

# One country? No: Northern Ireland has always been treated differently



*The DUP's struggle to prevent special status for Northern Ireland has shaped Brexit negotiations for months, writes **Duncan Morrow (Ulster University)**. At the heart of the DUP's position is a single, apparently obvious demand: 'We joined as one country and we will leave as one country'. On the surface, the logic seems impeccable: different treatment within the UK as a result of Brexit is both novel and dangerous for British sovereignty in Northern Ireland. Except that it has no basis in precedent.*

Since the foundation of Northern Ireland in 1920, British sovereignty has been characterised less by institutional or political uniformity than by endless adaptation to manage Northern Ireland's unique challenges. While membership of the European Institutions was a decision taken for the whole UK, the administration and implementation of this, as so many other things, has repeatedly been qualified by special circumstances. Anyone wanting to be historically consistent would have to say that: 'We joined as one state making special arrangements for Northern Ireland, and we shall leave doing much the same.'

At its most immediate, the UK's accession to the European Economic Community in 1973 took place in the context of the UK's most serious civil war – probably ever – which the governments of two countries were determined to contain within six counties. Certainly, nobody questioned Northern Ireland's distinctiveness. Only months earlier, the Northern Ireland Parliament, a unique devolved institution in the UK, was abolished in an atmosphere of panic and crisis, and replaced by an improvised form of 'Direct Rule' from Westminster via the Northern Ireland (Temporary Provisions) Act. Nothing in this 'specialness' formally breached the condition of sovereignty: but both the way it was imposed (in the face of vigorous opposition of Northern Ireland's Unionist parliament) and the determination to keep Northern Ireland special in the aftermath were without any parallel in Great Britain.



British soldiers manning a barrier at Conway Street, Belfast, 1970. Photo: [Kaspar C](#) via a [CC-BY-NC-A 2.0 licence](#)

The 1972 Act made clear that the intention of the British government was to immediately negotiate new special arrangements for Northern Ireland. This they duly attempted at Sunningdale in the autumn of 1973 in an unusual partnership with the government of the Irish Republic. Although the Sunningdale system collapsed within months, the 'special' nature of Northern Ireland was built into every important aspect, including internal power-sharing, proportional representation and a reinvigorated commitment to a cross-border 'Council of Ireland'. But in a deeper sense, almost nobody questioned the need to sustain the presumed pattern of 'normal abnormality' which was central to Northern Ireland.

It is true that the Unionists threatened armed insurrection against constitutional separation in the early 20th century, although that too arguably only underlined specific challenges. But when the UK government introduced the Government of Ireland Act in 1920, with its subdivision of Home Rule into Northern and Southern Ireland, Unionists accepted the revised offer, however reluctantly. Once established, Westminster retained direct authority over only trade, foreign affairs, defence, major taxation and customs and excise.

But internally, Northern Ireland never escaped the deep divisions of its birth and the unique security crisis which now drove its identity. Significantly, law and order was devolved. Faced with an endemic 'crisis of legitimacy', the Unionist government introduced the Civil Authorities (Special Powers) Act in 1922, aka Homeland Security, enabling an armed Royal Ulster Constabulary to "take all such steps and issue all such orders as may be necessary for preserving the peace and maintaining order" including censorship, curfew and internment without trial. Initially intended as a one-year emergency measure, the Act, and the polarisation into unionist and nationalist identity politics that it now regulated, became the defining feature of Northern Ireland until the 1970s.

The question was not 'if' Northern Ireland was different, but 'what to do about it?' During the second world war, Northern Ireland's divisions forced the British government to conclude that introducing conscription was "more trouble than it was worth", although the threat to the future of the UK was clearly existential. Democratic basics like voting regulations were allowed to diverge. Proportional representation introduced with devolution was abolished in 1929 and reintroduced in 1973 for everything – except Westminster. Political inheritances which distorted the franchise, such as the business and University votes in Stormont elections were retained in Northern Ireland until 1968. Even more contentiously, voting in local government elections was based on the 'ratepayer franchise' where only owners and renting tenants of a house and their spouses were eligible, fuelling the demand for civil rights reform in the 1960s.

Despite Direct Rule, the crisis of the 1970s and 1980s only further isolated Northern Ireland within the UK. The Prevention of Terrorism Act – introduced in the wake of the Birmingham pub bombings in 1974 and revised and annually renewed until 2000 – specifically proscribed Northern Irish terrorist groups, enabled special powers of search and arrest in Northern Ireland and introduced exclusion orders restricting travel between Great Britain and Northern Ireland on security grounds. Even more radically, the Anglo-Irish Agreement in 1985 established special meetings and special measures and introduced a unique "Intergovernmental conference" including a cross-border Secretariat, under which the UK government accepted that the Irish government would proactively "put forward views and proposals on matters relating to Northern Ireland."

In 1994, the EU introduced the first of four 'PEACE' programmes which channelled billions of euros into inter-community, inter-cultural and cross-border reconstruction and reconciliation. In 1998, and the Good Friday Agreement, the unique nature of Northern Ireland became a fundamental building block of political stability. Not only was the Agreement an international peace treaty, many of whose core provisions only applied in Northern Ireland but, almost unnoticed, it made significant changes to the UK constitution. In this one part of the UK, globally unique agreements of mutual recognition for both British and Irish citizenship were to apply.

Even more radically, the UK set aside or qualified parliamentary sovereignty in Ireland by declaring that it was "for the people of the island of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South" to determine their constitutional future and specifically acknowledged the "Irish government's special interest in Northern Ireland." Above all, the special nature of Ireland's relationship to Northern Ireland within the UK was acknowledged in word, in culture and in North-South institutions 'joined at the hip' with the Northern Ireland Assembly.

Under these arrangements, Northern Ireland's particularity was a constant. The DUP above all championed the demand for independent corporation tax powers and used the unique veto provisions of the Agreement to assert the specific the right for Northern Ireland to retain a distinctive conservative social policy. The Assembly collapsed twice on the question of the extension of welfare reform – specifically the bedroom tax- to Northern Ireland. No other part of the UK required Prime Ministers to fly in to mediate, armed its police service or collapsed over every emergent cultural dispute.

But little to date has underlined the distinctiveness of Northern Ireland than its treatment since the Brexit referendum. As Brexit has gradually dissolved the international basis of the Agreement, so the combination of toxic sectarianism and the exposure of systemic malfunction in the post-St Andrews devolution arrangements has destroyed the viability of devolution. The consequence has been the absence of any formal government in Northern Ireland for almost 650 days. But instead of action, the British government has exercised sovereignty by inactivity on a truly historic, and undoubtedly 'special', scale. Like a child suspended from school but never expelled, Northern Ireland has in effect been left to 'roam the streets', presumably in the hope that something in this state of affairs would motivate local elected representatives to take responsibility.

This state of affairs – utterly impossible to imagine elsewhere in the United Kingdom – has continued almost without comment. Meanwhile, it has resulted in the absence of any consensus voice on Northern Ireland affairs and the domination by the DUP of the government's majority in Westminster.

Special needs require special measures, and nothing in Northern Ireland's history suggests differently. Worse, pretending that the circumstances of Northern Ireland do not require creativity and innovation flies in the face of experience. Fairly or not, the real question confronting the United Kingdom in Brexit is not whether Northern Ireland can be treated as the same as Great Britain, but whether Great Britain wants to be treated the same as Northern Ireland? Will only Northern Ireland stay in the Customs Union, or will the whole country? Trying to impose internal British consistency may look logical, and for ideological reasons the attempt may be made. But it flies in the face of historical precedent – and it is fraught with old dangers which special treatment has always sought to manage.

*This post represents the views of the author and not those of the Brexit blog, nor the LSE.*

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