



Reflections on Ireland, Europe and the ‘Northern Ireland Problem’



by Lisa Claire Whitten



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The Brendan Halligan Emerging Scholar Award is an initiative of the IIEA to honour the legacy of our Founder and President, Brendan Halligan. Lisa Claire Whitten is the winner of the inaugural award, for her essay on the topic of 'Reflections on Ireland and Europe'. Lisa is a PhD candidate at Queen's University Belfast, researching the impact of Brexit on the constitution of Northern Ireland.

“Europe will not be built in a day or in a single construction: it will be built by practical actions”

Robert Schumann, 9th May 1950

“This is why, when it comes to Brexit, I have always said that it is a case of Ireland first”

European Commission President, 21st June 2018

As the United Kingdom and Ireland joined the European Economic Communities (EEC) in 1973, the internecine conflict known as ‘The Troubles’ was taking hold on the streets of Northern Ireland but went unmentioned on the European stage. By contrast, 47 years later, Northern Ireland and its still-fragile peace played a starring role in the process of UK withdrawal from the EU – ‘Brexit’ – as the EU27 embraced a policy of ‘Ireland first’ (Juncker, 2018). This essay argues that the difference between the marginal position of the ‘Northern Ireland problem’ at accession and its centrality in the process of Brexit is testament to the prophetic quality of Robert Schumann’s declaration that “Europe” would be built by “practical actions” (1950). At the same time, the evolution of the ‘Northern Ireland problem’ provides important insights into the kind of ‘Europe’ built so far: one that facilitates Member States’ soft power and enables policy integration based on law.

In making the case, the essay sets out a comparative analysis of the peripheral status of the ‘Northern Ireland problem’ at accession and its pivotal status in the Brexit process. Following this, the essay offers three consequential reflections: that Ireland has accumulated considerable ‘soft power’ in the EU context; that the ‘Northern Ireland problem’ in the Brexit process suggests a neo-functionalist ‘spill-over’ effect exists in respect to policy but not politics; and, given that law remains the primary vehicle of contemporary European integration ‘positive solidarity’ is extremely difficult to achieve.

Comparative Analysis: The ‘Northern Ireland Problem’ from Accession to Brexit

While contrasts between the ‘Europe’ of 1973 and that of 2020 are stark, it is the supposition here that comparison between the treatment of the same issue – Northern Ireland – by the same actor – the EEC/EU – is instructive for the study of European integration and its effects on Member States, in this case: Ireland.

When the UK and Ireland joined the EU, Northern Ireland was in a state of severe political instability. As the legislative and constitutional processes necessary to formalise accession took place in the two states, the people of Northern Ireland endured one of the worst years of violence and political turmoil of The Troubles. Yet, as noted by a member of the European Commission at the time, the “worsening of the British-Irish crisis...was never noticeable in the accession negotiations” (Naas, 1971: 96). An earlier report, sent by the Commission representative in London, Linthorst Homan, noted the “very difficult economic position” of Northern Ireland had been exacerbated by the “riots of 1969” (1970 in O’Driscoll et al 2013: 373). Homan suggested the participation of the UK and Ireland in the “same European Community” could “help find a constructive atmosphere” but tempered such optimism by stating: “a ‘European’ promise would be too vague to calm people down and give them a common goal” (ibid). Although Brussels was aware of the deteriorating security situation at the time of British and Irish accession, the ‘Northern Ireland problem’ was treated as a marginal issue – somewhere between a purely domestic and bilateral one – which had no significant effect on EEC enlargement.

Fast forward 47 years.

Northern Ireland was, at best, a by-line during the UK’s EU referendum campaign; however, as Brexit progressed, Northern Ireland became pivotal. From early on, all parties characterised Northern Ireland as an exceptional case. Prior to triggering Article 50, it was described as a “unique” UK region (The Executive Office, 2016) whose “specific interests” and “particular circumstances” were an “important priority for the UK” (The Prime Minister 2016). Once formal notification was given by the UK, the EU made clear that the “unique circumstances and challenges” on the island of Ireland (European Commission 2017: 14) would be a negotiating priority. The EU suggested “flexible and imaginative solutions” would be required to continue to “support and protect the achievements, benefits and commitments” of the peace process in Northern Ireland, an aim deemed “of paramount importance” (European Council 2017: 11). As EU-UK talks proceeded, it became clear that arrangements for Northern Ireland and its border with Ireland post-Brexit would be the most difficult issue for negotiators to resolve. Arrangements (eventually) agreed by Prime Minister Johnson in 2020 in the Ireland/Northern Ireland Protocol (the ‘Protocol’) substantially differentiate Northern Ireland from the rest of the UK through sui generis provisions that establish post-Brexit Northern Ireland as new (contested) frontier of EU external relations.

Consequential Reflections: Soft Power, Spill-Over and Legal Union

Three consequential reflections on ‘Europe’ can be drawn in view of the radical change of approach to the ‘Northern Ireland problem’ in the processes of accession and Brexit respectively: Ireland has accumulated considerable ‘soft power’ in the EU context; the neo-functional ‘spill-over’ effect exists in respect to policy, not politics; and, relatedly, because law remains the primary vehicle of contemporary European integration ‘positive solidarity’ is extremely difficult to achieve.

The centrality of arrangements for Northern Ireland in EU-UK withdrawal negotiations was due in large part to the successful exercise of Irish soft power. A significant diplomatic effort by Ireland in the 8 month period between the UK’s EU referendum and the triggering of Article 50 resulted in the “unique circumstances” (European Commission 2017: 14) being prioritized in the first phase of UK-EU talks (see Connelly 2018).¹ As withdrawal negotiations were ongoing the Irish Government facilitated visits of EU foreign ministers and heads of state from 9 countries to the land border in an ongoing effort to explain the fragility and complexity of relations on the island of Ireland.² While causality cannot be proven, there is an important link between the self-evident success of Ireland’s soft power diplomacy that ensured Northern Ireland was prioritized in Brexit and the (unexpected) degree of EU unity throughout the process.³ Compared to the situation at accession, the pivotal status of the ‘Northern Ireland problem’ in Brexit demonstrates the accumulation of Irish soft-power and the potential for Member States to pursue national interests via the EU using the currency of soft power diplomacy.

1. For example: an Irish government ‘non paper’ sent to the newly established EU negotiator team in September 2016 described Northern Ireland as “one of the EU’s greatest successes...[whose] transition from violent conflict to peace and political stability stands as a positive example to other regions facing similar problems” whose gains “must be a priority” in EU-UK withdrawal negotiations (cited in Connelly, 2018: 68).

2. Between June 2017 and December 2018, the Irish Government brought: Foreign Ministers of Denmark, Finland, Slovakia and Poland; European Affairs Ministers of Austria, Sweden and France; the Chancellor of Austria and the Prime Minister of Belgium to the Ireland/Northern Ireland border. Information from the DFA following FOI request by the author, received January 2019.

3. Despite fears of a “domino effect” in the wake of the UK’s EU referendum (Henley, 2016), subsequent polling found increasing public support for EU membership – 67% in 2018, a 35year high – during EU-UK withdrawal negotiations accompanied by the highest levels of trust in EU institutions in a decade (44% in 2019) (see Reuters 2018; Eurobarometer, 2019: 108). Relatedly, research on Eurosceptic parties’ rhetoric in elections in France and Germany in 2017 found politicians language on Europe to be notably muted with Le Front Nationale and Alternative für Deutschland both falling short of advocating ‘Frexit’ or ‘Gerexit’ (Van Kessel, 2017).

By revealing the extent to which cross-border cooperation had developed in the context of shared EU legal and policy frameworks, *prima facie* the pivotal position of Northern Ireland in Brexit could be seen as an affirmation of neo-functional theory about the effect of European integration. The expansion of North-South cooperation from the 12 areas specified in the 1998 Agreement to the 142 areas identified in a North-South mapping exercise carried out during EU-UK negotiations, appears to affirm the neo-functional concept of 'positive spill-over' whereby integration in some areas leads to integration in others (see Haas, 2004 [1958]; Rosamond, 2000). At the same time, however, the UK decision to withdraw from the EU is indicative of the lack, or fragility, of any 'spill-over' from policy integration to political integration, which leads to a final reflection – the primacy of law.

Taking the long view, there is somewhat of a paradox in the analysis presented here because, in contrast to its peripheral status at accession, the pivotal status of the 'Northern Ireland problem' in Brexit was due in part to 'positive spill over' in policy and thus a testament to the "practical actions" by which 'Europe' has been built (Shumann, 1950). Simultaneously, this *prima facie* affirmation of neo-functional theory occurred in the context of European disintegration, which can be interpreted as a self-evident failure of 'Europe' to fulfil the integrationist vision of its founders. Falling short of the "United States of Europe" once prophesied by Jean Monnet (1978: 522-3), contemporary 'Europe' is based first and foremost on legal rather than political integration. This law-based integration makes negative solidarity – EU27 unity in opposition to a now-Third Country UK – possible, even probable; but positive solidarity, such as that required to agree a vision for the 'Future of Europe' in the wake of the departure of a Member State and a global pandemic, much more difficult.

Conclusion: The Future Status of Northern Ireland

By comparing the peripheral status of Northern Ireland at accession and its pivotal position in the Brexit process, this discussion implicitly begs the question as to what the status of Northern Ireland is, and will be, in the post-Brexit era. Under the Protocol, arrangements for post-Brexit Northern Ireland are without precedent: it is *de jure* in the UK customs territory (Article 4) but *de facto* under the EU customs code (Article 5); it remains in dynamic regulatory alignment with the EU Single Market in respect to goods (Article 5; 13) yet is (theoretically) able to benefit from "unfettered access" (Article 6) to the UK internal market; while Irish citizens living in Northern Ireland are guaranteed "no diminution" in their rights as EU citizens (Article 2) despite being outside the EU territory. Such novel arrangements could be interpreted in two ways: either post-Brexit Northern Ireland is set up as a point of connection and cooperation that acts as a fulcrum of EU-UK relations going forward, or post-Brexit Northern Ireland is set apart as a dually-marginal region on the edge of the both the EU and the UK.

Whether or not Northern Ireland will be treated as pivotal or peripheral in the medium- to long-term is not certain. Much will depend on the 'practical actions' taken by the UK, the EU in general, and Ireland in particular. This analysis would suggest that the pivotal option is preferable because, historically, the peace and prosperity of Northern Ireland has not been well served when it is viewed as a peripheral place in either Europe or the UK.

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