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Northern Ireland, 2017-2020: An experiment in indirect rule¹

Introduction

Northern Ireland has known two models of governance since the collapse of the old Stormont Parliament in March 1972: 1) direct rule, whereby the governance of the province is undertaken by UK Government Ministers and the UK Parliament; and 2) devolution, on the basis of a cross-community power sharing Executive. However, in 2017, after a decade of relatively, by Northern Ireland's standards, stable devolved governance, the DUP-Sinn Fein power sharing Executive collapsed. Instead of a return to the tried and tested approach of direct rule, a new model of governance, best described as indirect rule, took root instead.

As this article will explore, the defining feature of indirect rule, as opposed to direct rule or devolution, was the absence of ministers as the basis of day to day decision making in Northern Ireland. Instead, Civil Servants were placed in the invidious position of decision making responsibilities, with Westminster and Whitehall acting as, for want of a better phrase, a 'backstop' providing, on a reactive and piecemeal basis, legitimacy for Civil Servants. Yet, while the drawbacks of indirect rule were clear to political actors in both Northern Ireland and in Westminster, the political unpalatability of direct rule ensured indirect rule's survival for nearly three years.

Direct Rule 1972-2007

Northern Ireland's governance following the collapse of the 1921-1972 system of devolution² has 1972 has fallen into two broad categories: direct rule or devolution. Direct Rule occurred over a number of phases, the first being between 1972 and 1973 (under the terms of the Northern Ireland (Temporary Provisions) Act 1972); the second, following the collapse of the Sunningdale Executive, with the Northern Ireland Act 1974 which remained in effect until 1998, but was temporarily modified as a result of the attempt at 'rolling devolution', which saw an Assembly established (with the potential for full devolution to be restored), between 1982-1986;

¹ The author would like to thank anonymous reviewer, the journal editors, Dr Robert Jones and Dr Jac Larner for their helpful comments and suggestions.

² For useful accounts of the 1920-1972 system of devolution, see: H Calvert, *Constitutional Law in Northern Ireland: A study in Regional Government* (London: Stevens and Sons, 1968) and B. Hadfield, *The Constitution of Northern Ireland* (Belfast: SLS Legal Publications, 1989)

and finally during periods of suspension at Stormont between 1998-2007 under the terms of the Northern Ireland Act 2000.

Throughout these phases, there was a core set of distinguishing features which defined direct rule:

- First, and most obviously, the Secretary of State for Northern Ireland assumed the powers of the government of Northern Ireland and provided the political steer for the apparatus of local governance that continued to exist, including Northern Irish Government Departments and the separate Northern Ireland Civil Service.
- Second, the UK Parliament took responsibility for legislating for Northern Irish ‘transferred’ (i.e. devolved) matters via Orders in Council and for holding the Secretary of State and their junior ministers to account via oral and written questions.
- Third, and reflecting what was assumed, or rather hoped, to be the temporary basis of this state of affairs, the Northern Ireland (Temporary Provisions) Act 1972, the Northern Ireland Act 1974 and 2000 Act required Parliamentary approval on regular basis for the maintenance of these arrangements (annually in the case of the 1972 and 1974 Act and every six months in the case of the 2000 Act).³

The saga of suspensions which defined the attempt at restoring devolution as a result of the Northern Ireland Act 1998⁴ appeared to come to an end in 2006 with the St Andrews Agreement reached between the main parties in Northern Ireland (including, crucially, both the DUP and Sinn Fein) in October 2006. Among the provisions of the Agreement, was the abolition of the Northern Ireland Act 2000 – the legislation which had facilitated the imposition of direct rule.⁵ In 2007 direct rule came to an end and a new Executive, headed by the DUP and Sinn Fein took office.

Indirect rule: its emergence and core characteristics

After nearly a decade of devolved governance, on 9 January 2017, Martin McGuinness resigned as Deputy First Minister, triggering the collapse of the Executive. The collapse followed the

³ D. Torrance (18 December 2019), Northern Ireland: Direct Rule, House of Commons Library Briefing Paper, Number CBP 8638

⁴ B. Hadfield, The Suspension of Devolution in Northern Ireland: New Story or Old Story? (2003), European Public Law, 9(1), pp.49-57

⁵ The St Andrew’s Agreement (2006).

Renewable Heat Incentive (RHI) scandal. The RHI scheme as designed and implemented in Northern Ireland offered generous subsidies towards the cost of fuel for those who replaced their heat generators with newer renewable models, in practice the flawed design of the scheme resulted in a system whereby claimants could earn considerable money by burning excess fuel, earning the sobriquet ‘cash for ash’.⁶

The Northern Ireland Act 1998 provides that in the event that one of the First or Deputy First Minister resigns or ceases to hold office for another reason then the other shall also cease to hold office (albeit can discharge caretaker functions). The 1998 Act then provides that the posts of both First and Deputy First Minister must be filled within seven calendar days and that if these posts remain unfilled then the Secretary of State should make arrangements for an early Assembly election.⁷ That deadline fell on 16 January 2017 and the following day the then Secretary of State for Northern Ireland, the Rt Hon James Brokenshire MP confirmed that an election would be called for 2 March.⁸ While an election was called, this date was more significant in marking the beginning of what would be a near-three year experiment in indirect rule.

If direct rule saw the day to day, governance of Northern Ireland directed explicitly by political actors at Westminster and in Whitehall, providing political leadership to the NICS. Then, indirect rule saw the province’s governance resting, on a day to day, basis in the hands of the NICS with intervention from Westminster and Whitehall rationed to providing ad hoc, limited and reactive support. This three year experiment can be defined by the following, interconnected but distinct, characteristics:

- Governance by civil servants, with ad-hoc London intervention
- This governance was strictly bounded in nature with Civil Servants restricted in their decision making capacity
- Organic development – indirect rule was not a static beast, rather it changed over time
- Constant cycles of ‘negotiation’ to restore power-sharing

Governance by civil servants, with ad-hoc London intervention

⁶ See: S. McBride, *Burned: The inside story of the ‘Cash-for-Ash’ scandal and Northern Ireland’s secretive new elite*, (Newbridge: Merrion Press, 2019)

⁷ Northern Ireland Act 1998, s.16B(3), s.32(3-4)

⁸ HC Deb (Hansard) 17 January 2017, cc.775-776

The role that civil servants would play in the governance of Northern Ireland during the era of indirect rule became apparent in the aftermath of the March 2017 Assembly election. Following the failure of the DUP and Sinn Fein to restore devolution in the limited post-election negotiating time allotted by the Northern Ireland Act 1998 (as amended by the Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016), the Secretary of State announced that, from the 29 March, “financial resources to allow Northern Ireland’s Departments to deliver key public services will fall under the control of the Northern Ireland Civil Service”. Thus began a new normal of day to day governance in Northern Ireland resting on Civil Servants rather than, primarily by, elected politicians.⁹

The initial phase of indirect rule was based on the powers available to the Permanent Secretary of the Department for Finance and Personnel under s.59 of the Northern Ireland Act 1998. This section provides that, in the absence of a Budget Act being approved by the Assembly, the Permanent Secretary can release cash and resources to the Northern Ireland Departments to the value of 75% of the previous year’s budget, up to the end of July that year, rising, if a budget hasn’t been passed by July, to 95% of the previous year’s budget.¹⁰

In April 2017, after post-election negotiations had failed to bear fruit, the Secretary of State issued an indicative budget to “give clarity to Northern Ireland departments as to the basis of departmental allocations in the absence of an Executive”. This indicative budget provided political backing for the decisions taken by the Northern Ireland Civil Service (NICS); indeed it was a framework which was not only the product of negotiations with the NICS, but which also left the detailed spending decisions in the hands of civil servants.¹¹ This approach was repeated in July, when it was clear that an Executive would not be formed until the Autumn, when the Secretary of State provided an adjusted indicative budget and list of departmental spending allocations. As before, the Secretary of State explained that the allocations “did not reflect input from UK Government Ministers on priorities” and it remained for Northern Ireland civil servants to allocate cash under s59 of the Northern Ireland Act 1998.

This reliance on s.59 powers, coupled with occasional public statements from the Northern Ireland Office providing a degree of political backing for the decisions made by Civil Servants,

⁹ HM Government, Secretary of State for NI statement (Gov.UK, 27 March 2017), <https://www.gov.uk/government/news/secretary-of-state-for-ni-statement> [accessed 21 July 2020]

¹⁰ Northern Ireland Act 1998, s.59

¹¹ HCWS612 (24 April 2017)

could not be sustained indefinitely – as the Government itself acknowledged on a number of occasions. By the autumn it was clear that further intervention would be required by the UK Government, in the form of piloting its own budget legislation for Northern Ireland through Parliament. As the Secretary of State explained, such legislation was necessary to give the resources and the political authority to civil servants to continue to conduct the day to day governance of Northern Ireland, albeit tacking to plans that were based on the NICS’s “assessment of the outgoing priorities of the previous Executive”.¹² In total, there were four budget or appropriations Acts passed by Parliament for Northern Ireland during the era of indirect rule: the Northern Ireland Budget Act 2017, the Northern Ireland Budget Act 2018, the Northern Ireland Budget (Anticipation and Adjustments) Act 2018, and Northern Ireland Budget (Anticipation and Adjustments) Act 2019.

Bounded scope of governance with Civil Servants having limited decision making agency

The discussion so far has focused on governing via spending decisions, but governance requires other decisions to be made. Here, we can see the sharpest limits of indirect rule as a model of governance. With no political masters to provide political direction, and an unwillingness from the Secretary of State to inveigle themselves in policy questions, the NICS faced a significant political and constitutional handicap to effective governance: an inability to take major policy decisions. As David Sterling, the then Head of the NICS explained to the Northern Ireland Affairs Committee in 2018:

We have as far as possible tried to continue to progress policies that were put in place by previous Ministers and the previous Executive. Context changes with the passage of time. Circumstances change. Policy should adjust in line with those changes in context. We are missing that at the moment. We have not had Ministers who can give advice, direction and guidance as circumstances change. We have not reached a shutdown point, but the reality is that public services are suffering as a consequence of this because we are not getting the direction that we need.

Faced with this lacuna between devolution and direct rule, and with the weight of governing falling on an arm of government which by its very nature is unable to take, at least

¹² HM Government, James Brokenshire statement Northern Ireland talks update (Gov.uk, 1 November 2017), <https://www.gov.uk/government/news/james-brokenshire-statement-northern-ireland-talks-update>

autonomously, significant political decisions, it is little wonder that Sterling went on to describe the situation to MPs as “totally unprecedented and unacceptable”.¹³

Nor is it a surprise that it created a situation capable of breeding confusion as to where precisely the boundaries lay for civil servants in governing Northern Ireland during indirect rule.¹⁴ The lack of clarity about the precise role of NICS during indirect rule manifested itself in the Buick cases. These cases focused on the decision of the Department for Infrastructure (DfI) to grant planning permission for a large waste treatment centre and incinerator in County Antrim. The decision was challenged by opponents of the project on two grounds: 1) that the Department lacked the legal power, in the absence of a Minister, to make the decision; and 2) that even if the Department could take decisions without a Minister, it could not in this case as it was a cross-cutting issue involving more than one Department and would thus have required approval by the Executive Committee (essentially Northern Ireland’s cabinet) and could not be taken without Ministers.¹⁵

In their defence before the Northern Ireland High Court in the first Buick case, the DfI argued that the Departments (Northern Ireland) Order 1999 and Section 23(2) of the Northern Ireland Act (NI Act) 1998 provided a basis for the Northern Ireland Departments (NICS) to take decisions in the absence of a Minister. Section 23(2) of NI Act 1998, for example, states that as respects transferred matters, the prerogative and other executive powers of Her Majesty in relation to Northern Ireland shall [...] be exercisable on Her Majesty’s behalf by any Minister or Northern Ireland department”, while Article 4(3) of the 1999 Order provides that “any functions of a department may be exercised by (a) the Minister; or (b) a senior officer of the department”.¹⁶

However, crucially this provision is subject to Article 4(1) of the Order which states that “the functions of a department shall at all times be exercised subject to the direction and control of the Minister”. As a result, Keegan J emphasized in her judgement that “the Department cannot be entirely detached from the Minister who heads it up. The level and extent of direction and

¹³ Northern Ireland Affairs Committee, Oral evidence: Devolution and democracy in Northern Ireland-dealing with the deficit, HC 613, 24 January 2018, Qq27,39

¹⁴ As an illustration of the issues facing the NICS, Civil Servants had prepared, in the absence of an Executive, draft legislation and launched a consultation on proposals to implement the recommendations of the Historical Institutional Abuse Inquiry. However, the NICS made clear that at the point the consultation ended, it would be unable to take the process forward in the absence of ministers (for a discussion of this, see: Re JR80 [2019] NICA 28, para. 19-35)

¹⁵ Buick [2018] NIQB 43, para.3

¹⁶ Para. 39

control may vary depending on the circumstances however the Minister remains in overall charge”. The Court refused to accept the DfI’s contention that the requirements of Article 4(1) should only apply when Ministers are in office and found against the DfI on the grounds of vires, although it dismissed the cross-cutting challenge on the grounds that the obligation to refer such issues to the Executive Committee rests on the ministerial code and does not, as such, apply to Civil Servants.¹⁷

The DfI appealed the High Court’s decision, with a cross-appeal from Buick against the cross-cutting finding. The Northern Ireland Court of Appeal found against the NICS on both grounds, ruling that the decision taken was “crosscutting, significant and controversial” and was a decision that “could only be taken by the Executive Committee”. Importantly, the judgement also contained the following observation on the powers of NICS in the absence of Ministers, namely “that any decision which as a matter of convention or otherwise would normally go before the Minister for approval lies beyond the competence of a senior civil servant in the absence of a Minister”.¹⁸

This decision prompted the second major aspect of reactive intervention by Whitehall to provide political legitimacy and cover for indirect rule: the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 (‘the 2018 Act’). Section 3 of the 2018 Act clarified that senior officers of Northern Ireland Departments are not prevented from exercising the functions of the department in the absence of an Executive, where it is in the public interest to do so, it also backdated its provisions to 2 March (the date of the 2017 Assembly election). These decisions would take place within a framework of guidance that the Secretary of State would be required to publish, and which Departments would have to pay due regard. As with the indicative budgets earlier in the process of indirect rule, the intention was to provide a framework which would underpin and empower NICS decision making – the guidance would set out principles which Civil Servants would be able to draw upon and consult when weighing up with a particular decision was in the public interest.¹⁹

The guidance, published to accompany the Act, outlined a number of core principles that NICS should take into account regarding decision making. The first principle was that certain decisions should not be taken in the absence of ministers and that NICS should consider the public

¹⁷ Buick [2018] NIHQ 28, paras. 39-47

¹⁸ Buick [2018] NICA 26

¹⁹ Northern Ireland (Executive Formation and Exercise of Functions) Act 2018, s.3

interest of major policy decisions being taken by “locally elected, accountable Ministers”. However, the guidance also invited NICS to balance any such interest versus “the public interest in taking a decision rather than deferring a decisions during the period for Executive formation”. Where it was judged that the public interest required a decision in the absence of ministers, NICS was instructed to take into account principles such as delivering public services as sustainably and efficiently as possible, sustaining the priorities and commitments of the former Executive where possible, save where there was exceptional circumstances that required a change in policy direction, and that decisions should work towards the draft Programme for Government which had been developed during previous cross-party negotiations.²⁰

Not a static state of affairs

The discussion above highlights another feature of indirect rule: it is not a static state of affairs. The unusual and, from a democratic principles perspective, unwelcome situation of leaving civil servants responsible for day to day governance, without active political oversight and direction, required continued adjustments to be made to keep the show, as it were on the road. In the first instance, it required a broad framework to be provided on spending allocations, to provide sufficient cover for the detailed choices that civil servants needed to make, then it required further intervention from the centre in the form of budget legislation to enable civil servants to move beyond the limitations of the s.59 powers provided in the 1998 Act. Outside the field of spending decisions, there was a lack of clarity, as demonstrated by the Buick cases, regarding what other decisions Civil Servants could take in the novel circumstances of indirect rule. Where the judgements from the Buick cases threatened the ability of NICS to continue to make the decisions needed for everyday services to continue to be provided, Whitehall again had to intervene by passing the 2018 Act.

The situation changed further with the more active intervention in Northern Irish affairs adopted by MPs during the passage of the Northern Ireland Executive Formation Act 2019 (‘the 2019 Act’). Brought forward by the Government as a means of further extending the period in which an Executive could be formed, it was the subject of major amendments during its passage through Parliament. Amendments were passed which compelled the government to extend same-sex marriage to Northern Ireland and to liberalise abortion laws (areas which fell within

²⁰ Guidance on decision-making for Northern Ireland Departments during the period for Northern Ireland Executive formation, November 2018, Cm 9725

devolved competence) should an Executive fail to be formed before October 2019. As a result, and due to the failure of the parties in Northern Ireland to meet the October deadline, significant policy changes have come into effect as a by-product of indirect rule.²¹

Constant cycles of negotiation

Instead, what transpired was a continuous cycle of talks being launched, failing to meet deadlines and then the cycle repeating itself. This process almost bore fruit in February 2018 when it appeared that the parties were close to a deal to restore power-sharing, however these talks collapsed over differences between DUP and Sinn Fein on, among other matters, legislation to enshrine the status of the Irish language.²²

With each failed cycle, and in light of the Secretary of State's legal obligation to call fresh elections where an Executive could not be formed, the UK Government had to push through a number of measures aimed at extending the legal period in which an Executive could be formed. The Northern Ireland (Ministerial Appointments and Regional Rates) Act 2017 initially extended the period for government formation to 29 June 2017. This period was extended further, and its provisions applied retrospectively, by the 2018 Act, and extended again by the 2019 Act. While, with each extension, and with each failed round of talks, the spectre of a return to direct rule began to be amplified by the UK Government, for the reasons outlined in the following section this never became a meaningful threat.²³

The end of indirect rule

Indirect rule finally came to an end on 11 January 2020 when, at specially convened sitting of the Northern Ireland Assembly, the five principal political parties all took the seats they were entitled to on the Executive. The reformed Executive followed shortly after a UK General Election at which both the DUP and Sinn Fein had suffered significant declines in their share of the vote, in large part, it has been argued, as a result of their failure to restore power sharing.²⁴

²¹ See: J. Sargeant and J. Rutter, *Governing without ministers: Northern Ireland since the fall of the power-sharing executive* (London: Institute for Government, 2019), p.31

²² Power-sharing talks collapse at Stormont, BBC News (14 February 2018), <https://www.bbc.co.uk/news/uk-northern-ireland-politics-43064009> [accessed 31 August 2020]

²³ See, for example: S. Swinford, PM raises threat of direct rule for North, *The Irish Independent* (14 March 2019), <https://www.independent.ie/irish-news/pm-raises-threat-of-direct-rule-for-north-37912071.html> [accessed 14 August 2020]

²⁴ J. Tonge, *General Election 2019: Northern Ireland* (2020), *Political Insight*, 11:1, pp.13-15

The end of this experiment in governance raises a number of questions, including why wasn't direct rule opted for instead; why was indirect rule so constitutionally problematic; and whether the UK Government could have done more to make indirect rule, in the absence of devolution or direct rule, more democratically acceptable.

Why not direct rule?

How was indirect rule, an arrangement (or rather a series of arrangements) that left the governance of Northern Ireland in the hands of the civil service, rather than directly elected politicians, able to survive for as long as it did? In essence it survived thanks to the profound aversion from Whitehall to reinstitute the previous alternative to devolution in Northern Ireland: direct rule.

The reluctance to consider direct rule was evident as soon as the Executive collapsed. Speaking in the House of Commons on 17 January 2017, the then Secretary of State told MPs that he was “not contemplating any outcome other than the re-establishment of strong and stable devolved government” in Northern Ireland.²⁵ The refusal to consider direct rule seriously can be said to have resulted from a fear that once imposed it would be difficult to escape, a hope that a political vacuum could add useful leverage for the UK Government in successfully negotiating a return to power sharing and a reflection of the changed, and charged, political landscape that had materialised as a result of both the 2016 EU referendum and the supply and confidence arrangement between the Conservative Party and the DUP in Westminster following the 2017 UK General Election.²⁶

The latter arrangement raised serious questions about how it corresponded to the UK Government's commitment, under the Good Friday Agreement, to “rigorous impartiality” in its dealings with Northern Ireland and the political process in the province.²⁷ A UK Government, dependent on DUP support for its continued survival, opting for direct rule would have had potentially major consequences for the political process in Northern Ireland at any time, let alone in the context of Brexit. Linked to these factors and an additional factor ruling out direct rule

²⁵ HC Deb 17 January 2019, c.776

²⁶ J. Sargeant and J. Rutter, *Governing without ministers*, pp.28-29; D. Heenan and D. Birrell, Between Devolution and Direct Rule: Implications of a Political Vacuum in Northern Ireland? (2018), *Political Quarterly*, 89:2, pp.306-312

²⁷ J. Tonge, Supplying Confidence or Trouble? The Deal Between the Democratic Unionist Party and the Conservative Party (2017), *Political Quarterly*, 88:3, p.414

was the strong opposition from the then Taoiseach of the Republic of Ireland, Leo Varadkar who warned that its' imposition would be a breach of the Good Friday Agreement.²⁸

Why was indirect rule so constitutionally problematic?

By leaving the NICS responsible for the day to day governance of Northern Ireland without clear and unambiguous ministerial oversight and direction or formal arrangements for parliamentary accountability, indirect rule placed civil servants in an intolerable position, that cut against the notion of responsible government.

The constitutionally problematic nature of indirect rule featured in the Supreme Court's judgement in the NIHRC case which focussed on whether Northern Ireland's abortion laws contravened the European Convention of Human Rights (ECHR). While the claimants case did not succeed, a majority of judges expressed their belief that the existing laws were not compliant with at least one (Article 8) Convention right. In terms of potential remedies, much attention was paid to a 2016 vote in the Assembly which had seen pro-abortion amendments fail, but resulted in working group established to examine the issue and which had failed to conclude its work before the Executive had collapsed in January 2017. One of the questions therefore facing the Court, Lord Mance noted in his judgement, was whether "the Northern Ireland Assembly should be given the opportunity of completing its unfinished work of examination of the present law". The obvious difficulty, as he highlighted, with such a wait and see approach, was that "there is no assurance as to when or even that the Northern Ireland Assembly will resume its activity or address [this issue]".²⁹

Direct rule, for all its deficiencies, was at least a system with clear lines of ministerial responsibility and parliamentary accountability. In contrast, the 'muddling along' nature of indirect rule had resulted in arrangements which, as the Northern Ireland Court of Appeals put it in the JR80 case, did "not provide good governance for Northern Ireland, they are not democratic and have led to government by civil servants with only an attenuated degree of accountability".³⁰ With no Assembly in place, scrutiny was left to Westminster and such scrutiny as there was in the UK Parliament either reflected the ad-hoc and limited level of ministerial

²⁸ S. McBride, Brexit talks: Irish PM Leo Varadkar opposes direct rule in Northern Ireland, i news (7 August 2019), <https://inews.co.uk/news/brexit/brexit-talks-leo-varadkar-oppose-direct-rule-northern-ireland-321993> [accessed 31 August 2020]

²⁹ [2018] NIHRC 27, para. 117

³⁰ [2019] NICA 58, para. 109

engagement (e.g. the legislative scrutiny of the various measures that facilitated indirect rule) or was limited to inquiries by the Northern Ireland Affairs Select Committee. The scope for scrutiny at Westminster was further reduced by the fast tracking of each of the major pieces of legislation needed for indirect rule to continue to function. The most scrutiny that any of these pieces of legislation secured was the Northern Ireland (Executive Formation and Exercise of Functions) Act 2019 which after being fast tracked through the Commons in one day, took three sitting days to proceed through the Lords and was then subject to a round of ‘ping pong’ between both chambers.

Could indirect rule have been made more democratically acceptable?

With direct rule off the table and talks on restoring devolution deadlocked, there remains the question of whether the UK Government could have sought a way of making indirect rule more democratically acceptable? Should the Assembly, for example, have been recalled in shadow form so as to scrutinise the work of the NICS, as suggested by Arlene Foster, the Leader of the DUP at her Party’s Spring Conference in 2018. While the then Secretary of State for Northern Ireland indicated that she would consider any proposal for a Shadow Assembly, if supported by the parties at Stormont, the proposal was rejected by Sinn Fein who described it as a “retreat from devolution” and “lacking credibility” and the SDLP.³¹ The clear opposition from both the main nationalist parties in Stormont and little sign of any enthusiasm from the Alliance or other parties in Northern Ireland, meant that any moves to establish a shadow Assembly would have been a futile exercise for the UK Government.

Conclusion

The restoration of devolution ended a three year experiment in indirect rule, a deeply unsatisfactory experiment, sustained only by the unpalatable nature of the alternative: the imposition of full direct rule. While, as a result of the 2019 General Election, the UK Government is no longer reliant on the DUP’s parliamentary backing for its survival in office, and the reverberations of the EU referendum have, for the time being, been moderated by the

³¹ J. Manley, DUP the only party to back mooted ‘shadow’ assembly, *The Irish News* (14 March 2018), <https://www.irishnews.com/news/politicalnews/2018/03/14/news/mooted-shadow-assembly-proves-popular-with-unionists-only-1277897/> [accessed 30 September 2020]; Bradley would consider proposals for shadow assembly, *BBC News* (13 April 2018), <https://www.bbc.co.uk/news/uk-northern-ireland-politics-43759565> [accessed 30 September 2020]

Withdrawal Agreement (including Northern Ireland protocol) reached between the UK and EU-27, it remains to be seen whether direct rule would be more acceptable in the event that power sharing collapses again in the near future. In such circumstances, this experiment may prove more than a footnote in Northern Ireland's constitutional development.