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Northern Ireland and the St. Andrews Agreement.

Addressing Devolution's Democratic Deficit.

Madison Group

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INTRODUCTION

“It is a misfortune, inseparable from human affairs, that public measures are rarely investigated with that spirit of moderation which is essential to a just estimate of their real tendency to advance, or obstruct, the public good”.

James Madison. Federalist Paper No. 37. (1788)

The Federalist papers, first published in American newspapers between October 1778 and May 1788, were seminal works on the theory of democratic governance. The essays successfully advocated for the ratification of the new U.S. constitution by offering a clear outline of the new form of government, and expounding the benefits of its adoption over that system existing under the Articles of Confederation.

The Federalist’s confidence in the constitution they supported came, in part, from the knowledge that it could be refined through time. The concluding essay’s argument, for instance, draws attention to the provisions inbuilt within the system allowing for future amendments. The proposed system of national government was likely to be imperfect, but argued that if any state is to be effectively ruled then;

“The judgments of many must unite in the work; EXPERIENCE must guide their labor; TIME must bring it to perfection, and the FEELING of inconveniences must correct the mistakes which they inevitably fall into in their first trials and experiments.”

David Hume. Quoted in Federalist Paper No. 85 (1788)

The democratic system envisaged by the federalists, therefore, was one continually reshaped by the people. Northern Ireland is currently undergoing its own experiment in democracy. The Good Friday Agreement, the founding document of the devolved government, has been ratified by the people and St. Andrews Agreement has resolved remaining issues. These agreements have fulfilled their purpose well, but they cannot be seen as final amendments. Progress towards a more perfect democracy requires the critical examination and development of the democratic system. Following the example of the Federalist papers, therefore, this paper outlines a number of proposals which would make Northern Ireland’s devolved government more fair and effective.



Reforms are proposed in the following areas of Northern Irish Governance:

1. **Opposition in the Northern Ireland Assembly.**
2. **A Programme for Government for Northern Ireland.**
3. **The Role of Private Members' Bills and Committees.**
4. **Government Departments.**

Each is discussed separately below.

1. OPPOSITION IN THE NORTHERN IRELAND ASSEMBLY.

Introduction

The idea that Stormont needs an official opposition is not new. Currently only five out of 108 Assembly members belong to parties outside the Executive. This system therefore lacks the scrutiny and accountability necessary for good governance that an opposition would provide. Under the current coalition model parties cannot perform the effective scrutinising role necessary to procure accountability of the Government from within the Executive.

“A good government implies two things: first, fidelity to the object of government, which is the happiness of the people; secondly, a knowledge of the means by which that object can be best a case for opposition parties to receive special funding, so they are equipped to effectively challenge obtained.”

James Madison. Federalist Paper No. 62. (1788)

The introduction of an official Opposition would create a more democratic system of government in Northern Ireland. An enhanced role for an opposition would also be consistent with power-sharing, inclusiveness and would adhere to the current cross community ethos. Suggested reform would take a format styled under the Westminster model whereby non-Executive representatives or parties would appoint shadow ministers to form an ‘Official Opposition’. Special funding would be made available to shadow ministers to help them scrutinise the Government, given that the Government has the resources of the Civil Service at their disposal. Bolstering the power of an opposition would give the Assembly an important cross community power to check and balance the actions of the parties in Government. In 2008 the then Taoiseach, Bertie Ahern stated, “there will come a time when people say ‘you need an opposition, you need us and them’”. (Montgomerie, T. (2011) *“The massive Northern Ireland state needs an effective and resourced Opposition”*)

The introduction and recognition of an official opposition gives the electorate an opportunity that at present is denied to them. It would empower them to vote a person or a party out of government.



Giving the electorate this power could achieve a healthier pattern of voting in Northern Ireland and encourage the electorate to vote for policy rather along partisan lines. By introducing an opposition, the public would have a better opportunity to decide what is right and wrong for the future of Northern Ireland.

Challenges

“Change is the law of life. And those who look only to the past or present are certain to miss the future”

John F. Kennedy

Sinn Fein has raised the point that voluntary coalitions could exclude nationalists from government, thereby diluting the checks and balances established by the Good Friday Agreement. We have been cognisant of this when preparing this document and we feel that the introduction of an official Opposition adheres to the needs of both sides of the community. The need for progress has been highlighted in the words of former leader of the SDLP Mark Durkan who has spoken about the need to remove ‘ugly scaffolding’ which prevents Stormont working properly. First Minister Peter Robinson has also stated; “it is impossible to imagine a system where key decisions are taken without cross-community support”.

The introduction of a cross community coalition would remove fears from both the Unionist and Nationalist communities that they could be excluded from government. This would be an interim step leading towards a voluntary coalition. It maintains a solid cross community ethos, which is vital to the Northern Ireland Assembly. For an example of how the new system would work in practice, take the recent 2011 election results. The two largest parties were Sinn Fein and the DUP. They would form a coalition and enter into an Executive with the remaining parties forming the Official Opposition. Critics may claim that Northern Ireland is not ready for this step forward but currently the DUP and Sinn Fein appear to have established a way of peaceful co-operation. The beauty of an Official Opposition is that the Executive can be monitored and scrutinized in a more accountable, cohesive and transparent manner. If the electorate do not approve or are not happy with the way they are governing Northern Ireland, they will have the power of the ballot to reflect this.

The D’Hondt system, for the purposes of assigning ministerial portfolios has served as a useful safeguard to the cross-community ethos of the Northern Ireland Assembly in the past. The issue is that an all-party coalition is not pragmatic as a system of governance long-term. If Northern Ireland is to continue moving forward, become more democratic, more efficient and more accountable to



the people, we fundamentally advocate that the creation of an official opposition is the way to achieve this.

2. PROGRAMME FOR GOVERNMENT FOR NORTHERN IRELAND.

Introduction

In the recent elections it was encouraging to witness the discussion around political reform to the institutions set up by the Belfast Agreement and especially around the reform of the way in which the Programme for Government is created. The low electoral turnout at the elections in May highlights the real danger behind not pushing forward with a proactive agenda on political reform. With each election the general feeling seems to be one of apathy and a need for positive and constructive reform.

Present Position

At present, the Programme for Government is agreed after the appointment of ministers. This is partly because the St. Andrews Agreement does not stipulate how a Programme for Government should be constructed or how it should be carried out. In fact, the only reference to a Programme for Government is contained under Strand 1 3(5) of the St. Andrews Agreement which states that;

“In relation to ministerial accountability “agreement each year on (and review as necessary of) a programme incorporating an agreed budget linked to policies and programmes) Programme for Government”

Interestingly, Section 20 of the Belfast Agreement states that;

“The executive committee will seek to agree each year, and review as necessary, a programme incorporating an agreed budget linked to policies and programmes, subject to the approval by the Assembly, after scrutiny in Assembly Committees, on a cross-community basis” (emphasis added).

In the recent Assembly, the UUP and the SDLP opposed and abstained to vote on the 2011 budget respectively. This shows clearly the inconsistency and incoherency within the Executive, which affects both the Executive and the Assembly’s ability to perform their representative functions. This incident also highlights the need to rectify the current ambiguity in relation to the proper annual procedures for budgetary authorization.



Changes Recommended

Two encouraging examples of creating and agreeing a Programme for Government are the British and Irish governments. Respectively, the Conservative Party and Liberal Democrat Party in Britain, and Fine Gael and the Labour Party in the Republic of Ireland, were able to agree on a joint Programme before entering into Government. These models underline how this process works and brings stable and productive governments who can agree on shared agendas while still having the space to disagree on others.

We need effective government with ministers delivering on a commonly agreed agenda that is good for Northern Ireland. An agreed Programme for Government would help change the mind-set of the “us-them” mentality that is currently prevalent in our politics and distracts from the focus on building and promoting a post-conflict Northern Ireland. A Programme for Government would introduce an overarching document which can link up thinking within the government making the Executive more effective and efficient.

The logistics for forming a Programme for Government should take place from between the election results and the new Executive being formed. The parties that make up the new Executive would meet and agree it. Key advisers from the political parties, along with senior Departmental Civil Servants, could meet and discuss the key points of agreement and common interest in the individual manifestos. A document would be drawn up, listing the areas and policies of agreement.

The pros and cons of this proposal are identified below.

Pros	Cons
Delivers a much more efficient government and will push forward a more pro-active agenda by providing constructs and providing the government with a consensual basis from which to operate from.	How can a programme for government be devised when there is no finance minister appointed? Though this could be overcome by an “agreed non-fiscal agenda”
A touchstone for the electorate to refer to.	The non-fiscal agenda should be given proper weight and should be a blueprint for the Finance minister to work from. This accountability will be enhanced by an opposition.



3. ROLE OF PRIVATE MEMBERS' BILLS AND COMMITTEES

Private Members' Bills - Introduction

Currently the Northern Ireland Assembly has the legislative capability to create Public Bills under the Northern Ireland Act 1998. Despite this, there is a dearth of Private Members' Bills reaching the Assent stage. In fact, only two Private Members' Bills have been passed since the Good Friday Agreement was reached in 1998; the Caravan Bill of 2011 and the Autism Bill of 2011.

Two Private Members' Bills in eleven years demonstrates the problem within the Assembly as a whole. The Assembly itself cannot perform its proper legislative functions with regard to Private Members' Bills because of block-voting along party lines engineered by a bloated Executive. The Executive is responsible for ensuring that Members of the Legislative Assembly continue to toe the party line with regard to the in-party whip system and it monopolizes plenary sessions through the Business Committee. Legislative change is clearly needed to address the obvious democratic deficit that these anomalies create for centrists, issue-specific Independent candidates and the people whom they represent.

Changes Recommended

Currently, we would advocate an interim increase of one day per week in plenary sessions with a desire to raise this to include an additional two days more than the current calendar allows once the Assembly has fully addressed the issue of dual-mandates between the Stormont Parliament and Westminster. This extra day should be used specifically for the purpose of discussing and debating Private Members' Bills and Committee findings separate of the Executive agenda while still enabling those concerned to attend Westminster sessions. This will enhance democracy by making the apportionment of topics available for debates and issues within the Assembly reflect better the range of people that the electorate has recognised as their representatives.

The number of signatories required to pass a successful Petition of Concern should be increased from 30 out of 108 to a set figure of 40%. With this change, parties would still have to collude in a cross-community capacity to support or defeat the proposed bill, but no one party would be able to block it entirely without debate. Reform in this way can only encourage members to initiate Private Members' Bills on behalf of their constituents.



Challenges

It might be suggested that increasing the number of working days at the Assembly the quality of Members constituency work would deteriorate. However this need not be the case. On the contrary, it could provide a vehicle for increased community representation by establishing a proper platform for their political representatives to fulfill their roles as legislators. Moreover, party independent Members will be empowered and better equipped to act on the issues for which they given a democratic mandate without a party platform.

It might be argued that increasing the Petition for Concern threshold would have the effect of opening the floodgates to Committees and the floor in the Assembly to an enormous number of Private Members' Bills. This could be easily prevented however by the use of an annual cap on Private Members' Bills and the possible implementation of the lottery system used at Westminster.

Committees – Introduction

Committees form an integral part of any effective government. They are tasked with providing Ministers and Members with vital support and recommendations on policy direction, legislative proposals and other issues of concern. Our Committees are an asset to the Assembly and to the people of Northern Ireland and must be accredited as such. At present, however, no clear link can be identified between Committee recommendations and their implementation in law. These Committees should be listened to and their recommendations implemented.

Proposals to cut funding to these facilities undermines the importance of their role and expert contribution. Committee funding is completely justifiable. Misuse of Committee expertise is not.

Changes Recommended

A firm stance must be taken in opposition to any proposed cuts to funding to committees that would limit resources and impede upon their ability to support the government effectively. Committees should report findings directly to the Assembly as opposed to the Executive, except on matters relating to a member's conduct or private affairs. This can take place in the additional plenary session proposed above and would provide three-fold accountability: the Committees will become more accountable to the Government; the Government will become more accountable to the Committees; and both the Committees and the Government will become more accountable to the citizens.



4. REFORM OF GOVERNMENT DEPARTMENTS AND SEMI-STATE AGENCIES

Introduction

Government Departments in Northern Ireland were established partly to accommodate the D'Hondt system with a primary goal being that all parties were represented. As a result, Northern Ireland currently has a bloated, inefficient and oversized Executive and Civil Service, which could be streamlined dramatically in order to save money and in order to speed up the decisions of the Executive and the implementation of Assembly legislation.

Government Departments

Why are there 12 Government Departments in Northern Ireland? Such a surplus of Departments means there is duplication of work across government without necessarily creating a collaborative form of governing. Reducing the number of government departments would:

- Achieve cost savings for the tax payer by improving economies of scale;
- Allow for streamlined decision-making;
- Encourage long term strategic decision-making – moving away from the duplication of the past with fragmented policy-making. A recent example is the recent confusion over which Minister was responsible for road gritting; and
- Complement the decentralization of power.

Changes Recommended

The Executive should therefore be reduced from 12 Government Departments to 8, with ministerial portfolios broadened to accommodate this change. This will end the current culture of government departments acting on the same issues in an un-co-ordinated fashion. It is also notable that two parties in the 2011 Assembly elections (the DUP and the Alliance Party) proposed a similar reduction from 12 government departments to 8. (Northern Ireland Assembly. Research and Information Service Briefing Note. *“Reducing the Number of Departments: Possible Savings”*. 27 May 2011).

Examples could include the merger of the Department of Finance and the Department of Economic Development given the obvious portfolio overlap. Another option might be the merging of the Department of the Environment with the Department for Regional Development, which once both fell under the Department of the Environment banner.



Challenges

This proposed refinement is not without its drawbacks and it is acknowledged that in the short term it would result in a reduction in workforce. It is also the case that the availability of fewer ministerial posts may lead to tensions within the Executive. However, in the long term, the net benefits will outweigh these disadvantages because it would create a more effective and efficient government policy which ultimately benefits all citizens.

CONCLUSION

The Good Friday and St. Andrews Agreements led to the creation of a stable, devolved government in Northern Ireland. It must be acknowledged how far Northern Ireland has come in the last decade and the great changes we have already seen but this cannot stop the need for more reform. We, the next generation, have the responsibility to not only maintain democracy but to ensure its progression.

