *Chicago Tribune* agreed: 'The IRA must begin giving up some of that vast arsenal as a show of good faith, or it will have to shoulder the responsibility for a return to British rule in Northern Ireland.' As did the *Los Angeles Times*, criticising republican claims that the silence of the guns was sufficient: 'Adams should know that is not enough. What is needed is proof that the IRA is taking the necessary steps to disarm. Instead, the paramilitary organisation remains stubbornly quiet on the issue of arms.'

Stung by this remarkable shift in US opinion, the republicans sent out their most liberal-sounding figure, the SF chair, Mitchel McLaughlin, to minimise the public-relations damage. But something tangible was also required, yet not so substantive as actually to commit the republicans to disarmament any time soon—warm words, without cold steel.

And in an ingenious propaganda move, the republicans killed two birds with one stone: after days (and nights) of negotiations with representatives of the republic's government, they wrongfooted the now detested Mr Mandelson and removed the political heat from themselves in one go. The move was to convey a new IRA message to Gen de Chastelain, but only after it was clear the British government was set on suspension (*Sunday Tribune*, February 13<sup>th</sup> 2000).

It was well adverted that the UUP had insisted that suspension had to be on the 6.00 pm news on February 11<sup>th</sup>, eve of the crucial UUC meeting, if the Trimble resignation letter was not to be effected. At 5pm, Mr Mandelson told Mr Adams that suspension was going ahead. At 5.15, Mr Adams announced as a 'major breakthrough' a new IRA position which he said had been conveyed to Gen de Chastelain; but the opportunity had been 'thwarted' by Mr Mandelson's decision to suspend and he expressed doubt as to whether the proposal would remain on the table in that event. At 5.55, suspension was announced

by the Northern Ireland secretary, and 35 minutes later the general published another report. It contained the following reference (*Irish Times*, February 12<sup>th</sup> 2000):

We find particularly significant and view as valuable progress the assertion made to us by the IRA representative that the IRA will consider how to put arms and explosives beyond use, in the context of the full implementation of the Good Friday Agreement, and in the context of the removal of the causes of conflict.

Some decoding of this typically opaque IRA statement is required. Leave aside the conditionality of ‘consider’—confusingly omitted in a subsequent clause where the commission said the IRA interlocutor had indicated ‘the context in which the IRA will initiate a comprehensive process to put arms beyond use’. It cannot in any event be assumed that the IRA has in this statement signed up for decommissioning in either of the variants—handover or verified destruction—specified in the legislation passed at Westminster and in the Oireachtas following the report in 1996 of the International Body on Decommissioning chaired by Mr Mitchell. Previous IRA campaigns have ended, as in 1962, with a call from the leadership to ‘dump arms’ (*Guardian*, February 16<sup>th</sup>)—a process subjected to no external involvement and by no means irreversible.

Moreover, ‘full implementation’ of the agreement entail a prolonged process of enactment of the Patten report, activation of the yet-to-report Criminal Justice Commission’s conclusions and ‘demilitarisation’ by the British—going well beyond the May 2000 decommissioning deadline set by the agreement. Mr Mandelson’s announcement on Patten said its implementation would ‘extend over several years’ (*Irish Times*, January 20<sup>th</sup> 2000). Perhaps most seriously, in all previous IRA statements using the phrase ‘the causes of conflict’, this phrase has been used as a euphemism for ‘the British presence in Ireland’.

A commitment by Mr Keenan that the IRA would dump arms after the British left would be wholly consistent with his own known position and that of the wider republican movement as articulated by Mr Toolis. It has been reported that a convention of the whole IRA would be required by its constitution before any decision on weapons disposal could be taken, that such a convention in December 1998 ruled out any form of weapons handover and that any attempt by the leadership to call a convention at this time to change this position would be defeated (*Ireland on Sunday*, February 13<sup>th</sup> 2000; *Irish News*, February 17<sup>th</sup> 2000).

UUP (and some SDLP) wags were thus quick to describe the IRA statement to Gen de Chastelain as ‘more context than Semtex’ (*Sunday Business Post*, February 13<sup>th</sup> 2000). The following morning, Mr Trimble survived with little challenge his UUC meeting, though the resolution passed significantly hardened his position, insisting that any further move to enter a power-sharing executive would have to be first ratified by another full council meeting. Moreover, a ‘broad’ working party—code for the inclusion of anti-agreement dissidents like Jeffrey Donaldson—was to compose UUP input to any post-suspension review.

Yet the IRA statement was enough to persuade Gen de Chastelain—who privately confides his belief in the *bona fides* of the republican leadership—that it heralded ‘the real prospect of an agreement which would enable it to fulfil the substance of its mandate’. Mr Mandelson was transparently discomfited by the timing of the Adams statement and the de Chastelain report, and British government sources were reported initially as describing the move as a ‘tactical ploy’ (*Observer*, February 13<sup>th</sup> 2000). But the taoiseach, Bertie Ahern, claimed it represented ‘a huge advance’ (*Irish Times*, February 14<sup>th</sup> 2000), which the prime minister, Mr Blair, could only scale down to ‘big’ after his meeting with the taoiseach in London on February 16<sup>th</sup> (*Irish Times*, February 17<sup>th</sup> 2000).

Meantime, on February 15<sup>th</sup>, the IRA duly withdrew the statement—and indeed all previous communications to the commission—before anyone could press the organisation, or SF, on just what commitments it might entail, and when they might be implemented. Mr Adams affected anger, but in reality the isolation of the republicans had been ended. The republic’s government was focused primarily on securing a revocation of the suspension from the British, rather than an immediate decommissioning commitment from the IRA, while much northern Catholic opinion was sympathetic to claims Perfidious Albion had done it again. And, with the two governments evidently not *ad idem*, the US administration, publicly at least, adopted a neutral stance of regret rather than apportioning blame.

On February 16<sup>th</sup>, the prime minister and the taoiseach again engaged in a fruitless further round of talks with the parties at Downing Street. They refused to let the word ‘review’ pass their lips—SF had made clear it would have no hand, act or part in any review of the agreement. It was equally clear that neither government had the least appetite for a reopening of Patten, as the UUC had mandated Mr Trimble to seek. ‘Inter-party talks’, it was said, would continue. But the *Irish Times* sombrely reported the following day:

The Irish and British governments have not only failed to agree on an answer to the question of how to bring the North’s political institutions back into operation. They have failed to agree on how to search for that answer, and they have failed to agree how long that search should take.

The question at the back of not a few minds, of course, was what might fill the vacuum in the meantime. The RUC chief constable, Sir Ronnie Flanagan, repeated his belief that there was no intelligence to indicate the IRA was preparing to end its ceasefire. But for the first time he expatiated in an interview (*News Letter*, February 17<sup>th</sup> 2000) on the form such an end might take—‘a major bomb attack on a prestige target in mainland Britain’—and the consequences it might have for the political process: ‘It would appear to be doomed.’

Coincidentally, the SF paper, *An Phoblacht*, published an interview with an IRA spokesperson the same day. Using language reminiscent of that used by republicans in the run-up to the Canary Wharf attack in February 1996, the IRA said that the Northern

Ireland secretary had ‘succumbed to the unionist veto’, that the potential of the peace process to ‘remove the causes of conflict’ had been ‘seriously damaged’ by the suspension, and that the responsibility lay with the British government, which had to take ‘immediate steps’ to ‘repair the damage they have caused’.

On decommissioning, the issue which led to the 1996 breakdown, the IRA said: ‘The crisis is neither about nor caused by the decommissioning issue. John Major introduced the issue only after the IRA had announced its cessation in 1994. It was not part of the cessation. The British government knows this.’

## **Conclusion**

It is a truism that in Northern Ireland politicians can reach agreements if their arms are twisted by external actors, but once that pressure is removed they can no longer agree just what it was they agreed to. That is the paradox of devolution in the region: it is the only way forward, and it is widely supported, but appears inherently ephemeral. The ‘feel-good factor’ associated with the brief operation of the executive should not obscure the fact that devolution necessarily entailed the withdrawal of the outside disincentives against communal inertia, or indeed that the executive only lasted half as long as its 1974 forerunner.

There is only one resolution to this paradox: domestic pressures need to be created in Northern Ireland so that devolution can be self-sustaining. That, however, requires the construction and support of a strong political centre, which could magnetise politics away from communal and paramilitary protagonism. Yet the ‘peace process’ has been premised on the view that such a centre is to be taken for granted, even of little consequence, in comparison with the task of assuaging the claims of this or that protagonist at any one time.

This has established a perverse system of incentives in Northern Ireland. The legitimisation of extremism has been associated with a marked polarisation of electoral behaviour in the 90s, leaving the centre weak and fragmented. And there is a widespread mood of fatalism which militates against any constraining popular pressures. There is, in short, no premium on moderation.

At the time of writing, the scenario was inevitably beginning to be painted of a way forward in the absence of any republican commitment to decommissioning. The suggestion, favoured by the leading post-nationalist commentator Fintan O’Toole (*Irish Times*, February 12<sup>th</sup> 2000), was for the assembly parties to be enabled to form a new administration without SF, and indeed without the equally un-cooperative DUP, until such times as republicans complied with the agreement. Such a proposal would carry a majority in the assembly, would sustain the egalitarian (if not the ‘inclusive’) character of the Belfast agreement and would actually more closely resemble other ‘consociational’ arrangements, as in Belgium, in that regard.



But an article by the former deputy first minister, Mr Mallon, in the same paper a few days later (February 18<sup>th</sup> 2000) made clear the SDLP remained wedded to exploring the meaning of the IRA's last statement to the Chastelain commission and to a parallel revocation of the suspension of the institutions. The article continued to equilibrate the republicans and the UUP as vetoing progress. UUP figures have for some time believed that the SDLP would comply with a post-suspension pitch for a centrist coalition. But the prolonged resistance by the UUP to the formation of the Executive Committee, until November 1999, has left with the party with an awful lot of work to do to regain moderate-Catholic goodwill.

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