

Reassessing the Impacts of Brexit and the Northern Ireland Protocol on Governance in Northern Ireland

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Introduction

The impacts of Brexit and the Northern Ireland Protocol (herein simply referred to as the Protocol) have had implications well beyond trade in goods between the UK, Northern Ireland, and Ireland as it has threatened political governance in Northern Ireland. The issues of Brexit and the Protocol have become critical touchstones of identity and polarization in the sectarian schisms of Unionists and Nationalists. In practical terms, the Protocol has created conditions by which one key actor in the system may be willing to upend the system. As this research argues, the impacts of Brexit are quite different than what was initially predicted in the early period of Brexit between 2016 and 2020. While there were many dire predictions about the impact of Brexit and how it could be an existential threat to the entire Good Friday system, the Protocol seemed to solve one set of these fundamental concerns and replaced them with an entirely different set of threats.

Between 2016 and 2020, the primary concerns regarding Brexit were in the context of how a “hard” British withdrawal would impact the Good Friday institutions with the imposition of a customs border between Ireland and Northern Ireland. This would be unacceptable to Republicans and Nationalists in the North as well as the European Union and Republic of Ireland and thereby threaten the institutions and underlying basis of the Good Friday Agreement. Yet, the “soft” Brexit and Protocol have ultimately threatened Good Friday and the governance of Northern Ireland in an unexpected way. The Protocol has shifted the locus of contestation to the Unionists of Northern Ireland who view it as an existential threat to their links to the United Kingdom and identity as British.

As unionists have seen a trade boundary created between Northern Ireland and the rest of the UK, as support for unification has grown, and trade between North and the Republic has expanded, the Democratic Unionist Party (DUP) and other Unionists have painted themselves into their own corner and have substantially begun to utilize the “nuclear option” by which it is certainly possible to envisage that there can be no restoration of devolved government without significant revision of the Protocol. Yet, such revisions are not necessarily possible and even if imposed, could equally threaten the Good Friday system by re-establishing some form of border controls between the Republic of Ireland and the North.

Unionists dominantly supported Brexit between 2016 and 2020 based on the short-sighted and narrow conceptualization that it would necessarily create boundaries and divisions between Northern Ireland and the Republic of Ireland, slowing what was perceived to be an even greater economic and political connectivity between North and South under the Good Friday Agreement of 1998. Yet, the ultimate failure of Unionists was the inability to consider that Brexit could in fact lead to a far worse outcome than no Brexit at all. With a customs border between Northern Ireland and the rest of the UK, increasing trade and economic dependence with the Republic, and growing public support for unification with the Republic (though still well below levels needed to make it a reality), Unionists have been the largest losers in the Brexit and Protocol process. In 2020-2021, the implementation of the Protocol ultimately upended the leadership of the DUP, the largest Unionist/Loyalist party in Northern Ireland, and hurt its electoral fortunes in 2022. This research seeks to elaborate how domestic political variables in Northern Ireland are likely (or unlikely) to impact the UK’s bargaining demands and positions and will unfortunately lead to another period of suspended

government. The ability of the Unionist parties of Northern Ireland to shape the UK's bargaining preferences and priorities is limited. Unlike the period of 2017 to 2019, when the Conservative government of Theresa May depended upon the confidence and supply of the DUP, since the 2019 elections, the Boris Johnson government has been and continues to be far less amenable to Unionist demands. Ultimately, Unionism will fail to get the substantial Protocol reforms they demand, which would leave the DUP in a zero-sum and extremist position of holding the Good Friday system of shared governance hostage indefinitely.

Brexit and the Protocol have exacerbated and magnified many preexisting problems that remained even after the Good Friday Agreement of 1998 and the St. Andrew's Agreement of 2007. As Murphy and Evershed suggest, the system of governance under Good Friday has "consistently proven itself to be anything but settled" (Murphy & Evershed, 2021; Murphy, 2021). Between 1998 and 2022, the assembly and executive have been suspended or in abeyance six times, totaling nearly one-third of the period. The system, even when in session, has functioned on the basis of brinkmanship, boycotts, walkouts, and continual political crisis (Murphy & Evershed, 2021). Further agreements, continual negotiation and influence from Dublin and London, infusions of cash from British governments, have had inconsistent and mixed results at best. Brexit and the Protocol have substantially magnified and concentrated the existent political divides and conflicts.

Growing political dysfunction and instability, especially since 2007, has become the norm. While Unionists demand revision of the Protocol, such changes or amendments (even, if possible, which they may not be) would further exacerbate conditions and shift the political dispute to the Nationalist and Republican communities. The future of the protocol, and perhaps

EU-UK and UK-Irish relations, may be dependent upon the outcomes of political conflict and cooperation amongst the major parties and actors of Northern Ireland. Given the lack of compromise and increasing polarization due to the Protocol, the likelihood of a comprehensive and broadly accepted agreement seems unlikely. This research concludes that there are few viable options for revision of the Protocol that end with greater agreement. At best, the current suspension of government would continue indefinitely. At worst, the entire Good Friday system could be abandoned with unknowable consequences.

The research argues that Brexit and the Protocol have created a nearly insurmountable barrier to the reestablishment of “normal” devolved governance in Northern Ireland as institutionalized under the Good Friday Agreement. Ultimately, Brexit and the subsequent Protocol illuminated the failures of the DUP, and to a lesser extent the other Unionist parties such as the Ulster Unionist Party (UUP) and Traditional Unionist Voice (TUV), to fully consider the outcomes of Brexit and the implications for Northern Ireland. The DUP’s revolving door of leadership in 2021, withdrawal from the executive in 2022, and electoral losses in May 2022 demonstrate an utter failure on most accounts. It has also pushed the DUP into a zero-sum position on the issue of the Protocol. The DUP is now willing to suspend the governance agreement indefinitely. The DUP’s position on the Protocol has forced Northern Ireland into what appears to be another lengthy period of suspended government, almost entirely at the hands of Unionists who failed to comprehend and predict the range of possible Brexit modalities. The elections of May 2022 have hardened the situation as the DUP lost three seats and fell behind Sinn Féin which would rightfully be able to assume the First Minister leadership position if the DUP were to enter government and the Deputy First Minister position. The

ultimatum issued by the DUP and other Unionist parties over the Protocol will essentially hold shared governance hostage as the DUP has insisted that they will not enter government following the May 2022 election. This very well may mean the suspension or end of the existing Good Friday system and would require an enormous and possibly lengthy resetting of political institutions for Northern Ireland unseen since the St. Andrew's Agreement of 2007 or even the original Good Friday Agreement of 1998. In entering another period of suspended government, with little short-term possibility of resolution, the underpinnings of Good Friday and devolved governance may indeed be fundamentally broken.

The Brexit Campaign, Referendum, and Aftermath 2016-2017

In Northern Ireland, David Cameron's campaign pledge to hold a referendum on possible withdrawal from the European Union immediately was absorbed into the already polarized sectarian divides between Nationalists and Unionists. Unionists, continuing their deep distrust of the Nationalists, concerned over the future of Northern Ireland, and their declining relative demographic and electoral fortunes, viewed withdrawal positively as a way to stem to tide of increasing integration with the Republic of Ireland and gradual political marginalization (Emerson, 2018; McGann & Hainesworth, 2017).

The campaign in Northern Ireland was distinct from that in the rest of the UK (Murphy, 2021). While in Britain, the focus was on migration and retaking control over trade and economic affairs, in Northern Ireland it immediately became a political identity factor with Leave strongly supported by Unionists and Remain strongly supported by Nationalists and moderates. Unionists favored leave by a two to one margin (McGann & Hainesworth, 2017;

Murphy & Evershed, 2019; 2021; Garry & Coakley, 2016). DUP supporters backed leave at a rate of 70% in 2016, which remained solid at 66% by the 2017 UK general elections (Tinge and Evans, 2018). While the vote in Northern Ireland ultimately was for Remain (with 56% of the vote), this did little to reduce the “sharpening and hardening” of Unionist and Nationalist positions on Brexit and almost every other issue (Murphy, 2021; Murphy & Evershed, 2019; 2021; Finn, 2022). It should be noted that not all Unionists were decisively for Leave (Finn, 2022). The UUP officially backed the Remain campaign in 2016. Yet, 58% of UUP supporters ultimately voted in support of Leave in the referendum (Tonge et al., 2020; Finn, 2022). The UUP adopted, after the fact, a more pro-Brexit stance closer to that of the DUP by 2017 and the UK general elections. The diminishing electoral support of the UUP in the 2017 UK elections, 2019 European elections, and 2022 elections has substantially reduced its influence and sustainability (Tonge et al., 2020).

The surprise results of the Brexit referendum had immediate implications for Northern Ireland and its system of governance. Even strong Leave campaigners and parties, like the DUP, were shocked by the result (Murphy & Evershed, 2010). Irish-UK relations and UK-EU relations were immediately transformed into far more confrontational, oppositional, and adversarial affairs. The results even further destabilized the weak governance arrangements in Stormont which would be suspended within months of the vote. Brexit would “provoke” substantial “political and constitutional agitation” in the North (Murphy & Evershed, 2021).

The Brexit Negotiations, Suspension, and the May Government (2017-2019)

The suspension of the executive in 2017 by the withdrawal of the Deputy first Minister Martin McGuinness of Sinn Féin, was initially based upon the ongoing political disputes between Sinn Féin and the DUP leader, Arlene Foster, over the Cash for Ash scandal as well as numerous other divides. Yet, Brexit itself might have been a more critical part of the Sinn Féin withdrawal and the length of suspension. The chasm between Sinn Féin and the DUP on Brexit became a far more integral reason for long-term suspension between 2017 and 2020. Despite Brexit not officially appearing in the agenda to restore the executive, it was hard to suggest that it was not central to the division between the DUP and Sinn Féin (Garry and Pow, 2018; Hayward & Komarova, 2022). Garry and Pow argued that the imposition of direct rule, or at least ongoing suspension, may have even been in the interests of both parties at this time (2018).

Sinn Fein argued that Northern Ireland needed to effectively remain in the EU through some special status as to avoid “any visible manifestation of a border between North and South (Garry and Pow, 2018; Murphy & Evershed, 2021; Murphy, 2021). While many fretted about the possible border implications of Brexit, the importance of joint EU membership of the UK and Ireland was often overlooked. The Good Friday Agreement was successfully agreed upon and implemented within the context of a joint EU environment that was able to diffuse many matters of sovereignty and identity (Murphy & Evershed, 2021; Hayward & Murphy, 2021; Murphy, 2021). Essentially, membership in the EU by both Ireland and the UK was a critical underpinning and assumption of the Good Friday Agreement. Brexit would threaten such foundations (Murphy & Evershed, 2019; 2021; Murphy, 2021).

Brexit itself had become a significant obstacle to restarting the power-sharing executive and assembly in Northern Ireland (Hayward & Komarova, 2022). The 2017 UK general elections made the situation far worse. The snap election was intended to provide the new Conservative leader, Theresa May, a solid majority to improve her position in Brexit negotiations with the EU (Hobolt, 2018; Tonge & Evans, 2018). The results instead handed May a minority government now dependent upon the confidence and support of the DUP. Brexit had clear impacts on the 2017 election as it became a key divider of Leave and Remain voters between the Tories and Labour (Hobolt, 2018). With Theresa May dependent upon DUP support to remain in power between 2017 and 2019, the DUP-Sinn Féin chasm widened and the likelihood of a return to the executive seemed even less plausible. (Tonge & Evans, 2018; Tonge, 2021; *The Economist 2018a; 2018b*; Murphy & Evershed, 2021). As Tonge and Evans suggest, it was a “Double Triumph” for the DUP, extending its vote share of the Unionist community at the expense of the UUP (which lost its last two remaining Westminster seats), and gaining a pivotal position in Westminster as the confidence and supply partner to the Tories (Tonge & Evans, 2018). For the Irish government and Nationalists in Northern Ireland, Theresa May and the Conservative Party committed a sin by forming a governing alliance with the DUP following the disastrous elections of 2017. To Sinn Féin, and many other republicans, the neutrality and good standing of the UK as a partner in the Good Friday system was lost in this deal and has brought significant doubts about the system to the surface (*The Economist 2018, 2018b*). The issue of Brexit stalled previous efforts by the Irish government to restart talks through the British-Irish Intergovernmental Conference (BIC) and slowed the progress on numerous other cross-border areas of cooperation. May’s reliance upon the DUP limited her ability to directly work with the

Irish government on many issues (*The Economist* 2018b). While some cross-border cooperation continued, the impetus to expand or enlarge such efforts were held hostage by Brexit.

The DUP had hoped to leverage its supply and confidence arrangement for Theresa May's minority Conservative government between 2017 and 2019. As Rice suggests, the DUP had been successful in "asserting its interests so forcefully with May to the point of straitjacketing" her efforts to finalize a deal with the EU. The DUP "extracted a high financial price from the government" in terms of an economic payout, promised future funding, and substantial tax code changes that would benefit Northern Ireland (Tonge, 2017; Tonge & Evans, 2018). The DUP's official position on Brexit was one that favored a full departure bordering on "hard" but illogically precluded any sort of special status for Northern Ireland yet retained a soft border between the North and the Republic (Tonge, 2017; Tonge & Evans, 2018; Murphy, 2021; Murphy and Evershed, 2019). In reality, the DUP understood this inconsistency and understood that a harder Brexit might mean a harder border, and that was acceptable given the long-term efforts to weaken cross-border linkages with the Republic and put off a border poll indefinitely. The December 2017 agreement between the EU and UK to deal with the Irish border issue was undercut by the DUP at the last minute, highlighting her frail position in parliament and the negotiations (Hobolt, 2018; Murphy & Evershed, 2019; 2021; Murphy, 2021). Her own inability to deal with hardliners in her own party and the DUP was ultimately her undoing (Hobolt, 2018).

May's efforts towards Brexit failed and she was subsequently shoved aside by Boris Johnson with the assistance of the DUP in Westminster. Yet the DUP's belief that Johnson would continue to need their confidence and supply was badly misplaced. Johnson proceeded

to negotiate a soft Brexit that left the DUP and Unionists with the worst possible outcome (Ehl, 2021). The 2019 UK general elections saw the Tories regain a majority and the DUP was sidelined by the new majority Conservative government (Hayward, 2020; Rice, 2021). The DUP's trust in both May and Johnson was clearly misplaced and a terrible miscalculation. Johnson's primary concern was to complete a Brexit treaty whether it met Unionist demands or not. Ultimately the DUP's efforts on Brexit negotiations and their willingness to undermine May's efforts between 2017 and 2019 led to Johnson's decision to abandon any hard Brexit demands of Unionists and to take the soft Brexit deal with the Protocol.

The 2019 UK general election also saw significant punishment of both the DUP and Sinn Féin for their continued suspension of the executive (Finn, 2022). With nationalists earning more seats than unionists for the first time, the election illuminated the ongoing issues of the DUP's electoral and demographic situation (Hayward, 2020). While the DUP had had its best Westminster election just two years earlier, the shifting of support away from the DUP was a notable concern especially in light of the future 2022 vote for the Northern Ireland Assembly.

The Johnson Government, Withdrawal, & The Northern Ireland Protocol (2019-2022)

The Northern Ireland Protocol of the Brexit Agreement is a novel and complex international agreement. The unusual aspects of the agreement are that, unlike most other international treaties, it codifies practices upon an internal demarcation in one state, creating an Irish Sea border between Northern Ireland and the rest of the UK (Hayward, 2021a; Hayward & Komarova, 2022). The regulation of trade within a single state party of a treaty is unique to almost all international treaties. The Protocol is complex as it has differential rules for good

traveling from Great Britain to Northern Ireland versus Northern Ireland to Great Britain. These rules are also not the rules of the UK but of the EU but are enforced and implemented by the UK and Northern Irish customs authorities with only EU observation (Hayward, 2021a; Murray 2021b).

Opposition to the Protocol was practical as much as political initially, the complexity and implementation was hampered by lack of preparedness, training, and the relatively quick process of creation of the Protocol at the final stages of the Brexit negotiations (Hayward, 2020; 2020a; 2021a; Murray 2021; 2021b; Murphy & Evershed, 2021; Hayward & Komarova, 2022). During the initial period under the Protocol in 2020-2021, there were numerous problems. The “upheaval in trade and goods”, bureaucratic malfunctions, and the possible suspension of Covid vaccines across the UK-Northern Irish maritime boundary were fodder for Unionists and other opponents of the Protocol (Murray, 2021; 2021b; Murphy & Evershed, 2021; Hayward & Komarova, 2022). The practical opposition helped fuel political opposition that would soon grow more consolidated.

But the practical customs issues in Northern Ireland have seemed to be fairly temporary (Murray, 2021). The Protocol has “turned out to be a disaster” economically for the DUP as trade ties between the Republic (and the EU) and the North have expanded. The customs boundary in the Irish Sea now separating Northern Ireland from the rest of the United Kingdom has become far less meaningful to many merchants in the North compared to the early periods of 2020-2021 (Murray, 2021; Ehl, 2021). After the initial period of malfunction, supply chain, and other goods interruptions in 2020 and early 2021, the flow of goods from Ireland and the EU ultimately reduced the practical problems of the Protocol in terms of supply chains. The

reorientation of Northern Irish importing and exporting firms towards Ireland and the EU had already reduced such disruptions by late 2021 and into early 2022 (Murray, 2021). Trade between the Republic and the North increased dramatically between 2020 and 2022, with exports from Northern Ireland to Ireland increasing 64% and Irish exports to the North increasing by 48% (Lucas, 2022).

Unionist opposition to the Protocol has created another and novel governing crisis in Northern Ireland. The DUP's willingness to threaten the Good Friday system unless there is substantive reform of the Protocol has been the ultimate unintended consequence of the Brexit process (Murray, 2021a; Murphy & Evershed, 2021). Brexit was initially comprehended as a threat to the peace accords within the context of a "hard" Brexit that would create a customs and physical boundary at the Irish-Northern Irish border. This directly contravened several fundamental elements of the Good Friday Agreement.

The tumult in DUP leadership is strongly tied to the enactment of the Protocol and the perception that the DUP utterly failed its constituents. The ouster of Arlene Foster, the brief leadership of Edwin Poots, followed by the rise of Jeffrey Donaldson to party leader and Paul Given to First Minister in the Northern Ireland Executive, were direct consequences of the political quagmire for the DUP (Ehl, 2021). By 2021, the DUP strategy had shifted to one of zero-sum politics and brinksmanship. Under Donaldson's leadership, the DUP increasingly threatened to withdraw from the power-sharing executive unless the Protocol was rescinded or substantively amended (Rice, 2021; 2022; 2022a; Ehl, 2021). The plan was more than just "mere opposition" to the Protocol but, as Rice argued, it was an approach to intentionally undermine the Good Friday Agreement simultaneously (Rice, 2021; 2022). The DUP fully

understood that its demands to eliminate the Protocol and customs checks between Northern Ireland and the rest of the UK would negate the existing Brexit agreement and would be definition result in a hard, no-deal Brexit that would necessitate a customs and immigration boundary at the Irish-Northern Irish frontier. This would directly contradict numerous aspects of the Good Friday Agreement (Rice, 2021; Murphy, 2021).

DUP demands included immediate use of Article 16 of the Brexit treaty to suspend the customs border in the Irish Sea. Additionally, pressure was placed on customs officials in Belfast and Larne in Northern Ireland with an implicit threat to their safety (Rice, 2021). While the Johnson government expressed need for action to address the Protocol's operation, it was far short of invoking Article 16 or other more extreme measures (Rice, 2021) The DUP withdrawal from the executive in February 2022 had been under consideration since at least the summer or 2021 when Donaldson threatened withdrawal if the Protocol were not "substantially" changed (Ehl, 2021; Rice, 2022; 2022a). In September 2021, the four Unionist parties (UUP, DUP, TUV, and PUP) collectively stated their unwillingness to work within the existing executive and system if the Protocol were not eliminated or significantly revised (O'Carroll, 2021; Murray, 2021)

As Tonge argued, the DUP 'had to throw everything at the protocol' to try and reestablish credibility with its Unionist constituents (Ehl, 2021). As Lucas and Murray have suggested the "scorched earth approach" to the Protocol was able to allow the DUP argue it was the last, best "guardian" of Unionism as a "galvanizing" appeal to Unionist voters (Murray, 2021; Lucas, 2022) Donaldson warned Johnson that the DUP would vacate the executive and laid blame at "Brussels, Dublin, and the Protocol cheerleaders" in Northern Ireland, and to

some extent the Johnson government itself (Lucas, 2022; Rice 2022; 2022a) The DUP's Edwin Poots, while serving as the Minister of Agriculture, Environment, and Rural Affairs, ordered Northern Ireland's officials to halt customs, health, and safety checks on goods from the UK in February 2022, in direct contradiction to the Protocol (Lucas, 2022). First Minister Paul Givan resigned the next day, forcing suspension of the executive. This attempted "sabotage" of the Protocol was intentional in positioning the DUP for the upcoming May 2022 elections (Lucas, 2022; Rice 2022; 2022a) But it immediately threatened the viability of the Protocol and Brexit treaty simultaneously. The DUP was playing a high stakes and zero-sum game over the Protocol, essentially threatening another lengthy suspension of Stormont unless the UK substantially changed the rules of the Protocol (Rice, 2022). In essence, as suggested by Murray, the DUP had resorted to playing the "orange card" in which Unionists seek to sway the British government to reverse on policy as the Unionists are critical actors in governing Northern Ireland (Murray, 2021)

Of course, the British government had done little to dissuade the DUP from such extreme actions. In September 2020, the Northern Ireland Secretary Brandon Lewis himself had told the House of Commons that "the Johnson government was ready to break international law by withdrawing from the Protocol" (Lucas, 2022). While the government ultimately did not take such action, facing widespread opposition, even some within the ruling Conservative Party, it did create conditions by which the DUP viewed such action as reasonable (Lucas, 2022). The ineffectual efforts of the Johnson government to renegotiate and undermine the Protocol certainly added to DUP anger (Lucas, 2022). In September 2021, Unionist parties suggested that the Protocol would need to eliminate all checks on goods between Northern Ireland and the rest of the UK, effectively "dismantling" the existing Brexit Protocol arrangements (O'Carroll,

2021; Rice 2021). The ability to restore “unfettered trade” between the UK and Northern Ireland is something that goes beyond the bounds of the existing Brexit agreement and would throw the EU-UK treaty into abeyance (O’Carroll, 2021). Further, the DUP has provided little to no suggestion of what should replace the Protocol if it were to be eliminated or suspended (Rice, 2021; Lucas 2022; Murray, 2021a) The Johnson government’s position on Protocol renegotiations with the EU is one that it has been able to effectively ignore the Unionists (Rice, 2021; Murray 2021a). Unlike the period of confidence and supply between 2017 and 2019 when the May-led Conservative government needed consistent DUP support, Johnson has no such limitation since the 2019 general election (Rice, 2021). As Lucas suggests, the interests of Unionists and the UK government are not identical, and it is likely that the UK would undervalue Unionist demands for its own (Murray, 2021a).

In the run up to the election, the DUP’s withdrawal from the executive and ultimatum-like positioning on the Protocol were linked to its declining electoral fortunes (Rice, 2022). This gamble was one that had inherent risks especially given polling data and general dissatisfaction of many DUP stalwarts with the party (Ehl, 2021; Rice 2021; 2022; 2022a) The long-term issue was that the DUP position was one that had limited ability for compromise and almost no ability for backing down (Rice,2021, 2022a). As Rice suggests, the DUP’s actions are evidence of “a party that has nothing left to lose but everything to gain” (Rice, 2021). But the risks involved include those to the entire governing system of Northern Ireland (Rice, 2021; 2022).

The 2022 Elections & Beyond

The DUP saw significant losses in the May 2022 election, but not nearly as dire as had been predicted. Some polling in 2021 saw support of the DUP slump to only 13% of the electorate (Ehl, 2021). Just before the election, DUP support was only polling at 17% with some suggestions that the UUP, TUV, and Alliance were all likely to gain at their expense (Lucas, 2022; Rice, 2022). Nonetheless, there is a crisis in the DUP. As Susan McKay has argued, the DUP has created its own nightmare situation and had “no plan” for governing in the foreseeable future and its Unionist position was “floundering” (Ehl, 2021) DUP losses were also predicted due to its hardline conservative stances on same-sex marriage, abortion, and other social issues (Ehl, 2021; Finn 2022). The UUP had hoped to position itself as more centrist on such social issues while remaining firmly “unionist”. Yet the UUP’s dismal results in the election saw a loss of one seat and 1.7% drop in first preference vote, pushing them into fourth place, falling behind Alliance for the first time. Perhaps prophetically, Ian Paisley, Jr. suggested that “the only people who can destroy the union and undermine unionism are unionists” (Ehl, 2021).

The Traditional Unionist Voice Party had its best showing in 2022 winning 6.1% of the vote, yet only translating that into 1 seat in the Assembly. Many former DUP supporters blamed the DUP for the ultimate results of Brexit and the Protocol, and that had an impact on election day (Ehl, 2021). Ultimately, DUP losses in the May 2022 election were substantial, a loss of 3 seats and 6.7% of the first preference votes. The loss, as had been predicted, pushed the DUP below Sinn Fein for the first time. Sinn Fein won 29% of the vote, and while their number of MLAs was unchanged, they held 27 seats to the DUP’s 25.

The DUP’s unwillingness to enter government in the second-place seat had been forecast broadly. The UUP leader Doug Beattie suggested that this might permanently hobble

the power-sharing system (O'Carroll, 2022). Within two days of the election results, Donaldson officially announced that the DUP would not join the executive. Further, Donaldson gave up his newly won Lagan Valley seat in the NIA, so as to retain his MP seat in Westminster, a sign that suspension is likely to be lengthy (Belfast Telegraph, May 6).

Many have suggested that the DUP position is ultimately untenable and will be fruitless (Finn, 2022). Both Alliance leader Naomi Long and SDLP leader Colum Eastwood have suggested that suspension of the executive is unlikely to impact EU-UK negotiations on Brexit and the Protocol (Lucas, 2022). The DUP long-term strategy seems to be to make the Protocol so "unworkable" that when the provisions must be confirmed by 2024, a majority will ultimately call for its voiding (Murray 2021; Rice 2022). Yet the short-term implications are a continuing suspension of the executive and a "perpetual crisis" that will endanger the peace and relative stability of the region (Murray, 2021; Rice 2022). Such a crisis will also increase pressures and support for a border poll and possible unification with the Republic, an even worse outcome for Unionists. Given their lack of success in Brexit and the Protocol so far, perhaps, as Murray suggests, it is "time for Unionists to stop worrying about and love (or at least tolerate) the Protocol" (Murray, 2021).

In a flurry of statements in the weeks after the election, the Johnson government, especially Foreign Minister Raab, have clearly moved renegotiation of the Protocol to the top of their press statements and rhetoric (O'Carroll, 2022a). It is unclear if this is purely theatrical or substantive considering the election results and continuing suspension of government. Even if the Protocol was to be modified, it is unclear to what extent and which changes need to be made to satisfy the DUP without endangering the entirety of the Brexit treaty and the Good

Friday Agreement simultaneously. The Protocol, for all its pros and cons, cannot be fully dismantled without switching the dispute from the Unionists to the Nationalists (Murray, 2021a; 2021b) Murray goes further in suggesting that there is “no workable alternative” to the Protocol but that at best there are smaller and more technical issues that could be clarified if the parties were productive and reasonable in negotiations (Murray, 2021b).

Johnson, just prior to a visit to Belfast during the week of May 15, 2022 suggested that the suggested reforms of the Protocol were unlikely to materialize, and that the DUP should rejoin the executive (Savage, 2022) The missteps, and perhaps irreconcilable demands, of Unionists could “upend” the Good Friday system of governance for Northern Ireland for the foreseeable future (Murray, 2021a; Finn, 2022)

Brexit and the Protocol have “revived the Irish question” and energized a “destabilizing” debate about Irish reunification and the future status of Northern Ireland in a way that was unimaginable a decade ago (Murphy and Evershed, 2021). As Stevenson suggests, the Belfast Agreement rests on an “exceedingly delicate balance” of sovereign guarantors, the UK and Ireland as well as the European Union, which have been destabilized by Brexit (2017). Brexit has not only hobbled the current governing structure in Northern Ireland but has also shutoff many possible solutions to its ongoing governance conundrum (Todd 2015, 2016; Murphy & Evershed, 2021).

The impacts of the Protocol were already visible in the 2020 Northern Ireland Life and Times survey. From 2019 to 2020, the number of respondents suggesting that the Good Friday Agreement needed to be reformed went up ten points to 45% and opposition to the agreement

went up six points to 15% (Hayward and Rosher, 2021). Brexit and the Protocol are quickly changing and hardening positions on the current and future status of Northern Ireland as part of the UK or Ireland. The increasing unpredictability of political conditions and social change are further clouding the future of Northern Ireland (Hayward & Rosher, 2021).

The possibility of a renegotiation of the Protocol towards a harder Brexit option would heighten and intensify Nationalist opposition – a hard border, less permeability and mobility of citizens, and trade and investment disruption and threaten critical planks of the republican support of Good Friday (Todd, 2015; Stevenson, 2017; Murphy & Evershed, 2021). The threat of growing Sinn Féin power and the possibility (even remote as it is at this point) of a successful border poll pushes unionist and loyalist voters to the Unionist parties and candidates that most vehemently oppose such a future. The DUP has expressed the wish to put a border poll off “for generations” (Gordon 2017). Nationalist and Republican voters have similarly begun more consistent strong support of Sinn Féin, the party generally most associated with eventual reunification (though the moderate nationalist Social Democratic and Labour Party (SDLP) has also explicitly stated that reunification is a long-term goal) (SDLP 2017, *The Economist* 2018b). Nonetheless, overall support for unification remains modest (Institute for Government 2018, *The Economist* 2018b). The 2020 Northern Ireland Life and Times Survey showed that 26% of respondents favored unification as a long-term policy but 30% would vote for that option if held immediately (Hayward & Rosher, 2021).

Conclusion: The Challenges of the Protocol to Governance in Northern Ireland

Brexit and the Protocol pose several fundamental challenges to the existing, if non-functioning, Good Friday system of governance. The political consequences of Brexit and the Protocol to Northern Ireland are numerous but the most notable are the institutional challenges to the Good Friday system which are under threat due to the DUP withdrawal and unwillingness to re-enter Stormont without substantial changes to the Protocol. The DUP base is "unlikely to be easily persuaded by any agreement" that keeps the existing Protocol intact (Hayward & Komarova, 2022). But any changes (unlikely anyway) are dangerous to the system and the stability of the Good Friday Agreement. The Good Friday Agreement includes many elements that are predicated on an open border. Dual citizenship, the open border, increased trade, tourism, investment, and economic interchange of all forms are embedded elements of the agreement (Stevenson 2017, de Freytas-Tamura 2019; Murphy & Evershed, 2021). The creation of the NMSC and BIC also are predicated upon increasing cooperation, coordination, and integration across the border that could have been fundamentally threatened by a hard Brexit and changes to the protocol (Todd 2015, 2016; Murphy & Evershed, 2021). In essence, the Good Friday Agreement had Irish and British membership in the EU as a foundational assumption for peace. Brexit seemed to fundamentally weaken this major underpinning until the Protocol (Stevenson 2017, Todd 2015).

The establishment of a "hard" border between Northern Ireland and the Republic of Ireland would endanger the current Good Friday system perhaps beyond repair (Todd 2015, Stevenson 2017; Murphy & Evershed, 2021). Brexit has reignited many lasting divisions and increased fear and uncertainty. Stevenson cites militants from both loyalist and nationalist communities that supported the concept of peace through European integration between

Northern Ireland, the UK, and the Republic have now become de-aligned from the system (Stevenson, 2017). The Brexit referendum vote itself became an identity-based poll illuminating the stark divides between Republicans, moderate centrists, moderate Unionists, and Loyalists. Historian Hence Revising the Protocol's threat to re-impose a harder border is a threat to the "hard-won peace" (de Freytas-Tamura 2019, Kingsley 2019a, *The Economist* 2018b). Cathy Gormley-Heenan suggested that the "true border is in the mind, not on the ground" (*The Economist* 2018b). Some hardline republicans even welcome a hard border as it would be a useful tool for recruitment (Kingsley 2019a). The largest concern is of course that Brexit rekindles the kind of pre-1998 violence that Good Friday ultimately ended. Stevenson documents significant rekindling of republicanism in the wake of the Brexit referendum and suggests that while most analysis see Sinn Fein and the republican movement as mostly "tamed", the conditions are perhaps ripe for renewed militancy (Stevenson 2017). While this might be exaggerated, border infrastructure itself would be viewed as a violation of the agreement and as targets by more radical nationalists (*The Economist* 2018b).

Many argue, and this research agrees, Good Friday has perhaps reached its effective limits, to some extent a victim of its successes and omissions but mostly due to the zero-sum politics of the DUP. Brexit and the Protocol heaped additional economic, social, and political pressures onto an already wobbly system of dysfunctional and polarized politics that fails to fundamentally address many underlying dilemmas of Northern Irish governance. If the Protocols were changed to a hard variety of Brexit in which Northern Ireland and Ireland were separated by a customs and immigration border, the entire Good Friday system would be not only in jeopardy, but effectively moot. As Rice suggests "it is a return to the political turmoil

that we are familiar with in Northern Ireland, but not as we have seen or experienced it before” (Rice, 2022). The primary issue is that the DUP has moved into a zero-sum position that bodes poorly for any stability or return to normal devolved governance. The DUP’s declining electoral performance and loss of loyalist and unionist voters to the TUV may make them even more obstinate on the Protocol issue. That likely means another long period of suspended government as changes to the Protocol seem unlikely.

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