



Constitution Committee

Corrected oral evidence: Future governance of the UK

Wednesday 20 October 2021

10.15 am

Watch the meeting

Members present: Baroness Taylor of Bolton (The Chair); Baroness Doocey; Baroness Drake; Lord Dunlop; Lord Faulks; Baroness Fookes; Lord Hope of Craighead; Lord Howarth of Newport; Lord Howell of Guildford; Lord McAvoy; Lord Sherbourne of Didsbury; Baroness Suttie.

Evidence Session No. 12

Heard in Public

Questions 159 - 170

Witness

I: Naomi Long MLA, Leader, Alliance Party of Northern Ireland.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witness

Naomi Long MLA.

Q159 **The Chair:** Good morning. We can now see you, and I hope that you can see committee members, some of whom are participating remotely, although most of us are in the committee room in the House of Lords. We understand that you need to leave by 11.15, so we will try to get through the questions as best we can.

May we start, in general terms, by asking you about the current state of the union from your point of view, and about what is actually working? We will get on to some of the other issues such as the protocol and consent Motions later, but can you give us a brief outline of what you think the state of relationships has been in the recent past?

Naomi Long: First, thank you for the invitation to give evidence on behalf of the Alliance Party this morning. I very much welcome it, and I think it is important that we take this opportunity to reflect. It is the centenary of the formation of Northern Ireland, as people will be aware, but it is also quite a pivotal time in terms of Brexit and the outworkings of that. I think it is important that we reflect on our relationships within these islands generally and within the UK specifically.

Members will be aware that the Alliance Party's position with regard to the constitutional future of Northern Ireland is a neutral one. We do not advocate the continuance of Ulster remaining in the United Kingdom or a united Ireland; we focus very much on building a shared future for the community within Northern Ireland.

However, the functioning and the relationships within the United Kingdom and indeed within these islands is of crucial importance to those we represent in being able to deliver for them, so it is important that we contribute to the discussion on future relationships.

At the moment, I think it would be fair to say that relationships are strained at times. There are some positive things with some of the collective action on Covid, but there were also restrictions, where devolved Administrations may have wished to go further or to do things differently but were constrained by the finances and the devolution settlement as to what was able to happen. They were not really included in any meaningful way, for example in the decision-making that would happen with respect to England and Wales, and that created some tensions and indeed some confusion in the messaging.

There are other examples that I could give where there have been tensions, particularly when we talk about restored powers from Europe and how they have been disaggregated from what would normally have been devolved areas and competencies, and centralised in Whitehall. I do not think that has been helpful to relationships.

It will vary from place to place, but it has been quite a difficult period for the Northern Ireland Executive. We are only back 18 months from an

extended suspension because of the internal tensions in Northern Ireland. I do not think that government interventions have been helpful in all cases in building cohesion and strong relationships within the Executive. Often, actions that have been taken and decisions that have been proposed or moved on have heightened those tensions and have made that work more difficult. It was not for want of warning that that happened.

There is a general feeling—I speak both as Alliance Party leader and as Justice Minister in the Northern Ireland Executive—that policy is increasingly centralised, not just in Whitehall but around No. 10. As a result, while we continue to have strong and constructive relationships with the Civil Service and at official level, issues are often raised with them in advance of legislation passing at Westminster that will impact on Northern Ireland. It is accepted that they work hard to try to address them in as far as they can, but those issues are then ignored in the final cut, and the legislation tends to press ahead without the considerations that we have raised. That is a sweeping generalisation, as you will appreciate—it is not true in all cases—but it has been our experience on some key and sensitive issues.

There is a lack of respect in that regard for the legislative consent process in Northern Ireland. It takes time. Often, amendments that are tabled, particularly at later stages of the Bill process, do not bring the opportunity for us to seek legislative consent under the normal processes. In Northern Ireland, we do not have an accelerated process for that. That can cause problems when, on some occasions, we want to buy into a process and to allow the Government to legislate on our behalf, but we do not have time to accede to the request.

There are other cases, when we do not want the Government to legislate on our behalf, but they proceed to do so anyway, where legislative consent has not been sought.

It has been a challenging 18 months. We perhaps need more intensive engagement with government. Unfortunately, because of that centralisation, we have felt from our perspective over the past couple of years that it is very difficult to do that through the normal channels—through the Northern Ireland Office and then onwards into government.

The Chair: We will take up some of those points in more detail as we go along.

Q160 **Baroness Suttie:** Good morning, Naomi. May I ask you to talk specifically about the impact of the Northern Ireland protocol on the union, and in particular about whether you feel that you have been adequately consulted along the way?

Naomi Long: We have to go right back to ground zero with this one. I think it is Brexit that has probably done the most damage to the union. We warned at the time that, irrespective of the kind of Brexit that the Government would choose, it would create frictions and tensions either

on the island of Ireland or between the island of Ireland and GB. That was an inevitable consequence of leaving the European Union.

I believe that the protocol was a rather clunky attempt to resolve those tensions. It was not the best option. In fact, I much prefer Theresa May's option of a backstop, on which we would build for the future. It was a much more sophisticated arrangement and was much less clunky, but we are where we are.

Those tensions were inevitable, and they were always going to present a challenge to the union, for this reason: if you put a hard border on the island of Ireland, many of the benefits that nationalists have seen from the Good Friday agreement, including free movement across the border, a lack of checkpoints and a lack of visible presence on the border, albeit that constitutionally it still exists, would be swept away, and that is most likely to reinvigorate the nationalist and unification cause. A border on the island of Ireland was always potentially going to invigorate that nationalist agenda.

To me, a border in the Irish Sea was always going to be the most likely option, because of the difference between patrolling seven port facilities—airports and ports—and trying to do that around 300 miles of border that winds through people's homes, farms and tiny lanes and roads. The pragmatic solution was always going to be at ports and airports. That was going to create tensions around the disruption to the internal market and the internal flow of goods within the United Kingdom. That was going to be challenging for unionism, because it was going to create the sense of a barrier, albeit that there were already barriers in sanitary and phytosanitary checks and other checks across the Irish Sea. It was going to raise those in the public consciousness and create a challenge for unionists in the sense that they would feel distanced.

The protocol and Brexit in themselves, irrespective of how Brexit panned out, unless we all remained in the customs union and the single market, were always going to be problematic at some level in stresses and strains within the United Kingdom. We warned of that back in 2016; indeed, in 2015, I said it would have a destabilising effect when I was an MP, when the issue was first being spoken about in real terms in relation to having an in-out referendum. I am incredibly concerned at the destabilising effect that it has had in practice.

In many ways, the protocol has simply crystallised those concerns into one document and one set of arrangements. There is a much more fundamental problem, however. When you have a kingdom of four nations, and two nations say that they do not want to do something and two nations say that they do, irrespective of the weight of numbers in the democratic process and the 52% to 48% vote, there has to be an accommodation, as there would be in any family, for those who do not want to do something.

When Northern Ireland and Scotland said that they did not want to exit the European Union, there was no consideration of the Government's kind

of Brexit, which was never decided at the referendum: whether it would be a hard Brexit or a softer Brexit, or to what degree there would be divergence. The fact that two members of the family wanted to remain and two voted to leave was not a consideration in how extreme the Brexit would be. I think that that in itself has reignited tensions between the nations within the United Kingdom.

I also think that the English nationalism that drove the Brexit process has again fuelled Scottish, Welsh and Irish nationalism within the United Kingdom. I think that, unfortunately, while the idea of sovereignty and bringing back control and all those things may work well in a unified state, they create all sorts of tensions when you have states that are devolved to a degree and are made up of smaller nations that have very strong identities of their own. I do not think that the approach or the language around Brexit, or the consideration of the nuances of society's needs and the political sensitivities, impinged on the Brexit process in any meaningful way.

Northern Ireland was an afterthought in the Brexit process. The Government had already ruled out a much softer form of Brexit before we managed to have our voice heard. The DUP voice was heard, for obvious reasons, in that at that point in time it had 10 MPs, who held the balance of power in the House of Commons, but the wider, more representative voices of Northern Ireland that rejected Brexit and were concerned about leaving the EU were not listened to.

It was really only when Theresa May visited Northern Ireland, at the stage where the negotiations were quite fraught, and she was confronted by businesspeople, politicians and political figures more widely and by community leaders and others, who were extremely exercised and concerned about the direction that Brexit was taking, that Northern Ireland became a significant factor. By then, however, certain alignments and choices had already been ruled out.

Subsequent to Theresa May leaving office, Northern Ireland became not so much an afterthought as a political football. I have to be candid: I do not believe that the current Government negotiate with Northern Ireland's best interests at heart, but I do believe that they use us for leverage over the European Union, and I believe that Northern Ireland has essentially become a lever rather than the priority when it comes to the protocol. We are not listened to when we raise the issues about the protocol that matter.

No one in my constituency concerned specifically about the sovereignty issues relating to the protocol or the European Court of Justice has contacted me. Those are not the issues that businesses bring to us day and daily, and they are not the issues that are causing practical challenges. But when we are edging towards what is potentially a solution to many of the practical challenges and frictions that Brexit and the protocol have caused, we find constitutional impediments being introduced to the conversation, more with a view to making it difficult to resolve, I think, than with a view to finding solutions that work for the

people in Northern Ireland who are directly affected by this. That is incredibly frustrating, speaking as somebody who, ultimately, was not in favour of Brexit but who is a pragmatist and wants to see Northern Ireland work and flourish.

The Chair: You mentioned intergovernmental relations earlier, so let us move to them.

- Q161 **Lord Dunlop:** I think we are very familiar with the three-stranded approach in the Belfast agreement, with the focus that is put on east-west and north-south institutions and bodies to promote co-operation, but I would be interested to know your view on how much attention is paid in Northern Ireland to the intergovernmental structures for promoting co-operation between the UK Government and all the devolved Governments. How well do you think that those structures are working? What role can they play going forward in giving people in Northern Ireland a sense that their views are being taken account of—for example, when reaching international agreements or trade agreements?

Naomi Long: On the east-west structures that include the Irish Government, even at the point when the Assembly was suspended, it took a huge effort from the local parties to try to get the Governments to meet, at the British-Irish Council for example, to engage directly with each other. Eventually they did, but it was a frustration for us all.

As for meeting as four nations, whether it was about Covid and practical issues or about things to do with justice for example, on a more regular basis, those meetings are often quite productive. They are an opportunity for us to share experience and solutions, to learn from each other and, hopefully, to feed into the discourse.

The question that remains in my mind is whether we are actually listened to and that is taken on board. We have not really seen a huge amount of evidence of that in the engagement that we have had to date. It has felt much more like we are being brought into the tent in order to be pulled towards government policy at a UK-wide level, to undermine our independence and the freedom that we have under devolution, rather than as a way for us to be equal partners around the table in the discussion about policy, direction and how we want things to look.

There is a sense in which it is about trying to cajole, coerce or encourage—you can use benign or not-so-benign terms to describe it—the devolved institutions to follow the direction of No. 10. As a Minister, part of my duty is jealously to guard the devolved settlement in Northern Ireland and our independence to make our own decisions. That is particularly important in the justice sphere, which is an incredibly sensitive area of government and one where we have to tread very lightly.

Engagement has been reasonable, but I do not see so much evidence of real influence. As I said earlier, even where we would raise issues at an official level, it is not that we are not listened to. Indeed, it is not that

officials dismiss our concerns, but quite the contrary: we often find that officials will put huge effort into trying to resolve our concerns, but there is a political barrier there, where a direction has been set and essentially, whatever we think, that direction is going to be followed. That becomes challenging for having good and respectful relationships within the devolved settlement.

It is good that we build on the relationships that we have and that we do engage. We have many problems in common, and many of them are shared problems. We live on two adjoining islands and we have a huge amount of shared history, and I think that we will continue to have a shared future, so it is important that we work collaboratively and co-operatively with each other. I think that engagement is healthy and positive, but sometimes it is not as responsive as we would wish it to be.

Q162 Lord Dunlop: Perhaps I may ask you about the package of reforms that the Government tabled in March for how to make those intergovernmental relations and structures more robust and to give them a sense of shared ownership. I think the Prime Minister wrote to all the devolved leaders in early September to say that, in his view, the work on those reforms was now complete and ready to be agreed.

Do the Executive have a single view on how worth while those reforms could be, on whether they would address some of your concerns—for example, when there are differences of view, about how you manage those differences and disputes, and on the role that more impartial input could have?

Naomi Long: No, the Executive do not have a common view on that. I think that, understandably, there will be a spectrum of views. Some people will be happier, I suppose, with more integration with the UK and more of a common policy framework, while others will be much more reluctant in that regard, so there would not be a common position.

It is interesting to note that there has not really been any formal discussion about this issue at executive level. From our perspective, there can be difficulties getting even issues that are contentious tabled for discussion at the Executive because of the mechanisms that we work within, but we have not really had that direct engagement about how that might impact on our relationships.

At the moment, our relationships are mainly governed by the three-stranded approach in the Good Friday agreement. The north-south, east-west parts of that are hugely important. We have been more focused on trying to make those functional and to make them work, rather than necessarily looking to some of the other plans that have been proposed. That has not been discussed formally at the Executive, and I do not believe that the Executive would, if they did discuss it, reach a single point of view.

Q163 Lord Howell of Guildford: Good morning. You were saying earlier, very wisely, that there has to be an accommodation. Would you agree that this principle really needs to be applied to all relevant relationships,

obviously between London and the Northern Ireland Executive in Belfast, between Belfast and Dublin, between Dublin and Brussels and, finally, to complete the loop, between Brussels and London?

There has to be some easement and readiness to change on all those fronts. Would you agree with that? The implications, if we do, are that the protocol perhaps has some deficiencies and has to be changed, but could it be that the Good Friday agreement, with its absolute commitment to an absolutely open border, itself needs a little more examination to fit in with these new relationships?

May I follow with a second question, which connects with that? All this is very mobile and resilient and is changing all the time—all these relationships. What about putting them more on a statutory footing? Is that a good idea? Stormont itself has always been on a statutory footing, of course, with a lot of the powers. Many debates have taken place about that in the past. At times, it has failed dramatically. In living memory, the whole Northern Ireland structure of government collapsed, and the devolved powers had to be returned to Westminster.

May we have your thoughts on how much more effort needs to go into relations and discussions between Dublin and Stormont on these very difficult issues, which, on the face of it, are irreconcilable?

Naomi Long: The protocol was ultimately an agreement negotiated by the UK Government. I am possibly quite old-fashioned about these things, but I think that, when you give your word, you should keep your word. I think that those who negotiated the protocol now acting surprised about its contents is slightly disingenuous. I was aware that the protocol was going to be problematic, and I did not vote for it, when I was in the European Parliament, for that reason. I find it slightly astounding that those who negotiated it are only now finding out that it was going to be problematic. But that is life. I am more astounded that they still think that they are the right people to be renegotiating any content of the protocol.

With respect to the easements within the protocol, there are flexibilities within the protocol which the EU and the UK Government are now seeking to exploit, and I think it is right that we should do so. I am a pragmatist: I want to see Northern Ireland work, and I do not want Northern Ireland businesses to go to the wall because we are inflexible or we are not willing to co-operate with our partners. That requires good east-west and north-south arrangements, as well as good relationships with Europe. I do not always detect that having good relationships is at the top of the Government's list of priorities, particularly with Europe and with the Irish Government.

I would have to say that the strain that Brexit has created in the east-west relationships between the Irish Government and the British Government has been stark. Relationships up until Brexit were incredibly good. Essentially, when Northern Ireland was struggling, we had a unified approach in most areas from the UK and Irish Governments on support

for the institutions, for devolution and for being able to support the work that was going on. That has not been the case. In many ways, the responses of the British Government to some of the issues around Brexit and the European Union, directed towards the Irish Government in many cases, have been unhelpful in the context of supporting north-south arrangements, which are part of the Good Friday agreement.

In recent days, for example—this will be in court again this week—we have seen the issue of parties in Northern Ireland refusing to go to the North South Ministerial Council and engage in it as Ministers. A judge has ruled that that is against the law.

That sort of tension is profoundly unhelpful, but it is directly related to Brexit and the protocol. We need to find solutions that allow people to get back to normal working, that allow us to start to engage constructively on areas of shared interest and on areas that are of benefit to our population, recognising the fact that, as an island, Ireland needs to co-operate and collaborate across the island, in exactly the same way as the United Kingdom needs to co-operate in all its parts, if we are going to be successful in Northern Ireland.

The easing of tensions in those east-west relationships and in relationships with the EU would go a long way to removing some of the tensions and stresses that we face in Northern Ireland. It is a bit like being the child of a divorce at this point, where the parents are not speaking and the children are essentially vying for attention. It is not a pleasant place to be. It would be helpful if we had more mature and co-operative relationships east-west in order to address that. Both the British and Irish Governments need to work on that, particularly with respect to issues that impact directly on Northern Ireland.

With respect to the Good Friday agreement itself and whether it is set in stone, with every international agreement there is of course the opportunity to consider improvements, but the principles of the agreement remain sound, and they are the basis on which our processes and structures have been built over many years. I personally favour reform of the structures, because I think that Northern Ireland society has changed.

I represent a party that has been growing considerably from the time of the Good Friday agreement to now. At that time, we had never had an MP, and we have since had two. We elected an MEP. We are now in government, and we have been over the last number of years. Of 90 MLAs, 10 no longer register as unionist or nationalist in the Assembly, and their votes count for less. We had an interesting debate in the Assembly yesterday, where the Assembly called for reform of the voting system that was laid out in the Good Friday agreement and the Act that went with it to allow that to be reformed and changed.

We are of course open to progressive reform, but unpicking the basic principles of the Good Friday agreement at this time—or, indeed, at any time—would be quite a dangerous and destabilising process to go

through. The Good Friday agreement depended on co-operation, collaboration and interdependence. All those things knit together comfortably with the processes within the European Union, and they allowed us to give the kinds of freedoms that people on this island enjoy.

I do not think that to reintroduce borders, barriers and frictions in any parts of these islands is in anyone's interests. We need to find a way to minimise that friction, given that there will be some, post Brexit, but in a way that is least disruptive to people's lives.

If you live in a border community, the chances are that you are crossing that border multiple times. Even if you work and live on one side of the border, to get from work to home you often have to cross the border to get there more than once. In that context, the idea of some kind of stiffening of the land border becomes an unmanageable and difficult process. It also has political implications, as does the hardening of a border in the Irish Sea, which is why we do not want to see that happen either.

It is about trying to find pragmatic solutions to the reality of Brexit but still allowing people in Northern Ireland to move freely within these islands and live their lives without undue friction and impediment, and allowing businesses to flourish. I think that the Good Friday agreement is a strong basis for that, because it sets out the structures through which we can collaborate and co-operate.

The reforms to which I referred regarding the structures of voting, petitions of concern and things that I believe have set our divisions in aspic for perpetuity need to be reformed. The purpose of the Good Friday agreement was to promote reconciliation. As reconciliation grows and as people define themselves less on binary terms, we need to allow the structures to flex and to accommodate changed demographics and circumstances, and to do so in a way that enhances co-operation and collaboration, rather than encouraging people to exercise mutual vetoes.

The Chair: Let us move on to some specifics.

Q164 **Lord Hope of Craighead:** Good morning. I would like to change the topics a bit, if I may. I want to ask you about the power to make laws for Northern Ireland—the power to legislate. The background to my question is Section 6 of the Northern Ireland Act 1998, which I am sure you know about. It gives power to the UK Parliament to make laws for Northern Ireland, but it also contains a rider that is not present in other devolution legislation. It says that an Act of the Assembly “may modify” an Act made by the UK Parliament in so far as it relates to the laws of Northern Ireland.

I have two questions that I would like you to deal with. The first concerns the power of the UK Parliament to make laws for Northern Ireland. As you know, it has exercised that power in a very contentious area, in relation to abortion, with the support of your party. There is a proposal to deal with the Irish language issue, which I believe has the support of

your party.

On the other hand, there is the very difficult business about the statute of limitations in relation to the Troubles, where I think your party is opposed to the exercise of the power. Indeed, I think that the deputy leader of your party, Stephen Farry, has said that for the Westminster Government to legislate in that area would be an “assault on the rule of law and human rights”.

The first part of my question is: how do you draw a distinction between the situation where you would accept that the UK Parliament should legislate and where it should not?

The second question is: what value, if any, would you attach to the second part of Section 6, which is on the power of the Assembly to come back on the UK Parliament and say, “Sorry, we don’t like this, and we’re going to modify your legislation”? Might that be an answer to the statute of limitations issue that is so very contentious?

Naomi Long: To start with the first part of your question, in respect of where the UK Government should intervene in a devolved area, this is something that, to be clear, we do not support, but it is something that, out of necessity, has had to happen in a number of areas because of the unwillingness of the Assembly to legislate on areas where the UK Government have signed up to international commitments, which need to be met at a UK-wide level, and the Assembly not acting responsibly has led to the UK Government failing to live up to those commitments.

Personally, I would prefer for the issue of abortion—which, by the way, is a matter of conscience for Alliance, not a matter of policy—to be dealt with at the Northern Ireland Assembly. That, I believe, is the right place for that decision to be made. However, we are, or were, in contravention—I believe we still are, given how it has been implemented—of the CEDAW reports that said that we need to offer women the same opportunities to terminate pregnancy as would be the case in other places. Our termination laws were some of the most restrictive in Europe.

I think that, irrespective of people’s individual views on that issue, there was an overwhelming public desire to see the law changed, and that was referenced in repeated surveys and public opinion polls. There was actually a majority in the Assembly, incidentally, to have the law changed, but there was an opportunity for people to use the petition-of-concern mechanism to block any progress in that regard.

The UK, being a signatory to international treaties and conventions, had a responsibility to act. It is not desirable—I have never claimed that it is desirable—that Northern Ireland should not be able to legislate on its own behalf on those issues, but it became necessary. I think that is the reality of the situation.

That happened at a time when the Assembly was suspended and was therefore not progressing legislation and was not in a position to take action.

With respect to the issue of the Irish language legislation, the UK Government have signed up to the Council of Europe's treaties on protections for minority languages. The only minority language that is now not subject to protection in these islands is the Irish language. There is a deficit there in living up to international commitments. In this case, to be blunt, it is more about the UK Government trying to assist the Executive in dealing with issues that have become fractious and contentious to the point where they could destabilise devolution and, I suppose, trying to ease the burden.

That is not desirable. I would much prefer that we were able to deal with these issues at the Assembly, get progress made and deliver on promises that were signed up to in the New Decade, New Approach agreement. Again, however, because people do not live up to their word and do not follow through on the promises made, the Government have volunteered to step into that space.

It is not a desirable situation. I believe that it is important that, as devolved institutions, we are free to legislate on our own behalf but also to have the capacity, the ability and the political integrity to do that and to make progress.

With respect to the wider point about whether Northern Ireland can come back on the Government and alter legislation, the difficulty is twofold. The first thing is the potential financial consequences on the Assembly. When it comes to the devolved settlement, if we deviate from parity on things such as welfare, where we have the ability to do so, the cost to us can be prohibitive. Therefore, while we can, in theory, change the law on welfare reform, in practice we have to maintain parity, because that is the basis on which the financial settlement is done.

The same is true in a number of other areas. There is limited scope for us to deviate in major ways, particularly where that would have financial consequences.

That brings us neatly on to the issues around legacy. The legacy issue needs to be considered in the context, first, of the sensitivity of the issue in Northern Ireland. There is barely a family in Northern Ireland that will not have been touched at one level or other by this issue. It is not a historic issue. We call it "legacy" and we call it "the past", but, as to the people whose lives were taken during the Troubles, it was in my lifetime. I was born at the end of 1971. I grew up with the Troubles as the backdrop to my childhood and my teenage years. These were people who were alive in my lifetime and whose lives were extinguished by the violence that took place in our community. The suggestion that people who committed such heinous crimes in my lifetime should walk free on a statute of limitations seems completely wrong to me.

As Justice Minister, I think that will do incredible violence to people's confidence in the modern-day justice system in Northern Ireland, because it will be the modern-day justice system that will be tasked with implementing any statute of limitations, and it will be the modern-day

justice system that will be stopping trials that are under way and that will be refusing to hold inquests. That will have an impact on people's respect for the rule of law in Northern Ireland.

Those are sensitive issues. In order to be able to deal with them in an appropriate way, it is incumbent on the Government, I believe, to act in a way that has sufficient consensus, at the very least, from the five main parties in government in Northern Ireland and from those who are most directly affected—victims and others in that space—and also with the Irish Government—

Lord Hope of Craighead: I think you have really answered my question, and we have quite a lot more to deal with. Thank you very much indeed for your answer.

Naomi Long: I just want to add something that is crucial. It needs to be with the Irish Government. The Stormont House agreement, which set out the previous solutions to dealing with legacy issues, was an international agreement, signed up to by this Government and reinforced in the New Decade, New Approach agreement, which was also signed up to with the Irish Government. It is not simply for this Government to act in a unilateral way when it comes to legacy issues.

Q165 **Lord Faulks:** I have a short and specific question for you. You spoke about the defects in the negotiation that resulted in the Belfast protocol, but I think you have accepted that we should be endeavouring to find solutions so that the arrangements work better. It appears that a potential stumbling block is the jurisdiction of the European Court of Justice in the event of any disputes. What is your view? Should that prevent a better arrangement from being agreed, or would you be content for the European Court of Justice to have jurisdiction?

Naomi Long: First, I do not want to rule out any possibilities. The engagements are still ongoing between Europe and the UK Government, and I hope that they reach a positive conclusion. As to the basis on which the European Union has made an offer at this stage for reducing the number of SPS checks, alleviating the pressures on small and medium-sized businesses, and on dealing fundamentally with the democratic deficit that exists with our not having representation or our voice heard on legislation that will impact on Northern Ireland because we remain within the single market—on all those issues—it is positive.

There are still things that we would like to see added to that. As a party, we will continue to engage with the UK Government and with the EU on those issues to ensure that whatever solution we come up with is as well formed and developed as possible.

The role and jurisdiction of the European Court of Justice is a factor of being within the single market. That is the default position within the single market: that dispute resolution is handled by the European Court of Justice. If there is a bespoke arrangement that the EU and the UK can

work out, which resolves that issue, that is great. That is very welcome, and I am not going to stand in the way of a solution to that.

The reality is that the UK Government signed up to this. They signed up to the European Court of Justice being the dispute resolution mechanism. They signed up to that for Northern Ireland in perpetuity. That was the agreement in the protocol. Only a year later are they now saying that it is unacceptable.

That has major implications not just for the UK's internal relationships but for its international standing. If you sign up to an agreement with another state and then immediately suggest that everything has to be back up for renegotiation within a year, I think that most people would be reluctant to sign agreements with people who behave in that way.

I have no issue with the European Court of Justice fulfilling that role. It is not an issue that has been raised in the practical issues that are raised with us by business. I acknowledge that it is an issue for those who have constitutional concerns about the protocol. The difficulty, of course, is that this was always going to be difficult constitutionally, however Brexit came about. It was going to provide and create challenges.

The question is whether it is worth the compromise in order to have Brexit. That, frankly, is a decision that ought to have been made before people voted, rather than now. We cannot really retrofit that decision into the current circumstances. I hope there is one to be found—

Lord Faulks: Thank you very much.

Naomi Long: —but I am not entirely convinced that there is a simple answer to that question. That should not, however, derail pragmatic solutions to the practical problems that affect Northern Ireland people and businesses.

Q166 **Baroness Fookes:** May we now look at the legislative consent process itself—more usually known as the Sewel convention? It has played a key role in the past but, in the light of the strains upon it, does it need to be strengthened or reformed?

Naomi Long: There are a couple of issues. First, the mechanism that we have in the Assembly for giving legislative consent is quite lengthy. Given the different pace of legislation, some of which is due to the different human rights and equality frameworks within which we work in Westminster and Northern Ireland, and given the length of time it takes for us to go through that legislative consent process, it can be quite difficult.

As I explained earlier, where amendments come late in the day, often in the House of Lords or at later stages in Committee for Bills, it can be quite difficult for the devolved institutions, and particularly for Northern Ireland, to issue a legislative consent Motion, even if the likelihood is that we have no objection.

The more fundamental concern that I have is that, where we have not been able to agree a legislative consent Motion or have rejected that and have said that we do not want legislation in that space where it impacts on the devolved settlement but has an element that is reserved, that has been ignored more frequently than would have been the case in the past. That is certainly my experience, and it needs to change.

There perhaps needs to be change on both sides, with a better early-warning system for amendments that might affect legislative consent Motions, and possibly a swifter process in the devolved institutions, as far as possible, so that, where we do consent to the UK Government legislating, we are able to process that, from the Government, in the time available to us. Often, the time limits are just unrealistic.

The question, then, is whether the Government decide to go ahead and schedule the Bill swiftly or whether they are willing to wait for us to go through our processes. Our experience has been that they are not willing to wait—so we end up caught in that loop.

Perhaps we could shorten our procedures somewhat. That would require legislative change, but I think that the Government need to respect the fact that we have due process to go through, which has to be respected in the interim.

Q167 Baroness Drake: Good morning. The Independent Fiscal Commission for Northern Ireland was established in March to consider the fiscal powers of the Northern Ireland Assembly and the devolution of tax powers. Do you support further devolution of tax powers to the Northern Ireland Assembly? How has the Northern Ireland Assembly's experience with trying to reduce corporation tax—indeed, you mentioned the question of changing the welfare benefits system—influenced your thinking?

Naomi Long: That is a very interesting question. In theory, I would be in favour of more devolution, particularly of tax-varying powers. That would be good. In practice, to be candid, the Northern Ireland Assembly has not used any powers that it does have with respect to raising revenue. They have not been used.

I suppose that the advantage would be that the additional responsibilities would perhaps concentrate thinking around how we manage our finances better in Northern Ireland and the need for us to do that in a more coherent way. We would welcome and support that as a party.

In practice, however, the existing powers have not been used.

Baroness Drake: In Alliance's 2016 and 2017 manifestos, you remained "open to further tax-varying powers, subject to the Executive demonstrating maturity around public finances". What would it take in attitude changes and governance controls to make your party feel that that maturity was there?

Naomi Long: First, that maturity would require some sense of stability. It would require clarity on programmes for government and prioritising

across departments, as opposed to simply within departments, which at times, in the Northern Ireland setting, can become silos.

From our perspective, it would also require parties to engage on the duplication of services as a result of sectarian divisions in Northern Ireland, with a real desire to change that.

It would also require more engagement on the issues with the powers that we already have for raising revenue, and balancing that against the choices that we want to make as an Administration.

I think we would need to see progress on all those fronts to believe that the maturity was there. That is perhaps a polite way of saying it. More bluntly, if we already have powers that we are not exercising, we are clearly not ready to exercise further powers.

I would like to see a point where we were in that situation. As a party, we have suggested some ways in which we could make progress towards that. There are interim ways in which we could do things to reconfigure how we collect and collate resource, but there is an issue about the cohesion of policy, and particularly agreement about what the priorities for government would be. Even in a five-party Executive with a programme for government, there is still often a silo mentality attached to how we prioritise those things within the Executive.

Q168 Lord Howarth of Newport: May we move on to the United Kingdom Internal Market Act 2020, under which the UK Government have taken powers to spend money in devolved areas, including through the creation of the UK shared prosperity fund? Some politicians in Northern Ireland have said that they find that extremely objectionable in principle. Others appear to be more relaxed, and pleased at the prospect of some more public expenditure in Northern Ireland, but wanting more consultation or perhaps more formal involvement of the Northern Ireland Executive in making the decisions about how such funding should be allocated. Where do you stand on that?

Naomi Long: I do not think that anyone is unhappy about government investment in Northern Ireland. That is the first thing to put on record. That is important to say, and we are always going to welcome that investment.

The UK shared prosperity fund was designed as a replacement for European funding. That European funding was devolved to the Northern Ireland Executive and Assembly. It formed part of our budget line, and we could spend it specifically against our priorities and around our targets. We had control over that, and supervision of it.

Under the UK shared prosperity fund, that piece of devolution has essentially been removed. That flexibility to align our priorities with the funding has been removed; it has moved back to the UK Government, and it will be aligned with their priorities, which are not our proprieties.

That is a challenge for us. It is another example of the centralisation of power and using money to influence our priorities around what the UK Government want more widely. I understand the resistance to that in terms of devolution.

It creates a challenge for us also because we are in a bizarre situation as a Government in Northern Ireland where we are being asked to be both a consultee on some of the applications that come from civic society and other groups, and at the same time an applicant to the funding where it is a department that is the lead organisation in an application. I think that is an absolutely bizarre structure to have, where we both apply for funding and advise the Government on whether other applicants should receive funding.

I think that is messy and intrusive. It would be much cleaner simply to allow the devolved settlements to have their share of that funding, weighted for need, as it was when we received it from the European Union, and then to allow us to invest it according to our priorities. At the very least, the priorities that are set for the UK shared prosperity fund need to be shared priorities, not simply the priorities of the Westminster Government. They need to be the shared priorities of all the devolved Administrations in addition. The standing of the Northern Ireland Executive in relation to the fund is suboptimal, to put it mildly.

Lord Howell of Guildford: The shared prosperity fund is criticised by some for appearing to bypass the devolved Administrations. There is of course a dilemma here. If there is any levelling up to be done, there have to be some central decisions on redistribution. That goes against the argument the other way: that there should be more decentralisation and more powers. Do you recognise the difficulty there, and how do you feel about it?

Naomi Long: Of course we recognise the difficulty. When funding was sent from the EU—I mentioned this in my previous answer—the weighting for need was taken into account. For example, Northern Ireland received about 10% of all UK farming subsidies, because it was necessary in terms of our need, but we would have been entitled to only about 3% of the Barnett consequential if it was done on that basis.

I do not have a difficulty with taking account of need. I do not have difficulty with the Government operating strategically. I do have difficulty, however, when our priorities as a community are not heard in this process.

The danger is that, with the current Government polling about 0.7% of the vote in Northern Ireland in the last elections, where is the incentive for that Government to level up Northern Ireland when they could be levelling up parts of England and other places where they have marginal seats and a vested interest? Of course we are sceptical about that levelling-up agenda, because we do not see Northern Ireland front and centre of the discourse around that. The discourse has very much an Anglocentric agenda. That is of concern to us, and it is one of the reasons

why we would rather align that funding with our own priorities. Perhaps if we had more reassurance that they were shared priorities, and if Northern Ireland and some of the other devolved regions had more say over those priorities, that might be a lot easier to manage.

Q169 **Baroness Doocey:** Good morning, Naomi. You have outlined concerns about Northern Ireland not always being listened to or taken as seriously as it should be. Do you think that making either significant or modest reforms to the UK's territorial constitution might help to manage relations between London and the nations and regions better than they are being managed, and might that address some of the concerns that you have outlined?

Naomi Long: I suppose I am not hard and fast about this, but I would say that the experience has been somewhat different with previous Governments in the UK. Therefore, I am not sure that we necessarily need legislative fixes.

My experience in Northern Ireland is that it is often about attitude, co-operation and softer solutions. In this case, it is about whether the Government value devolution—I think that is in question—and whether they see devolution as beneficial and positive. In Northern Ireland, it is beyond beneficial and positive—it is essential in our settlement here.

Unless the Government respect and understand the nuances of that and are fully committed to it, no amount of rules and regulations will prevent them from overlooking or ignoring what we do. For me, it would be much better if we had positive reinforcement of the devolved settlement because the Government were fully engaged in and supportive of it.

Perhaps it is necessary to have checks and balances that are stronger, but I suspect that this is more about the attitude and direction of travel of a particular Government, rather than something that is fundamentally wrong with the structures. We have not always agreed with previous Governments, so it is not simply that this Government are not to my liking or whatever. We have disagreed with other Governments, but there was never the same kind of disregard for the devolved institutions and for the devolved settlement that we have seen in the last number of years. I think that has put relationships under strain. Ultimately, it is relationships that will maintain the union, not structures.

Q170 **Baroness Doocey:** I understand that, and it is always so much more difficult to implement. If somebody said to you that there was one thing that you could do or suggest as a change, what would that one thing be that you think might make a very significant difference?

Naomi Long: More direct engagement with the devolved institutions would make a huge difference. By engagement, I do not simply mean a fireside chat; I mean proper, structured engagement about what our priorities are, what our objectives are, what our needs are and how those can be met. If we were in that kind of structured engagement, we would be much more likely to be able to build the relationships that allow us to develop and work together much better.

I think that, with many of these problems, there is no silver bullet, unfortunately. At the moment, we know that things are out of kilter. Relationships are not good north-south, they are not good east-west, and they are not particularly good between Northern Ireland and Westminster. All those tensions make the environment febrile and fragile. I think that the relationship building is crucial.

The Chair: Naomi Long, thank you very much indeed. I think that we have more or less met your time constraint. We have done very well to get through as much as we have within this hour.

Naomi Long: You have indeed. Thank you very much.

The Chair: Thank you very much indeed for your time and for joining us.