

Criteria for calling a border poll in Northern Ireland

Submission to the Constitution Unit Working Group on Unification Referendums on the Island of Ireland.

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This item assesses the limited criteria laid out in the Good Friday Agreement and Northern Ireland Act 1998 for the calling of a border poll within Northern Ireland. It suggests value in establishing a definitive set of criteria whilst acknowledging that this is problematic. This is not intended to be a definitive, prescriptive document but more a statement of case to enhance, clarify and make objective the circumstances under which a border poll might be triggered. The contribution concentrates solely on Northern Ireland.

1. The Northern Ireland Act 1998, which gave effect to the Good Friday Agreement, states that a poll will be called by the Secretary of State for Northern Ireland “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 UK and form part of a united Ireland”.
2. There is a case for more objective criteria for the pre-assessment of public opinion than the potentially subjective view of one individual. The provision of such criteria would allow transparency over the calling of a border poll and offer fairness to unionists, nationalists and constitutional neutrals.
3. Recent measurements of public opinion, in terms of the “if any time it appears likely that a majority might vote for a united Ireland” rule, have produced widely varying results.
4. There have been 12 opinion surveys conducted in Northern Ireland on the border issue since the 2016 EU referendum.
5. Three surveys have shown more respondents in favour of a united Ireland than against: LucidTalk (2017) 46% to 45%; OFOC/Deltapoll (2018) 52% to 39% (the only poll ever showing an overall majority of the electorate in favour of unity) and Ashcroft (2019) 46% to 45%. If these were taken at face value, they would provide a basis for the Secretary of State to call a border poll.
6. However, during the period that the two most recent Secretaries of State have held office, there have been surveys ranging from 52% support for unity to a mere 19% - with most showing more opposed to a united Ireland than in favour.
7. Of the nine studies showing more respondents against unity than backing the idea, the majorities of opposition have ranged from 41% to a mere 3%.

8. Averaging all 12 polls conducted from June 2016 until the end of 2019, 35% of respondents backed Irish unity with 52% opposed.
9. Based on the contradictory survey evidence outlined in points 5 to 8 above, how is the Secretary of State to decide whether it is likely that a majority of those voting would support a united Ireland?
10. Part of the explanation of very divergent survey results may lie in different survey methodologies. Low support for Irish unity was apparent in the Northern Ireland Life and Times (NILT) 2018 survey (only 19% in favour) and in other university-based studies which used face-to-face interviews. Queen's Belfast (using Ipsos MORI) found 21% support for unity in 2018, whilst the 2017 ESRC Northern Ireland general election study undertaken by the universities of Liverpool, Aberdeen, Leeds and the LSE (using Social Market Research, Belfast) found 27% in favour of unity with a further 23% saying "don't know". These findings contrast with much higher support for Irish unification recorded in recent surveys conducted online, such as those undertaken by LucidTalk.
11. It is beyond the scope of this contribution to discuss which is the better and more accurate survey methodology. There are risks with either. Face-to-face interviewees may be influenced by the tone of their interviewer, no matter how well-trained and professional the survey researcher. Respondents may wish to give what they think is the "correct" answer. Such surveys also elicit a high number of "don't know" responses. Online surveys over-sample the politically committed and understate the don't knows. If their results are factored into deliberations on whether a border poll should be called, political parties may encourage supporters to sign up to online polls to skew results, given the importance of the outcome.
12. Question phrasing and options may also affect survey outcomes. For example, the NILT surveys ask respondents what the "long-term policy" should be for Northern Ireland and include direct rule, devolved government within the UK, reunification and an independent state. In 2018, the power-sharing in the UK option attracted 41% backing compared to only 19% for reunification. That is not guaranteed to obtain the same result as a question asking, "how you would vote if there was a border poll tomorrow?" The Northern Ireland general election studies use the "border poll tomorrow" question.
13. The obvious alternative measure of public opinion is to use party support. If the combined nationalist vote at an election for Sinn Féin and the SDLP, allied to any other nationalist/republican parties supportive of Irish unity, came close to 50%, should that be interpreted as creating a likelihood of a vote for a united Ireland?

Recommendations

14. There is a need for an independent panel, perhaps established under the auspices of the Constitution Unity, to use objective analyses of public opinion to recommend to the Secretary of State appropriate, transparent and published criteria for the basis on which a border poll might be called.
15. This would be fair to unionists, nationalists and constitutional neutrals. It would explain the neutral and clear basis on which a border poll is called beyond the thought processes of a single postholder, i.e. the Secretary of State.

16. The adoption of clear criteria should be debated and agreed by the parties in the Northern Ireland Assembly.
17. The process may involve the Northern Ireland Assembly, or Northern Ireland Office, or the Constitution Unit, commissioning its own survey work – acknowledging the risk would be that such surveys could be seen as surrogate/mini border polls.
18. Once a new set of objective criteria for a border poll is agreed, the Northern Ireland Act 1998 should be amended.
19. As mere, non-prescriptive examples, new criteria for the calling of a border poll could be:
 - i) a level of support for a united Ireland of 40% plus across each published opinion survey with a minimum n of 1,000 plus over a period of 12 months OR
 - ii) combined support for nationalist parties exceeding combined support for unionist parties at a local, Assembly or Westminster election, with a minimum threshold of 40% support.

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