

Is there a Case for an ‘Official Opposition’ at the Assembly?

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The consociational approach to government in Northern Ireland has been fiercely debated since the establishment of the Belfast Agreement in 1998. One of the most contested aspects of power-sharing has been the lack of an official opposition in the Northern Ireland Assembly. Critics of the current system argue that the lack of opposition is undemocratic and inefficient. Advocates of power-sharing, on the other hand, argue that the benefits of consociationalism outweigh its limitations and that the current structures do provide scrutiny and accountability. This article argues that it is possible and advisable both to have an official opposition within power-sharing and to maintain the benefits of consociationalism while providing more effective governance.

Introduction

The current consociational approach to government in Northern Ireland has been fiercely debated since the establishment of the Belfast Agreement in 1998. Consociationalism is a form of government used to manage conflict in societies which are divided along ethnic, religious, or linguistic lines. It aims to allow different or opposing communities to coexist within the same state harmoniously. Consociational democracy

traditionally utilises structures such as: a grand coalition of the political leaders of all segments of society and, the mutual veto rule. The objective of the mutual veto rule is to protect the interests of minorities and ensure proportionality in: political representation, civil service appointments, and, the allocation of public funds. It also aims to provide autonomy for each different segment to run its own internal affairs (Lijphart 1977: 25). The power-sharing institutions established to enact the Belfast Agreement, the development of which was heavily influenced by consociational theory, have been criticised for a variety of reasons. One of the most contested aspects of the application of consociationalism to Northern Ireland has been the lack of an official opposition in the Northern Ireland Assembly. Critics of the current system argue that the lack of opposition is undemocratic and inefficient. Advocates of power-sharing, on the other hand, argue that the benefits of consociationalism outweigh its limitations and that the current structures do provide scrutiny and accountability. This article will argue that the Northern Ireland government can have it all: that it is possible to have an official opposition within the existing power-sharing system and to maintain the benefits of consociationalism while providing more effective governance.

The disadvantages of Consociationalism

As stated above, the current consociational institutions have been criticised as democratically weak. Allen Potter (1966: 8, 13-16) argues that opposition is a central tenet of parliamentary democracy. According to Potter, opposition is essential to hold government accountable to the will of the people. Thus, the current lack of an opposition has compromised the principle of democratic accountability. McGarry and O'Leary (2009: 77) point out that consociationalism has been criticised because few Members of the Legislative Assembly (MLAs) belong to parties outside the Executive, and therefore there are few to provide even an unofficial opposition. Wilford and Wilson (2001: 6) add that effective challenges to government policy are rare because only minor parties provide oppo-

sition. According to former Ulster Unionist Party (UUP) member Alex Kane, committees provide the only institutional opposition, and these need more specific powers in order to be effective (Quoted in Wilford and Wilson 2001: 71). Wilford and Wilson (2001: 64) further argue that opposition in the current institutions is insufficient because party loyalty among MLAs transcends committee loyalty, which means that MLAs do not require a sufficient level of accountability from their ministers.

Critics further accuse consociationalism of limiting the freedom of voters to choose and change their government because of the policy of mandatory coalition, which, according to popular perception, ensures that the same four or five parties will remain in government for the foreseeable future (Wilford and Wilson 2001: 66-67). The current system in Northern Ireland does not contain any opposition to provide an alternative government or to hold current governments to account. This means that the electorate has little choice when they come to cast their ballots (Wilford and Wilson 2001: 66-67; McGarry and O'Leary 2009: 77). The security of a party's government status allows them to neglect government business with little fear of electoral consequences, which in turn creates the potential for political gridlock and failure to take decisions in contentious issues.

Proponents of power-sharing point out that the current institutions have provided a more equal government and have helped resolve the conflict in Northern Ireland; and they fear that altering these institutions would reverse these accomplishments. Both critics and advocates of power-sharing have commonly assumed that an official opposition is incompatible with a consociational form of government. Donald Horowitz (2002: 194), a staunch critic of consociationalism, claims that it 'aims at an inclusive multi-ethnic regime by dispensing with the idea of government on one side and opposition on the other.' Sinn Féin's Alex Maskey, on the other hand (Northern Ireland, 2011: 113), argues that 'the essence

of the institutions is that they are shared institutions', and the existing checks and balances ensure that no one party or community can dominate the government. Adding an opposition, he argued, would compromise these purposes. The more moderate Social Democratic and Labour Party (SDLP) take a more ambivalent stance on the introduction of an official opposition: for instance, MLA Alban Maguinness (Northern Ireland 2011: 119) responded to a call for the institution of an official opposition by stating:

I take on board what the Member is saying about delivering for the people of Northern Ireland, but the greatest thing that we can deliver for the people of Northern Ireland is partnership government and reconciliation. Anything that is done to undermine or tamper with the present institutions could risk that.

Thus, these scholars and political analysts tend to take polarised positions, some opposing consociationalism and advocating the establishment of an official opposition and others promoting the current consociational system without opposition.

However, it appears that the political parties in Northern Ireland are beginning to take a more nuanced view that power-sharing and an official opposition can potentially be reconciled. It is worth noting that former SDLP minister Brid Rodgers has called for her party to leave the Executive and form an opposition, pushing ultimately for the establishment of an official opposition (Walker 2013). Furthermore, in the party's response to the NIO's recent consultation to address possible improvements to the operation of the NIA, the SDLP expressed cautious support for the establishment of the option of an opposition provided that rigorous measures are taken to ensure the continued efficacy of the inclusiveness of Northern Ireland's political structures (Social Democratic and

Labour Party 2012: 7). The Alliance Party argue that the establishment of an official opposition could promote greater political maturity while maintaining inclusion, and the UUP advocate the establishment of an official opposition within the principle of cross-community government (Alliance Party of Northern Ireland 2012: 4-5; Ulster Unionist Party 2012: 2)

This article builds on these notions and argues that an official opposition can be compatible with the consociational system established by the Belfast Agreement. As McGarry and O'Leary (2009: 79) and O'Leary (2001: 53) point out, parties are not required to take their allotted Executive portfolios; on the contrary, they are free to go into opposition which suggests that even the architects of the Belfast Agreement did not consider opposition damaging to power-sharing structures. Moreover, despite critics' claims to the contrary, consociationalism does not require a 'grand coalition' (McGarry and O'Leary 2009: 80; O'Leary 2005: 12-13). As Arend Lijphart (1977: 31) observes:

The grand coalition cabinet is the prototypical consociational device, but a variety of other forms can serve the same function. The essential characteristic of the grand coalition is not so much any particular institutional arrangement as the participation by the leaders of all significant segments in governing a plural society.

O'Leary (2005: 12-13) details three different executive formations which are acceptably within the bounds of consociationalism: complete, concurrent, and weak. 'Complete' consociation denotes the classic grand coalition; a 'concurrent' consociation includes in the executive parties holding majority but not complete support within their respective communities; and, 'weak' consociation comprises a system in which at least one party in government commands plurality support within its com-

munity. Assembly members who support an official opposition assert that any possible form of opposition would occur within the framework of a power-sharing administration and would sit in opposition to a cross-community coalition government (Northern Ireland 2011: 119; Ulster Unionist Party 2012). The establishment of an official opposition could stipulate that both government and opposition must operate on the basis of cross-community coalition. For example, the UUP and the SDLP could form a coalition opposition and leave the DUP, Sinn Féin, and the Alliance Party in government. This would create a ‘concurrent’ or ‘weak’ consociation with one unionist, one nationalist, and one ‘other’-designated party in government; and, one unionist and one nationalist party in opposition. Following this line of reasoning, the current political institutions at Stormont could be adapted to accommodate an official opposition whilst maintaining a consociational approach to government and a power-sharing executive.

The potential benefits of an Official Opposition at the Assembly

The issue of establishing an official opposition within the power-sharing system has reached the forefront of political debate in the government of Northern Ireland. In February 2013 the Northern Ireland Office published draft legislation for a bill on measures to improve the operation of the NIA which also examined the potential for establishment of an official opposition. This bill noted that the lack of formal opposition hindered the effectiveness and accountability of the Northern Ireland Assembly and Executive but asserted that changes to government structures would require the agreement of the parties in the Assembly and that there was not sufficient consensus for statutory change to make provisions on the issue (Northern Ireland Office, 2013: 9-10). The NIA’s Assembly and Executive Review Committee has subsequently set up an inquiry to review the provisions for an opposition, the results of which are to be published in June 2013. According to the Committee’s website the review is examining whether provisions for an official opposition

would make the Assembly and Executive more accountable and effective while preserving the inclusiveness of power-sharing (Northern Ireland Assembly and Executive Review Committee, 2013).

The establishment of an official opposition could potentially benefit the Northern Ireland government in numerous ways. Institutionalising an official opposition could provide more democratic political structures by providing greater scrutiny and accountability over the government. In an Assembly debate, Tom Elliott called for an official opposition by 2015 “to create greater delivery, flexibility, and scrutiny” (Northern Ireland 2011: 111). In the absence of an official opposition, statutory committees take on the role of scrutinising the government. However, as Wilford (2008: 75) argues, committees must balance an extensive workload which hinders their ability to provide effective accountability. Committees are expected to advise and assist departments in formulating policy, and they also have the power to initiate legislation. Reluctance to delegate to sub-committees causes committees to bear the full burden of these responsibilities which decreases the time and effort spent scrutinising government departments. Furthermore, the dense, complex connections between departments and their statutory committees further decrease the efficiency of committee scrutiny. Finally, the current tendency of MLAs to adhere to party loyalty over committee loyalty means that committee members tend to pursue the party line rather than hold the minister accountable to enacting the most effective policy (Wilford and Wilson 2001: 64). As O’Flynn (2003: 146) asserts, the current system ensures that opposition can only come from within the executive, and the consequent lack of effective scrutiny allows political elites to advance party or bloc interests which entrenches divisions rather than pursuing the common good. All of these circumstances hinder the ability of statutory committees to provide effective opposition and justify the establishment of an official opposition to fulfill this role more effectively.

The establishment of an official opposition with certain privileges and resources could also provide more effective means of holding the government to account. Allen Potter (1966: 14) has noted that under the British system of parliamentary democracy, official opposition has been given certain privileges to preserve its ability to provide effective scrutiny over the current government. One of the key privileges assigned to opposition has been the ability to select topics of debate on certain days to force the government to defend its policies and to confront it over sensitive or controversial issues. Proponents of an official opposition have also called for speaking rights in the house and formal input into setting the agenda of the business of the Northern Ireland Assembly (Northern Ireland 2011: 112, 140; Ulster Unionist Party 2012). All of these conventions would give the official opposition the ability to criticise government policy and to offer opposing views to a greater extent than the current structures allow.

In addition to facilitating constructive criticism of government policy, an official opposition would increase the public's ability to choose and change the government. As Rick Wilford (2010: 138) contends, a properly resourced opposition provides 'an alternative government-in-waiting' to replace an existing government if the electorate has become dissatisfied with current policies. Under the current system, a vote of no-confidence in the Executive must be cross-community, and such a motion has never passed successfully. This has allowed government parties to pursue their goals with little fear of removal (Wilford 2010: 139; Ulster Unionist Party 2012). An official opposition would be able to form and articulate an alternative set of policies and to provide a substitute, making it easier for the public to vote the government out. As UUP party leader Mike Nesbitt has argued, an official opposition 'will maximise the prospects of parties in government agreeing on a way forward, and it will give the parties of opposition the opportunity to warn the public of the dangers of government action and, indeed, inaction' (Northern Ire-

land 2011: 140). Thus, an official opposition would force the governing parties to adhere more closely to the wishes of the electorate, increasing the public's ability to choose and change its government.

Finally, the establishment of an official opposition at Stormont could provide better governance and force the government to become more efficient and effective. The complex executive system makes effective governance difficult because it is hard to get concessions on controversial issues like local government reform, transfer in education, and the Irish language (Kennedy 2009: 262; Northern Ireland 2011: 119, 138). Former Secretary of State for Northern Ireland Owen Paterson advocated the establishment of an opposition to encourage the government to address 'issues that really matter to people' (Quoted in Clarke 2012: 1). An opposition with a clearer agenda on such issues could force the government to take action or face the prospect of being voted out. Moreover, in an Assembly debate, the UUP's Tom Elliott asserted that the provision of "opposition days" would 'give us the opportunity to have much more strategic debates and give a more strategic purpose to the Northern Ireland Assembly and Executive' (Northern Ireland 2011: 112). Thus, establishing an official opposition could provide for a more democratic and effective government; and could also potentially improve the power-sharing system in Northern Ireland.

The potential benefits of an Official Opposition at the Assembly

This article has demonstrated that the establishment of an official opposition in the Northern Ireland Assembly could potentially improve the quality of governance in Northern Ireland without compromising the existing consociational approach. Advocates of power-sharing justifiably argue that the current power-sharing arrangements have delivered more equal government; and, contributed to the resolution of the conflict in Northern Ireland. They believe that consociationalism should be preserved for these reasons. However, as some critics suggest, the current

institutions exhibit serious democratic and practical deficiencies; and, the establishment of an official opposition would improve both issues. Thus this article has sought to demonstrate that the establishment of an official opposition within the context of executive power-sharing would resolve many of the system's limitations without compromising the advances which have been made. There would however remain certain practical difficulties in implementing these changes, two of which might include: the implacable opposition of Sinn Féin to any change to the existing system; and, the fact that any such change would require an amendment to the Northern Ireland Act of 1998, a lengthy process that would have to be undertaken at Westminster and would require the endorsement of the Irish government. Ultimately, however, in order to ensure more accountable, effective, and democratic government in Northern Ireland, the best course of action would be to make provisions for an official opposition.

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