

Has Devolution Transformed Scottish Local Government? Notes from a Small Country Facing Common Problems of Governance.¹

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¹ This title, with due acknowledgement, is a variation on the Bill Bryson travel books *Notes from a Small Island* and *Notes from a Big Country*.

In the period prior to 1997, a multitude of political parties, lobby groups and civic leaders were highly critical of the lack of a genuinely 'localist' role for local government in Scotland. On one level, Scottish local authorities had powers substantially beyond those of municipal authorities in countries such as Australia, the USA and Canada (Norton 1994). They were responsible for many large-scale services, notably education, housing, social work, water and transport. Also, they accounted for roughly 40% of the Scottish budget, employed over 238,000 full-time equivalent staff in a population of roughly 5.12 million, and were typically the largest employers in their area (Scottish Office 1998, table 1A; Scottish Office 1999a, appendix II). On another level, however, their legal, financial, and policy autonomy was heavily constrained by the context of the United Kingdom (UK) as a 'Union State' (Mitchell 1996). This meant a marginal tailoring of UK-wide policies to the Scottish context, rather than reflecting the wishes of a Scottish electorate and a wider civil society with its own partially distinctive preferences and values.

In 1999, two years into a New Labour government at Westminster, a Scottish Parliament was created with control over local government and most other areas of Scottish public life. One outcome was the opportunity for local government to be transformed into a more vital and autonomous layer of government, as part of a partnership between the two tiers of government. This paper examines the extent to which this has happened in the post-1999 period. First, it outlines the context of the 1979-97 Conservative era and the tensions which helped provide the catalyst for change. Second, it examines patterns of central-local government relations in Scotland in order to ascertain if there are any fundamental differences in the pre and

post-1999 periods. Third, it identifies the extent to which local government in the era of the new Scottish Parliament has been able to carve out a pathway which is distinct from that of local government in England and Wales. Finally, it takes the findings and applies a variety of different policy analysis perspectives (institutionalism, incrementalism, rational choice, group theory and class analysis) in order to explore deeper reasons for the extent, or more appropriately the lack, of change.

Context: Scottish Local Government 1979-97

The constitutional status of Scottish local government in this period needs to be viewed within the wider context of the UK system of governance (McConnell 2004, 7-11). The Westminster Parliament was the sole legislature for the 'Union' of England, Scotland, Wales and Northern Ireland. Territorial arrangements varied for the governing of each of these nations and/or regions. Over many centuries, Scotland had developed its own partial distinctiveness in terms of history, the legal system, education system, political parties, civic and political institutions, local government and the economy, to the extent that Kellas (1989) controversially suggested the existence of a 'Scottish political system'. One component of this was the Scottish Office – a Westminster department based in Edinburgh and responsible for tailoring UK policies to the Scottish context. This became known as a system of 'administrative devolution', in contrast to the 'political devolution' that would have been associated with a democratically-elected Scottish Parliament (Mitchell 2003). Although some commentators referred to the UK in the pre-1999 period as a

centralised unitary state, Mitchell (1996, 2003) termed it a 'Union state' - preserving the UK Union but with a limited flexibility for the territorial management of Scottish affairs.

The Scottish dimension of local government reflected this combination of Union centralisation and limited Scottish autonomy. In the absence of a comprehensive and codified constitution, local government throughout the UK was a 'creature of Parliament'. All functions, structures, funding regimes and policy frameworks emanated from Westminster. At times, legislation applied throughout the UK, although legislation was often exclusively 'Scottish' in the sense the separate legislation was needed to deal with the prevailing structures, functions and legal basis of Scottish local authorities. It is important to recognise, however, that Scotland was not on the receiving end of policies that were fundamentally different from local government south of the border. As Carmichael (1992, 30) notes in his examination of the Thatcher years in local government: 'Scottish differences are overwhelmingly a reflection of the way things are done, not of what is done'.

This factor is crucial because the pathway of Scottish politics throughout the 1980s and most of the 1990s was very different to the pathway of UK politics forged at Westminster. On the one hand, the years 1979-97 under Margaret Thatcher and latterly John Major produced radical Conservative governments with substantial Parliamentary majorities at Westminster. They were driven partly by pragmatism and their strategies were not quite as coherent as often portrayed, but there were recurring neo-liberal themes of reducing the role of the state, cutting public

expenditure, promoting the free market, and attacking those who advocated 'big' government (Smith and Ludlum 1996). On the other hand, the Labour Party was the main party in Scotland and its strength increased as the period progressed. In terms of General Elections, Labour in Scotland obtained 41.6% of the vote in 1979 (44 out of a possible 71 seats), and by 1997 this had increased to 45.6% (56 seats out of a possible 72) (McConnell 2000, 222). By contrast, the Conservative Party's electoral support diminished progressively. The Party obtained 31.4% of the vote in 1979 (22 seats), and by 1997 its share had dropped to 17.5% and it lost all of its remaining 11 seats (McConnell 2000, 222). In some senses, the governing of Scotland via the Scottish Office during the period 1979-97 resembled that of a colonial outpost – increasingly out of tune with local customs and preferences. This tension manifested itself particularly in local government. Three main sets of reforms are worth noting.

First, the structures of local government were rationalised in 1996 from an essentially two tier structure (9 upper-tier regional councils, 53 lower-tier district councils, and the exception of 3 all-purpose island councils) to one based on 32 unitary authorities. This was supplemented by the creation of numerous quangos to remove some powers such as water, sewerage, and environmental protection from the control of elected local authorities. The Government's logic behind the reforms was to create slimmed down and more efficient structures, avoid overlap, clarify accountability and provide greater coherence and effectiveness in service delivery (Scottish Office 1991; Scottish Office 1992). Outside the Conservative Party, the reforms were roundly condemned as lacking any evidential base for reform, and as having a hidden agenda to abolish the Labour Party's power base in the regional councils (of which the

majority were Labour controlled), particularly the massive Strathclyde Region which contained half the population of Scotland (Midwinter 1992; Hayton 1993; McFadden 1993; McConnell 2004). When Strathclyde Region held a referendum in 1994 on water services, 97% of those vote favoured retaining water services remaining under local authority control (*The Herald* 23 March 1994)

Second, local authorities' financial freedoms were squeezed from a number of directions (Midwinter and Monaghan 1995; Midwinter 1998). Centrally-determined support for local government fell substantially, councils' ability to level business rates was removed to the centre, and their ability to incur capital expenditures became increasingly subject to complex restrictions. Scottish Office ministers also accrued the power to 'cap' (set an upper limit) on local authority budgets, and a deeply unpopular Poll Tax (per capita tax) was introduced in 1989 before being abandoned in 1993 (McConnell 1999; McConnell 2004; Midwinter and Monaghan 1993, Midwinter 2002). In many respects, the introduction of the Poll Tax (one year earlier in Scotland than England and Wales), typified the disjunction between Conservative policy at Westminster and the sociopolitical circumstances in Scotland. It was introduced with only 16% support in the initial consultation exercise (McConnell 1995, 155), and in the first year, legal action for non-payment was taken against over 1.4 million individuals, out of a total registered electorate of roughly 3.7 million (McConnell 1999, 91)

Third, councils became subject to a raft of initiatives intended to produce value for money: defined as economy, efficiency and effectiveness by the Accounts

Commission for Scotland. This was epitomised in Compulsory Competitive Tendering (CCT). Through legislation in 1980, 1988 and 1992, councils were required to invite bids from the private sector. This applied initially in areas such as construction and building maintenance, and was extended to white collar work, including legal and corporate services. It was mandatory that contracts be awarded to the lowest bidder - subject to meeting the quality standards laid down in the tender document. Scottish local authorities were opposed to this regime, because its market ethos went against the strong allegiance in Scotland to direct public service provision. Also, it was inflexible and generated substantial additional costs which outweighed the financial benefits (Scottish Local Government Information Unit 1991; Escott and Whitfield 1995). The bulk of the costs came from new tasks such as drawing up tender documents, separating committee structures along `client` and `contractor` lines, and monitoring contracts and performance (McConnell 2004, 156-60).

Unsurprisingly, local government was one of the many interests which felt alienated during the years of Conservative rule. The Convention of Scottish Local Authorities (COSLA) - the body representing all Scottish councils - joined forces with many others in the Scottish Constitutional Convention (SCC). The SCC first met in 1989 as a broad movement committed to social and political change (Mitchell 1996). Its membership included COSLA, Scottish Labour Party, Scottish Liberal Democrats, Scottish Green Party, Scottish Trades Unions Congress (STUC), Federation of Small Businesses and Scottish Women's Forum. The only major non-participants were the Scottish Conservative and Unionist Party (the beleaguered Scottish version of the

party in government at Westminster) and the Scottish National Party (SNP), which refused to participate in a campaign for devolution as opposed to full independence. In essence, the work of the Convention, although suffering from a lack of funding and rigorous detail, produced the blueprint for reform. It proposed a Scottish Parliament, elected by the people of Scotland, with primary law making powers to include areas then under the remit of the Scottish Office. The intention was a strong measure of Scottish self-determination. Among the many aspects of Scottish society which the Convention considered would be revitalised by these proposals, was local government. Its report in 1995 stated:

Relations between local and central government have too often fallen victim to confrontational Government policies aimed at systematically removing powers from elected local representatives. The creation of the Scottish parliament will mark a distinct change of approach, by placing a culture of co-operation and stability at the heart of the relationship between the Parliament and local authorities...In any future review of local government, the Convention believes that the aim of the parliament should be, firstly, to safeguard and where possible increase the area of discretion available at the level of the local authority. (Scottish Constitutional Convention 1995)

The 1997 General Election result seemed to be the first stage in achieving these goals. After 18 years in opposition, Labour took power at Westminster with 44% of the vote and an unprecedented 179 seat majority in the House of Commons (McConnell 2000, 22). In Scotland, the Conservatives' loss of all their Parliamentary seats, coupled with the fact that they did not control a single Scottish local authority, mean that their 'doomsday scenario' had become a reality. For supporters of a Scottish Parliament, however, the pathway was now clear for devolution and *inter alia* the revitalisation of Scottish local government.

The McIntosh Commission was established shortly after the 1997 General Election to examine the relations between local authorities and a new Scottish Parliament.

Meanwhile, the shift towards a creation of a Scottish Parliament was in full flow. A referendum on 11 September 1997 produced 74.3% support for the setting up of a Scottish Parliament and 63.5% for it having tax varying powers (in practice, the power to vary the UK income tax rate by plus or minus 3%) (Denver 2002, 829). This resulted in the Scotland Act 1999 and the establishing of a Scottish Parliament in May 1999. The dual electoral system (a combination of first-past-the post and additional member) produced a coalition government - Scottish Labour with 56 of the 129 seats, in alliance with the Scottish Liberal Democrats on 17 seats. The devolution settlement 'reserved' certain powers at Westminster such as foreign affairs, defence, monetary policy and social security. The remainder, including local government, health, education, criminal justice and transport, were 'devolved' entirely to the Scottish Parliament.

When the Scottish Parliament first accrued powers from Westminster on 1 July 1999, its first major debate the following day was on the report of the McIntosh Commission. McIntosh's vision was very much one of partnership, increased local discretion, and the need to move beyond the conflict of the past:

The principle of subsidiarity, which underlies the legislation which has created the Parliament, is equally applicable to the relationship between the Parliament and local government. There is always a temptation for any administration to centralise - to draw powers into itself - and this is the reverse of subsidiarity. One way of expressing subsidiarity is that wherever a greater concentration and centralisation of powers and functions is proposed, the onus of proof must always be on those who propose centralisation, to demonstrate that it will indeed bring greater benefit to the public at

large...relations between local government and the Parliament ought to be conducted on the basis of mutual respect and parity of esteem. (Scottish Office 1999b, para. 20)

At last, therefore, the key ingredients seemed to be in place for a more vital Scottish local government, and one which operated in a genuine partnership with the Scottish Executive. Scottish Labour, the champion of local government during the `destruction` of the Conservative years, was now the dominant partner in a coalition with the Scottish Liberal Democrats - a party with a long tradition supportive of strong, independent municipal government. The report of the McIntosh Commission simply gave recognition and added legitimacy to these long-standing aspirations for local government. At the time of writing, subsequent elections to the Scottish Parliament in 2003 produced another Labour-Liberal coalition, with 50 and 17 seats respectively (Burnside et al. 2003). Sufficient time has passed, therefore, for us to make an initial assessment of what has transpired in the post-1999 period to date. It is recognised, however, that a five year time-frame is minimal from a longer-term historical perspective, and so further research is needed in due course.

Devolution and Scottish Local Government in Practice

Policy analysis is an `art` and a `craft` rather than an exact science (Wildavsky 1980). Therefore, it must be stated from the outset that it not possible to give a definitive, uncontested statement on the difference that devolution has made to Scottish local government. How, then, do we approach our task in hand? One way would be to identify key policies which the Scottish Executive has inherited and then explore

which of these it has kept and which it has replaced with its own initiatives.

Adopting such an approach would lead us down the route, for example, of noting that 24 pieces of legislation affecting local government were introduced during the first term 1999-2003 (McConnell 2004, 9-10) and that these included matter such as replacing CCT with the more quality-oriented Best Value (BV), and giving councils the power to incur expenditures which promote the 'well being' of their area and/or persons within it (COSLA 2003b). The problem with such an approach, however, is that it tells us what is done, but very little of the impact on existing relationships. It can be argued that a more worthwhile avenue is to consider key political relationships and identify the extent to which these have been altered with the devolution settlement. In this context, we can set two general 'tests' in order to examine the impact of devolution on Scottish local government. First, has Scottish local government has been able to disentangle itself from previous central-local relationships in which the centre (the Scottish Office) exercised considerable control over councils, much to their dismay? Second, has local government in Scotland been able to forge a pathway distinct from that of local government in England and Wales?

Continuity or Discontinuity in Central-Local Relations?

In the period prior to 1997, relations between the centre (the Scottish Office) and the locality (Scotland's local authorities) can be characterised as the contradictory dominance of the former over the latter. The Scottish Office held a variety of powers to set the parameters of local government activity. Councils were frequently at odds with this general drift towards centralisation. However, they shied away from

responding by breaching the law through practices such as refusing to set local tax rates or engaging in deficit budgeting. One disincentive to do so was the huge financial surcharges that could be levied on individual councillors. The norm, therefore, was ultimately one of reluctant accommodation, with challenges to ministers coming via a 'war of words' in public and/or latent forums (McGarvey 2002). If we examine three key mechanisms which allowed the Scottish Office to control local authorities (legal, financial and policy), we can see that very little has changed in the post-1999 period to alter the balance of powers.

First, Scottish local authorities have always been required to act *intra vires* i.e. within the powers bestowed on them by the legislative authority. Everything a local authority does must be either a legislative requirement (such as providing for the education of children between the ages of 5 and 16) or have legislative permission (such as to promote arts and tourism). All that has happened under the devolution settlement is that legislative powers have transferred from the Westminster Parliament, headed by the UK Cabinet, to the Edinburgh-based Scottish Parliament which is headed by the Scottish Executive. There has, however, been one marginal reform. For many years, Scottish councils lobbied to be given a power of 'general competence' – similar to that existing in many Nordic countries (Baldersheim and Stalberg 1994). This would have allowed councils the freedom to pursue any policy activities they wished, provided these were not expressly prohibited by the centre. However, in the 1980s the Conservative Government refused to sign the 1985 European Charter of Local Self-Government: a move which would have paved the way for a commitment to 'general competence' powers. This refusal fitted very much

with the Conservative reluctance to do anything which would have expanded local choice, on the grounds that increased local political and financial autonomy would be disruptive to the Conservative strategy of reducing public expenditure, diminishing state provision, and marginalising the proponents of anything resembling a 'socialist' alternative to these policies (Stoker 1994). When Labour came to power in 1997, one of its first acts was to sign the European Charter, and this led eventually in Scotland to the Local Government in Scotland Act 2003. It gave local authorities the power to advance the 'well-being' of their area and all (or some) of the individuals within it. However, the limitations on these powers are extensive and amount to a dilution of 'general competence'. Among other things, the power to promote well-being should not interfere with statutory obligations, and it should not overlap with the work of other bodies (COSLA 2003b). Reinforcing these constraints is a new Code of Conduct for Scotland's 1,222 councillors, which places a duty on them to uphold the law. There are numerous sanctions available to the new Standards Commission for Scotland if they do not (Scottish Executive 2002a, annex A). Scottish Executive Ministers also have the power to remove a service wholly or partially from local authority control if they consider powers have been exceeded. In total, therefore, the legal 'leash' to which local authorities are attached may appear looser, but the reality is that increased policy autonomy is liable to be marginal.

Second, enormous central constraints still exist over local authority income and expenditure. We can break these down into revenue and capital finance, and get a sense of ongoing central pervasiveness. Revenue expenditure accounts for roughly 93-4% of all local spending, and constitutes day-to-day expenditure which does not

build or create a long-term physical asset (Scottish Executive 2004, table 1). Its prime component is wages and salaries for the roughly 300,000 people currently employed (full time and part time) in Scottish local authorities, as well as expenditures such as lighting, heating and telephone bills (Scottish Executive and Convention of Scottish Local Authorities 2003, table 1). Apart from councils' ability to levy fees and charges for a variety of services such as council house rents, school meals, and leisure facilities, Scottish Ministers continue to dominate the remaining sources of revenue finance. Over the period 1997-7 to 2002-3, the balance between central determination/ discretion and local financial autonomy has stayed at a split of approximately 70:30 (Scottish Office 1998, table 1; Scottish Executive 2004, table 1). Centrally-determined grants remain the principal source of council funding. The main one, Revenue Support Grant, has levels set previously by Scottish Office Ministers and are now decided by Scottish Executive Ministers. There is also an increasing tendency towards 'ring-fenced' grants. These are allocated to local authorities for specific purposes in areas such as the Strategic Waste Fund, Rough Sleepers Initiative and Better Neighbourhood Services Fund. There are also grants with conditions attached to them, in policy areas such as youth crime and drug rehabilitation. COSLA (2001, part 4) estimates that almost 30% of Aggregate External Finance (AEF) (the total amount of revenue finance determined by the Scottish Executive) is constrained in these ways. This reflects a small but further shift in Scottish Executive limitation of local councils' financial freedoms.

A further source is non-domestic rates, which is a tax on the estimated annual rental value of business properties and subject to a rate poundage - in effect a tax rate.

Annual levels were decided by local authorities prior to 1989-90, but removed to the control of Scottish Office Ministers because of a fear – never proven – that councils were imposing unnecessary tax burdens on businesses (see McConnell 2004, 186-9). In opposition, Labour was highly critical of this centralisation of power, but now installed as the dominant partner in a coalition government, it has adhered to the status quo. Finance Minister Andy Kerr defended Scottish Executive control of non-domestic rates on the grounds of needing to maintain consistency and stability (Scottish Parliament Official Report 19 June 2002, col. 12796). A further source of revenue finance is the Council Tax – a tax on domestic property which was introduced in 1993 to replace the ill-fated Poll Tax (see McConnell 2004). Once again, the centre's setting of the parameters for local authority decisions on Council Tax levels has survived the transition from Scottish Office to Scottish Parliament. Ministers still set property bands and the proportional relations between them. Importantly they also retain power over local authority budgets. They no longer set upfront expenditure guidelines but retain reserve powers to 'cap' council budgets if they consider spending to be 'excessive'. This amounts to a *de facto* 'capping' of the Council Tax, because it places councils in the position of exercising self-restraint in setting Tax levels, in the knowledge that Ministers (if they are unhappy with early indications) will cap budgets with the expectation that lower Council Tax levels will follow.

Capital finance accounts for roughly 6-7% of local authority expenditure, and focuses on creating and upkeeping long-term assets such as houses, roads and schools (Scottish Executive 2004, table 1). Scottish local authorities have traditionally been

able to raise capital finance from European Union (EU) grants, the sale of assets such as council houses and land, borrowing from sources such as the Public Works Loan Board, and partnerships with the private sector (Scottish Executive 2002b). For Scottish councils, the difficulty has not been the raising of capital funding. Rather, the problem has been 'capital allocations' decided by Ministers. This term is something of a misnomer because it does not refer to an allocation of money: it is simply a consent to borrow. During the Conservative years, capital consents became increasingly restrictive, rooted in the desire (mentioned above) to restrict local choice in the interests of a wider, centralised, neo-liberal agenda. Initially, the Scottish Executive simply continued with the old Conservative regime. In 2001, for example, COSLA (2001, part 10) estimated that it still lacked as much as £2.8 billion in order to meet capital needs – particularly for property repairs and roads maintenance. In April 2004, however, in response to a recommendation of the Scottish Parliament's Local Government Committee, the Scottish Executive abolished capital allocations and replace them with a form of self-regulation via the UK-wide Prudential Code. It will give local authorities some additional flexibility because they will be free to borrow, provided they can service the debt. However, there are enormous constraints elsewhere in local governance finance - particularly the fact that debt can only be repaid by increasing the Council Tax, selling assets, and /or increased user charges. When we add the fact that Scottish Executive still holds a reserve power over local authority borrowing, it seems reasonable not to expect consequent large increases in local authority freedom to engage in capital projects.

Third, there are policy constraints on Scottish local authorities, in the sense that the bulk of what they do is either implementing policies set by the Scottish Executive and/or pursuing their own limited policy autonomy within constraints set by the Scottish Executive. An exemplification of this is the numerous central initiatives (pre and post-1997) to ensure that councils obtain value for money in local service provision. The Conservative era was dominated by the introduction and gradual extension of Compulsory Competitive Tendering (CCT). Labour's replacement, adopted by the Scottish Parliament, is the Best Value (BV) regime. In simple terms, it places legal requirements on councils to put in place governance arrangements for the securing the continuous improvement in the provision of all local services (COSLA 2003). Unlike CCT, there is more freedom for councils to balance economy and efficiency with service quality, as long as they can justify 'Best Value' for the local community. However, this autonomy is heavily policed by the Scottish Executive and quasi-autonomous agencies. Methods include:

- Statutory performance indicators for all local authority services
- The undertaking of Value for Money studies by the Accounts Commission and Audit Scotland
- Audits every three or four years of each council's Best Value Arrangements, conducted by Audit Scotland

This is in essence a continuation of the previous regime or minor modifications to it (McGarvey 1999; McConnell 2004). It has a Labourite variation – particularly in seeking a more 'joined up' approach to local governance. Nevertheless, a common

thread is that the freedom of councils to provide services in accordance with their own preferences is heavily circumscribed by a governing philosophy broadly in line with principles of the 'new public management' and its emphasis on cost-cutting, efficiency and performance reporting.

Overall, the pattern of central-local relations is little changed from the pre-devolution period. The 'centre' has altered (from Scottish Office to Scottish Executive), but it is still responsible for the legal, financial and policy parameters within which councils operate. Meanwhile, local authorities remain democratically elected and continue to lobby for increased autonomy to represent local communities. Therefore, since 1999, COSLA has waged campaigns to try and shift local financial autonomy towards a central-local 50:50 split; challenged the Scottish Executive's move to introduce proportional representation (STV) for local elections by 2007; and asked Scottish Executive Ministers to rescind the comment that councillors are 'part time', despite the fact that the last survey showed they worked an average of 36-7 hours per week (Vestri and Fitzpatrick 2001, 71). On each of these campaigns, local government has been unsuccessful, but has tended towards maintaining critical but ultimately accommodative relations, something akin to the 'village life' that Hecló and Wildavsky portrayed in UK public expenditure networks (McGarvey 2002). A recent COSLA (2003a) manifesto argued for a strengthened constitutional status for local government and a genuine partnership between two sets of government. Such calls are little different from what they were in the pre-devolution period.

Scottish Local Government: Departing from Trends in England and Wales?

A second 'test' of Scottish local government under devolution is assessing the extent to which it has pursued initiatives which are distinct from those south of the border in England and Wales.² In some respects, there are aspects of policy which do offer genuine departures from what is being experienced by local government elsewhere.

Notably, there is:

- The prospect of electoral reform (STV) by 2007
- The introduction of a system of free personal care for the elderly
- A change in the system of debt recovery, abolishing 'poundings' (valuation of household goods by Sheriffs Officers acting as debt collectors for local authorities) and warrant sales (the compulsory sale of assets to pay debt)
- Freedom for local authorities to decide if they want executive forms of leadership e.g. local cabinets, elected mayors.

Despite these differences, the commonalities dominate. The legal status and freedoms of local government remain remarkably similar. Local government law in Scotland emanates from the Scottish Parliament and local government law in England and Wales emanates from the Westminster Parliament. Even the power in Scotland to promote 'well being' as enshrined in the Local Government in Scotland Act 2003 is simply a Scottish variant on the earlier Local Government Act 2000 which allows

² Northern Ireland is a different case altogether, where local government has a highly limited and static role, with much of the responsibility for local services such as education and housing being the responsibility of semi-independent boards in order to limit the potential for sectarianism in local affairs (Carmichael and Knox 1999).

councils in England and Wales to promote or improve the economic, social and environmental well-being of their area (Stewart 2003, 15-18). Financial systems also remain remarkably similar (despite numerous marginal reforms) in terms of the maintenance of the Revenue Support Grant system; the trend towards the ring-fencing of grants; the refusal to return business rates to local control; the desire to retain the Council Tax system, and the shift towards a prudential code as the main means of limiting capital finance (see Stewart 2003). As Stoker (2004, 184) suggests: '... a decisive choice of a new direction in respect of local finance has not been made by New Labour, but rather it has muddled through on the back of largely pre-existing systems and arrangements'. In policy terms, key elements are also remarkably similar. Best Value began north and south of the border at the same time, and is accompanied by very similar systems for financial accountability and performance management. The names of institutions may differ (in Scotland it is the Accounts Commission and Audit Scotland, whereas in England and Wales it is the Audit Commission), and there some minor differences in their remit and workings, but the 'financial policing' elements are virtually identical. Even a shift towards encouraging new forms of citizen participation such as postal voting, citizens' juries, community forums, deliberative panels, are common north and south of the border (Lowndes et al. 2001; Local Government Committee 2003; McConnell 2004).

Overall, the balance of power and tensions between central and local government remains remarkable similar in Scotland, England and Wales. The Local Government Association which represents all councils in England and Wales recently set out a vision which has much in common with that of COSLA. It proposed a system where:

Government in Westminster and Cardiff plays a more strategic and focused role. It does not claim to know better than local communities what is best for them, but seeks to ensure the conditions under which communities can survive...[and] the partnership between local government at national government at Westminster and Cardiff is one of equality and mutual trust. (Local Government Association 2004, 2)

Using Policy Analysis to Explain Enduring Patterns of Local Governance in the Transition from Scottish Office to Scottish Parliament.

Perspectives on policy analysis offer a variety of different perspectives on the shaping of public policy. Whether they come from a normative tradition which favours limited incremental change (e.g. Braybrooke and Lindblom 1970; Lindblom 1959, 1965, 1979) or one which is deeply critical of existing power relations (e.g. Miliband 1969, Offe 1984), the tendency is to offer explanations of continuity from the past. The reason, it can be argued, is that they seek to interpret a world where radical policy change is the exception rather than the rule. Peter John (1998) provides a very useful overview of different perspectives, and we can use his framework as a point of reference. The purpose is to illustrate that a variety of perspectives from different political traditions, each has something to say which helps us understand the experiences to date of Scottish local government under devolution. They are not mutually exclusive, and it is quite possible that a refined version of any one could accommodate key elements of the others. To do so is beyond the scope of this paper. It is more eclectic in order to argue that the lessons of policy analysis teach us not to

be particularly surprised when 'new eras' do not shine as brightly (at least in the short term) as some might have hoped.

Institutionalist and new institutionalist approaches come in a variety of guises (Peters 1999). The former tends to concentrate on political behaviour being shaped by factors such as the formal structures of government, rules, procedures and so on, while the latter is broader in scope and encompasses the 'rules of the game' and informal constraints on behaviour (Lowndes 2002). Rose (1990) produces a variation on the first of these:

Policymakers are heirs before they are choosers. An individual must gain public office as a precondition of making public choices; only office-holders can make decisions that bind government. To enter office an individual must take an oath to uphold the laws of the land; these authorize public policies that are a legacy from decades or generations past...[I]n so far as a legacy is not easily altered, for a example a genetic inheritance, then it must be accepted and can only be altered by process of gradual adaptation. (Rose 1990, 263 and 264)

In the UK context, the Westminster Parliament is the key political institution. The political system is not a federal one because (a) there are no parliaments for all the regions/nations of the UK and (b) there is no written, codified constitution to entrench a separation and sharing of powers. Therefore, all formal political power flows from Westminster. Indeed, even the Scottish Parliament could be abolished by a majority of one in the House of Commons. At the heart of the Westminster inheritance is preservation of the 'Union', and this runs through formal and informal institutional arrangements, helping create a strong commonality in political behaviour and key policies. Through the Barnett Formula (a system whereby the UK

Government allocates funding to Scotland, based on funding increases or decreases in budgets for England), Westminster still provides virtually all the funding for the Scottish Parliament (Twigger 1998; Midwinter 2004). Also, a series of concordats ensure co-ordination of Westminster and Scottish policies. Furthermore, there are strong links between Scottish Labour and New Labour at Westminster. Scottish Labour does have some autonomy via the Scottish Policy Forum and the ability to elect its own leader, but Party members in Scotland share common ground on key matters of economic and social policy (Saren and McCormick 2004), and a very strong London-centric tendency dominates in terms of Scottish Labour's organisation, finance and membership (Lynch and Birrell 2004). The UK Government also signed the European Convention on Human Rights (ECHR) and translated this into legislation via the Human Rights Act 1998. This constrains Scottish local authorities by placing on them obligations to ensure that their decisions are consistent with individual rights conferred by the Act (McConnell 2004, 10-11). This is particularly important in matters such as taking children into care, detaining individuals on grounds of mental health, and deciding on controversial planning applications e.g. the siting of mobile phone masts. More generally, the 'rules of the game' are UK ones, and it would be a brave Scottish Executive which (for example) gave considerable taxing and spending autonomy to councils: a move which would surely conflict with Westminster and the Chancellor's tri-annual Public Spending Review and its inbuilt assumptions of spending levels, demand in the economy and so on (Parry 2001). The institutional constraints of the EU are also important. Roughly half of all new laws affecting the UK originate at the EU level, and many of these impact upon local government. The EU is particularly important in the area of environmental

regulation, and Scottish councils have legal obligations to implement numerous regulations and directives on matters such as waste disposal and management (McConnell 2004, 225). Local government in the UK operates within the institutional constraints of multi-level governance (Wilson 2003), and Scottish local government is no exception.

An alternative policy analysis tradition is one which focuses more on the policy process. There are numerous sub-variants of this (such as the 'bounded rationality' of Simon [1958] and the 'mixed scanning' model of Etzioni [1967]) but a particularly interesting one in the present context is 'incrementalism' (Lindblom 1959, 1965, 1977, 1979; Braybrooke and Lindblom 1970). Lindblom argued that democracies tend to produce policies that are incremental changes from the past. The principal reasons for this are simplicity, relevance, and the mutual adaptation of behaviour in order to produce a consensus for moving forward. One can easily apply this to the lack of radical change in Scottish local government. Devolution was not created anew, but was initiated and approved by the Westminster Parliament as a constitutional reform that was not so radical that it would challenge the Union. Rather, it was portrayed by Ministers as an adaptation and modernisation of the Union. Indeed, the Scottish Parliament would never have been created under New Labour if it had been anything other than an incremental reform. Some analysts, however, are critical of the new settlement. Hassan and Warhurst (2002) argue that the devolution settlement is a conservative one. The Scottish Executive, they argue, is prepared routinely to copy Westminster policies and lacks ambition to break free from the Westminster legacy. In local government terms, 'copying' seems to be one

manifestation of this. None of the Scottish initiatives such as proportional representation and free personal care for the elderly have been taken on board south of the border. All things being equal, one would imagine that cross-border learning from good practice would be fairly well balanced and England would also learn from Scotland. As yet, there is no evidence of such learning.

A different approach again can be found in rational/public choice theory. This amalgamates writings from different political perspectives, but with shared roots in applying principles of economics to political science. The work of key figures such as Downs (1957), Buchanan and Tullock (1962) and Niskanen (1971), shares a common theme, namely that actors are rational and seek to maximise their benefits at least cost (Dunleavy 1991, 3). The prime interest of politicians, for example, is getting elected and remaining in office (Downs 1957). It is possible to argue that such 'rational behaviour' has impeded a radical transformation of Scottish local government. If the key task of governments is to get and stay elected, then for the Scottish Executive to hand substantial powers to local authorities would be detrimental to these goals. Two examples will suffice, and these are consistent with long-term tendencies in central-local tensions. First, a political priority of the Scottish Executive, and indeed the New Labour Cabinet at Westminster, is the 'modernisation' of local government (Stewart 2003). In Scotland, one of the reasons for this is the desire by the Scottish Labour leadership to rid the party of many of the 'old Labour' guard, still running many councils (assisted by the vagaries of the first past the post electoral system), and often with reputations for nepotism and corruption (Hassan 2004). The adoption of a system of proportional representation

system (STV) in 2007 was a Liberal Democrat condition of coalition government, but is in fact quite consistent with the wider desire for 'modernisation'. Almost every local authority in Scotland is opposed to PR, because it will virtually guarantee that no single party will control an individual council i.e. given that no political party is likely to obtain more than 50% of the vote in any local authority area, coalition government is liable to become the norm. However, the Scottish Executive is pressing ahead regardless, because it sees its own electoral fortunes are partly dependent on modernising Party reputations at the local level. When we add to this the fact that the core aspect of 'modernisation' is compulsory (Best Value), then it is not surprising that local authorities have been made to fall into line with Scottish Executive priorities. Second, if councils were given increased powers to generate income, substantially free of central constraints (for example, through introducing a Local Income Tax as proposed by the Scottish Liberal Democrats and the Scottish National Party), then the Scottish Executive would almost certainly face political repercussions. This reason is that there has been a long-standing confusion in the public mind over who is responsible for local tax levels, but typically the 'centre' receives the political flak for high tax levels and/or the type of tax used to generate revenues (McConnell 1999).

Another policy analysis perspective comes from group and network theory which has a long and varied tradition (Jordan 1990; Rhodes and Marsh 1992). Some approaches focus specifically on the power of interest/lobby groups (as opposed to the power of politicians and political institutions), while others focus more on the interaction of a range of political, bureaucratic and lobby actors. Taking the latter

approach as our broad reference point here, we can say that key players in the Scottish local government policy arena have remained largely consistent over time. The new 'players' are MSPs in the Scottish Parliament who, from within their ranks, form the Scottish Executive. The 'old' and continuing players are Scottish local authorities, the civil servants based in Scotland, Westminster-based MPs and civil servants. Networks have been nearer to the policy community end of the spectrum (a small number of participants with shared values) than the policy network end (a large number of participants with little commonality of values and views) (Rhodes and Marsh 1992). Group theory tends to focus on the group being a more important shaper of policy outcomes than any other individual actor. The broadly shared values in this case include the preservation of the 'Union', the right of the Scottish Parliament to produce legislation for local government, and the desire to move forward (at least in terms of political language) through consensus and partnership. The addition of new players (MSPs) who are predominantly committed to these same values, is not conducive to a 'punctuated equilibrium' (True et al. 1999) and a shift to a new period of substantively different policy action - in local government or other areas of Scottish public life.

A class analysis is different again and stems from a multitude of marxist and neo-marxist writings. Cockburn (1977, 51) in her seminal work on the local state, suggests, that 'the state's primary role is to reproduce the conditions under which capitalist accumulation takes place'. Duncan and Goodwin offer a particular line of thinking in the UK context and argue that:

State institutions are invaluable in the organization and management of the increasingly large-scale, differentiated and changing societies typical of capitalism. But this very differentiation complicates such management, and one response is to use typically local state institutions to deal with specifically local situations. In other words, without the uneven development of societies there would be no need for local government . . . institutions in the first place. (Duncan and Goodwin 1988, 45)

We can also factor into the equation, 'globalisation' and multinational capital. Nation states are partly constrained by and partly autonomous from these external interests, although the relations between them are subject to considerable debate (Ohmae 1995, Weiss 1998; Hay 2002). Nevertheless, it can be argued that global interests are agenda-setters, helping perpetuate a 'mobilisation of bias' (Shattschneider 1960) which effectively rules out some national and sub-national policy options, and makes others very difficult to pursue. In the Scottish context, it can be argued that a particularly important form of agenda setting (but not the only one – see McConnell [2004]) is the set of major constraints placed on systems of local government funding (sources and controls). For example, Revenue Support Grant levels are influenced enormously by the sum of money which the Scottish Parliament gets from Westminster via the Barnett formula which allocates to Scotland a specified percentage of any increase or decrease in the allocation for England (see Midwinter 2004). This allocation forms part of the Chancellor's Public Spending Review which in itself is constrained by levels of debt, public expenditure and inflation that international markets will tolerate. In theory, the Chancellor could produce proposals which amount to a significant breach of these expectations: for example, by sacrificing low inflation in order to increase public expenditure and allowing additional funds to trickle down to local authorities. In practice, this would run the risk of capital flight from sterling, stocks, shares, and all the other financial

investments which depend on the perceived strength of the UK economy within a global political economy.

From a 'class' perspective, it could be argued that the creation of the Scottish Parliament was part of a strategy adopted by the British state to manage the uneven development of political and socioeconomic relations within the UK. The creation of the Parliament was enough to satisfy the majority opinion in Scotland which favoured constitutional change, but its powers were contained in order not to jeopardise the status of the UK within world markets. Therefore, a certain 'capitalist logic' would lead us to conclude that a transformation of local government in Scotland was less likely. As Offe (1984, 55-6) argues, the capitalist state will tend to give policy priority to the functional problems of the capitalist economy. It can be argued that the Scottish problem was essentially one of 'legitimation' - dealt with via the creation of the Scottish Parliament, but constraining it and all its responsibilities (including local government) in such a way as to avoid disruptions to the accumulation process.

Conclusion

The argument presented here is that Scottish local government has not experienced the type of transformation hoped for by those who campaigned for a more vital local democracy, as part of a genuinely equal partnership between the Scottish Executive and local councils. Of course, there is a 'glass half-full vs glass half-empty' metaphor

which comes into play. One could examine experiences to date and say that there is indeed a 'new politics'. Local government representatives no longer have to make the geographical trip to Westminster in an attempt to influence the legislative process. The Scottish Parliament is close at hand; it concentrates exclusively on Scottish matters, and is governed by a coalition of interests whose political composition far greater reflects the political composition of councils than under the Conservative years 1979-97. The political language of the 'new politics' (from the Scottish Executive and councils) is also one which emphasises 'partnership', in contrast to the adversary rhetoric of the past. However, if we dig beneath the surface, we realise that fundamental patterns of political relationships remain essentially the same - 'new wine in old bottles' to use another metaphor. Scottish local authorities still struggle to shift the balance towards the locality, and the policies they are subject to share far more in common with councils in England and Wales than do the differences. Substantive change may be possible over time, because of an accumulation of small changes (Rose 1990, 286-7) but on the arguments and evidence to date, it will take more than simply the advent of a Scottish Parliament to transform Scottish local government. As with any system of governance, it is inextricably linked (directly and indirectly) to a multitude on national and supranational political actors, institutions and interests. Policy analysis tends to focus on these relationships from a variety of different perspectives such as policy processes, institutionalism and so on, but the common tendency is to produce analyses which explain why radical reforms are difficult. Perhaps the wider lesson, is that we should not expect too much, at least in the short term, from governance reforms.

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