Scotland’s Future Political System

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Abstract
Debates on Scottish constitutional reform go hand in hand with discussions of political reform. Its reformers use the image of ‘old Westminster’ to describe ‘control freakery’ within government and an adversarial political system. Many thought that the Scottish political system could diverge from the UK, to strengthen the parliamentary system, introduce consensus politics and further Scotland’s alleged social and democratic tradition. Yet the experience of devolution suggests that Holyrood and Westminster politics share key features. Both systems are driven by government, making policy in ‘communities’ involving interest groups and governing bodies, with parliaments performing a limited role and public participation limited largely to elections. The Scottish government’s style of policy-making is distinctive, but new reforms are in their infancy and their effects have not been examined in depth. In this context, the article identifies Scotland’s ability to make and implement policy in a new way, based on its current trajectory rather than the hopes of reformers.

Keywords: Scottish politics, devolution, policy-making, interest groups, Scottish Parliament

Introduction: Comparing the optimistic hopes of reformers with the dour assessments of academics

Academic analysis of Scottish devolution often highlights the gap between the optimistic expectations of devolution reformers and the actual result. Devolution was sold by many groups as an opportunity to pursue major political reforms, to introduce a consensus democracy, built on proportional representation and the need for parties to cooperate; a strong Scottish Parliament at the heart of policy deliberation; and new measures to encourage participatory democracy. These hopes are common to political reformers across the globe, but the Scottish debate had specific features based on the idea that ‘new Scottish politics’ was a way to reject ‘old Westminster’ and to further myths about Scotland’s social democratic tradition and its relatively small and cohesive society.

These hopes remain unfulfilled. The Scottish Parliament was designed with new features, but in the context of key elements—particularly the executive-legislature relationship—drawn directly from Westminster. Consequently, the Scottish independence debate produced renewed hope for a second chance at political reform, based on the sense that Scottish politics remains ‘broken’ and only reforms—including ‘mini publics’ and a citizen’s assembly, to boost popular participation—can aid its repair. Yet, the debate did not produce the same level of expectation. Principled political reform was low on the agenda compared to pragmatic debates about the economy and European Union. Instead, the Scottish government has pursued a potentially more significant, but less well known, set of ‘governance’ reforms: to foster a new relationship between central and local government, and for local government to foster meaningful partnerships with public bodies, stakeholders and service users in local communities.

While such reforms are not unique to Scotland, they are built on the idea that Scotland has a specific set of factors conducive to relatively cohesive and consensual policy-making. The Scottish government is pursuing its self-styled ‘Scottish Approach’, building on its reputation for pursuing a consultative and cooperative style when it makes and implements policy. It is often willing to produce broad strategies—underpinned by the ‘National Performance Framework’—and to
Most policy will be processed in policy communities

The size and scope of most states is so large that their responsibilities are potentially unmanageable. Consequently, governments break their component parts down into policy sectors and sub-sectors, with power spread across government and shared with other organisations. Ministers and senior civil servants devolve the bulk of decision-making to less senior officials who consult with organised groups and exchange access for resources such as expertise. This exchange encourages group ‘ownership’ of policy and maximises governmental knowledge of possible problems.

The phrase ‘policy community’ often describes this relationship between civil servants and certain groups. Membership of that community is often based on the willingness of its members to follow and enforce the ‘rules of the game’. When civil servants and groups form relationships, they recognise the benefits—such as institutional stability and policy continuity—of attempting to insulate their decisions from the wider political process. For example, inclusion within the community might depend on the gaining of personal trust, or group–government relationships might come to be based on a ‘common culture’ in which there is strong agreement on the nature of, and solutions to, policy problems.

This image of policy-making suggests that ‘communities’ can be difficult to access; that there are often significant barriers to entry to the policy-making process. People can easily participate in the consultation process but still find it difficult to influence decisions. This takes place in a multilevel system, in which groups may only be effective if they have the resources to engage in many arenas, such as in four levels of government, and a messy public sector landscape which is difficult to understand, track and influence.

In that context, the literature on Scotland explores the extent to which policy communities developed in devolved areas, as devolution prompted many organisations to devolve lobbying functions to Scottish branches and engage in regular discussion with the Scottish government. Studies explore the idea of a ‘Scottish policy style’, which refers to the new ways in which the Scottish government makes policy following consultation and negotiation with pressure participants such as interest groups, local government organisations and unions. The
distinctiveness of this consultation style, when compared to the UK, is based on:

1 Scotland’s size, which allows relatively close personal relationships to develop between key actors, and perhaps for closer links to develop across departmental ‘silos’.
2 The low capacity of the Scottish government, prompting civil servants to rely for information, advice and support more on experts outside of government and the actors who will become responsible for policy implementation.
3 An initial, significant increase in public expenditure, which aided consensus-seeking—there were comparatively few ‘hard choices’ and major policy disagreements before the economic crisis.3

The Scottish government may also pursue a distinctive ‘governance’ style in relation to the ways in which it delivers policy, but in the context of, first, a long UK history of ‘new public management’ reforms, and second, a large and complicated public sector landscape, consisting of government agencies, quangos, local authorities, health boards and service delivery organisations in the third and private sector.

The UK governance literature highlights the fragmentation of service delivery, particularly from the 1980s, linked to a history of bypassing local authorities—to rely more on quangos, often designed to deliver policy in new ways—and encouraging a wide range of third and private sector bodies to deliver services. This was followed by various attempts to coordinate or regain control over policy-making through departmental networks and dedicated government units—a process associated with strict performance targets with the potential to produce a series of unintended consequences.

As in the UK, Scotland has an extensive regulatory and audit function to address this proliferation of bodies and arrangements. Yet the Scottish government has also displayed a relative ability or willingness to trust public bodies such as local authorities and devolve the delivery of policy in a meaningful way.4 This difference may also relate to size: UK government policies travel further distances and make greater attempts to control far more organisations, with less scope for personal relationships.

The Scottish Parliament will generally be a peripheral part of that process

Scottish devolution reformers, such as the Scottish Constitutional Convention (SCC)—a collection of political party and ‘civil society’ groups—sought to replace ‘old Westminster’ with ‘new Scottish politics’. They advocated a consensual style of politics over the adversarial style in Westminster, and ‘power sharing’ with the Scottish Parliament rather than executive dominance. The Scottish system partly reflects that reform agenda, since it has a proportional electoral system with a stronger likelihood of bargaining between parties.

The Scottish Parliament also has relatively extensive powers when compared to Westminster and most west European legislatures. It has permanent and specialised committees with combined standing and select committee functions, a proportional (by party) number of convenors, committee deliberation before the initial and final plenary stages of legislation and the ability to initiate and redraft bills, invite witnesses, demand government documents and monitor pre-legislative consultation. Yet the more important comparison is with the Scottish government, since there is a huge gulf in resources between the two bodies and an imbalance of policy-making power towards the executive. Scotland has many ‘old Westminster’ characteristics, including the same constitutional format (the executive resides in the legislature), division of resources (the majority of spending is controlled by the Scottish government) and expectation that the government will govern. This is no accident—‘new politics’ reformers captured the imagination, but the UK government oversaw the design of the Scottish Parliament.5

Consequently, the Scottish Parliament is subject to practical constraints related to its limited resources. A total of seventeen committees with seven to nine members each, plus a few dozen parliamentary research staff, oversee a public sector of approximately half a million employees spending a
budget of around £30 billion. Committees also struggle to conduct parliamentary business in a restricted time-frame (recently boosted to Tuesday to Thursday mornings).

The more constraining factor is the role of ‘whipped’ political parties. In 1999–2003 and 2003–2007, Scottish Labour, the largest party, formed a majority coalition government with the Scottish Liberal Democrats, securing seventy-three (57 per cent) and then sixty-seven (52 per cent) of 129 seats. The governing coalition had enough MSPs to control the parliamentary business bureau and ensure a voting majority on all committees. The parties also appoint their own convenors and decide which MSPs sit on which committees.

The coalition produced the closest thing possible in Scotland to majoritarian government in a government-versus-opposition atmosphere. It produced ‘partnership agreements’ that tied both parties to a detailed programme of legislation without seeking agreement from opposition parties. It dominated the legislative process and committee time. While there is some evidence of parliamentary influence during the scrutiny of government legislation, the Scottish government produced and amended the majority of bills.

Minority (SNP) government from 2007 to 2011 had an impact, but also demonstrated the imbalance of power between government and parliament in four ways. First, the Scottish Parliament reinforced the expectation that the government would retain primary responsibility to legislate. Committees proved unable to produce agenda-setting inquiries or significant legislation. Second, the Scottish government pursued many of its policy aims without primary legislation or parliamentary permission, using its budget and existing laws. Third, small committee size and MSP turnover undermined committees’ abilities to scrutinise government policy. Fourth, although the SNP government lost more votes than its predecessors, and did not introduce two major bills—on an independence referendum and reform of local taxes—its legislative programme remained largely intact and few bills were amended against the SNP’s wishes.

In contrast to the Smith Commission report (discussed in the introduction to this issue), I argue that further devolution will not make the Scottish Parliament more accountable. Rather, its influence will diminish further when the Scottish government takes on more resources and responsibilities, producing the need for the Scottish Parliament to produce more scrutiny with the same resources. Most policy will continue to be made in communities and the Scottish Parliament will continue to struggle to scrutinise that activity.

**Popular participation will be limited to elections and low-impact activities**

The Scottish government and Scottish Parliament struggled to maintain mechanisms that vested significant power in participatory bodies. There is no process to introduce regular referendums and there have been no major initiatives such as citizen juries. Instead, the Scottish Civic Forum had an uneventful seven-year life. Further, despite being designed to be superior to the then arcane practices in Westminster, the Scottish Parliament’s petitions process had a very limited policy impact.

There is currently no great push towards more popular participation. One exception is the Electoral Reform Society Scotland, which discusses the potential of innovations such as “Mini-publics”—deliberative local groups working alongside representative democracy, empowering people to run their own towns and villages and “A Citizens’ Assembly—a chamber of citizens, possibly selected like a jury, to check and challenge the elected politicians’. These initiatives are reminiscent of the SCC agenda but they seem to have less support than in the past. The view of most parties, and of the Scottish government, seems to be that the Scottish Parliament and participatory processes are working well. The Smith Commission has not made any recommendations on this topic, and no other authoritative body has filled the gap.

**The ‘Scottish Approach’: More power for local partnerships and service users?**

There are more notable developments in Scottish ‘governance’. The Scottish government is
Building on its reputation for pursuing a consultative and cooperative style when it makes and implements policy. It has, since 2007, maintained the National Performance Framework (NPF), based on a ‘ten-year vision’. The NPF has a stated ‘core purpose’—to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. It seeks to turn this broad purpose into specific policies and measures of success in two main ways. First, it articulates its approach via a ‘purpose framework’, linked to targets gauging its economic growth, productivity, labour market participation, population, income inequality, regional inequality and (emissions based) sustainability, and five ‘strategic objectives’:

1. Wealthier and Fairer—Enabling businesses and people to increase their wealth and more people to share fairly in that wealth.
2. Healthier—Helping people to sustain and improve their health, especially in disadvantaged communities, ensuring better, local and faster access to healthcare.
3. Safer and Stronger—Helping communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life.
4. Smarter—Expanding opportunities to succeed from nurture through to lifelong learning ensuring higher and more widely shared achievements.
5. Greener—Improving Scotland’s natural and built environment and the sustainable use and enjoyment of it.

These objectives are mapped onto sixteen ‘National Outcomes’ and fifty ‘National Indicators’, including:

- **Health**—Increase physical activity; Improve self-assessed general health; Improve mental wellbeing; Reduce premature mortality; Reduce emergency admissions to hospital; Reduce the percentage of adults who smoke; Reduce alcohol related hospital admissions; Reduce the number of individuals with problem drug use; Reduce reconviction rates.
- **Poverty**—Reduce the proportion of individuals living in poverty; Improve access to suitable housing options for those in housing need; Improve the skill profile of the population.
- **Early Years**—Increase the proportion of pre-school centres receiving positive inspection reports; Improve levels of educational attainment; Reduce children’s deprivation; Increase the proportion of young people in learning, training or work; Improve children’s services; Improve children’s dental health; Increase the proportion of babies with a healthy birth weight; Increase the proportion of healthy weight children.
- **Environment**—Reduce Scotland’s carbon footprint; Increase the proportion of journeys to work made by public or active transport; Reduce waste generated.

It works with local authorities to produce ‘Single Outcomes Agreements’. The SOAs are produced in line with the NPF’s vision, but local authorities have discretion to decide the balance between a range of priorities and how they will meet objectives.

The spirit of the Scottish government’s concordat with the Convention of Scottish Local Authorities (COSLA) suggests that the former will not seek to micromanage local authorities or use external scrutiny and funding to produce compliance with short-term, specific targets. Instead, it encourages local authorities to cooperate with other bodies in the public sector—including health, enterprise, police, fire and transport—via established Community Planning Partnerships (CPPs), which encourage ‘community engagement’ and engagement with the third and private sectors), to produce a ‘shared strategic vision for an area and a statement of common purpose’ and meaningful long-term outcomes.

**The ‘Scottish approach’ to prevention: A policy and a governing philosophy**

The ‘Scottish approach’ also includes a commitment to ‘achieving a decisive shift to prevention’. ‘Prevention’ is one of those terms in good currency, partly because it is vague enough to generate widespread support. ‘Preventative spending’ is a term used by many governments to describe a broad aim to reduce public service costs by addressing policy problems at an early stage. The argu-
ment is that too much government spending is devoted to services to address severe social problems at a late stage. The aim is for governments to address a wide range of long-standing problems—including crime and anti-social behaviour, ill health and unhealthy behaviour, low educational attainment and unemployment (and newer problems relating to climate change and anti-environmental behaviour)—through 'early intervention', before they become too severe and relatively expensive.

A ‘decisive shift to prevention’ is only meaningful if attached to a more detailed vision—, as provided by the Scottish government-commissioned ‘Christie Commission’. Its agenda for prevention policy begins with a broad statement of intent based on four principles:

- Reforms must aim to empower individuals and communities receiving public services by involving them in the design and delivery of the services they use.
- Public service providers must be required to work much more closely in partnership, to integrate service provision and thus improve the outcomes they achieve.
- We must prioritise expenditure on public services which prevent negative outcomes from arising.
- And our whole system of public services – public, third and private sectors – must become more efficient by reducing duplication and sharing services wherever possible.

The Commission’s aim is to examine how to reduce social and economic inequalities, improve ‘social and economic wellbeing’ and spend less money, in the context of:

(a) over ten years of high post-devolution spending producing minimal or adverse effects on inequalities, including healthy life expectancy and education attainment;
(b) the likelihood of reduced budgets for over ten years;
(c) rising demand for many public services, resulting from a combination of demographic change, such as an ageing population, and ‘failure demand’, or the high cost of a public service when it treats acute problems.

To do so requires that the Scottish government address its unintended contribution to a ‘cycle of deprivation and low aspiration’ by: redirecting spending towards preventative policies in a major way; changing its relationship with delivery bodies; addressing a lack of joint working in the public sector, caused partly by separate budgets and modes of accountability; and engaging ‘communities’ in the design and delivery of public services, rather than treating them as ‘passive recipients of services’ (the ‘assets-based’ approach). Christie gives a steer on the types of projects on which a prevention agenda can draw, including those which:

- ‘personalise’ service delivery by, for example, encouraging disabled service users to negotiate the details of their care;
- train ‘kinship’ carers, to reduce the need for cared-for people to use expensive public services;
- foster social networks to address the mental health effects of isolation;
- involve partnerships with specialist third sector bodies;
- involve bottom-up service delivery through organisations such as community development trusts;
- focus on inequalities in areas such as training and work;
- focus on ‘the needs of deprived areas and populations’.

The Commission identifies nine priorities and at least ten recommendations, but we can identify an overall aim, based on three relevant steps: first, make a firm and tangible commitment to prevention, backed up by a commitment to cross-cutting budgets and relevant legislation; second, use the existing evidence on prevention to identify the projects most worthy of investment; third, pursue a ‘bottom-up’ approach to policy delivery, encouraging local bodies and ‘communities’ to work together to turn this agenda into something relevant to local areas.

The Scottish government’s response was positive, signalling ‘a decisive shift towards prevention’ and ‘a holistic approach to addressing inequalities’. It sought to turn this broad agenda into specific aims and projects, by:

- listing its existing prevention-led projects, including a focus on early years (and pov-
property) investment, class sizes and curriculum reform, employment training, tobacco, drug and alcohol control, ‘inequalities-targeted health checks’, alternatives to short-term custodial sentences, affordable housing, energy assistance and community-based carbon emissions reduction projects;

- announcing three new funds, representing £500m of ‘investment in preventative spending’ from Scottish government and public body funds—a ‘Change Fund for older people’s services’ (primarily NHS budget), an ‘Early Years and Early Intervention Change Fund’ (NHS and local authorities) and a ‘Reducing Reoffending Change Fund’ (with third sector involvement)—as well as a ‘Scottish Futures Fund’ bringing together spending on youth sport, broadband, Sure Start, fuel poverty and public transport encouragement;

- outlining its specific priorities up to 2016, to expand nursery education and reduce class sizes, roll out Getting it Right for Every Child (GIRFEC) nationwide, increase funding (£30m) on early cancer detection, introduce a minimum unit price on alcohol and further tobacco control, regenerate ‘disadvantaged communities’ and support community-based renewable energy schemes.

Crucially, it sought to balance this central-level shift of approach with a commitment to local-level responses, via guidance issued by COSLA and the Scottish government. Local SOAs demonstrate a broad commitment to the NPF and prevention, but with differences driven by each area’s response to its geographical and socio-economic conditions, and potential to give different meanings to an ambiguous policy solution.

**Conclusion: How do these developments relate to each other?**

These local and service-user developments are in their infancy, and it is too soon to tell if they will amount to a new style of governance. Nevertheless, if we seek evidence of a distinctive and changing Scottish political process, we can find more in the study of the Scottish government’s consultation, governance and policy emphasis than in parliametary and participatory public influence. There is also the potential for new measures of long-term success, in terms of the extent to which policies are tailored to local communities to increase well-being, with local bodies less subject to the unintended consequences of Westminster-style top-down targets which produce often severe unintended consequences.

Yet these reforms produce their own unintended consequences which have yet to be resolved. In particular, this focus on local governance exposes an uneasy balance between pragmatic forms of institutional accountability, where the public sector shares policy-making responsibility with the Scottish government, and Westminster-style democratic accountability—that of ministers to the public via infrequent elections and regular parliamentary scrutiny. Put simply, if the whole public sector shares responsibility, it is difficult to hold the Scottish government to account for policy outcomes in elections and parliament. Further, a shift towards local policy-making, combined with the greater devolution of powers, will further undermine the role of parliament.

The Scottish Parliament already lacks the ability to gather information independently—it tends to rely on bodies such as the Scottish government to provide that information. While it can oblige, say, Scottish ministers to attend meetings to provide information, such tools have a limited effect. The parliament struggles to hold the government to account because:

1. It does not get enough information from the Scottish government about what is going on locally. Scotland lacks the top-down performance management system that we associate with the UK government, and a greater focus on long-term outcomes removes an important and regular source of information on public sector performance.

2. Local and health authorities often push back against calls for detailed information. In particular, the former say they are not accountable to parliament because they have their own elections and mandates.

More devolution to local authorities and CPPs would exacerbate this tension between...
local and national accountability. In turn, it should prompt us to think about what a future parliament is there to do. Is it there to consider only the Scottish government’s broad strategies or should it examine local outcomes in detail? At the very least, we should consider the extent to which new mechanisms to enhance local policy-making will adequately replace the functions of the Scottish Parliament. Will existing bodies, such as CPPs, or new participatory bodies in the ERS Scotland mould, have the same legitimacy as an elected Scottish Parliament which is often seen to represent the centre of popular participation and Westminster-style democratic accountability? More devolution, prompted by the Smith Commission’s recommendations, raises the stakes of this debate further, prompting us to think about the ability of a Scottish Parliament to scrutinise, for example, the links between fiscal and welfare policy and public service delivery, without the ability to gather information on all aspects.

This shift towards local decision-making also has the potential to change the ‘policy community’ landscape. Currently, most Scottish policy is processed by civil servants who consult regularly with pressure participants. Most ‘lobbying’ to the Scottish government is done by either other parts or types of government or professional and interest groups, representing local authorities, local authority professions, the medical and health professions, businesses, business groups, the third sector and so on. Civil servants rely on groups for information and advice, and they often form long term, efficient and productive relationships based on trust and regular exchange. When policy is made at the Scottish level, those groups organise at the Scottish level—establishing bases in or near Edinburgh and spending their ‘lobbying’ time in consultation with civil servants. The Scottish government is a key hub for policy relationships; it coordinates networks, referees disputes and gathers information and advice.

One consequence of devolving more power locally is that these groups must reorganise, to shift from lobbying one national government to thirty-two local governments. Such a shift would produce new winners and losers. The well-resourced professional groups can adapt their multilevel lobbying strategies, while the groups working on a small budget, with one or two members of paid staff and only able to lobby the Scottish government will struggle. In other words, the reforms may benefit the ‘usual suspects’. Further, in specific areas, the dynamic may change markedly. For example, greater local devolution in education may change the tripartite relationships that developed between the Scottish government, local authorities and teaching unions—in a field characterised by historic tensions between the latter, briefly made more bearable by the former.13

If this local landscape was to develop, and the role of the Scottish Parliament and many well-established Scottish government-focused groups were potentially to diminish, three aspects of future policy-making might be worth further consideration. The first relates to a greater need to develop local participatory capacity to perform the functions of national organisations. ERS Scotland’s suggestion is that more local devolution produces a more active local population. Even so, we still need to know more about how and why people organise. For example, local communities may organise in an ad hoc way to address major issues in their area as they arise; to engage in a small part of the policy process at a particular time. These kinds of individuals or groups do not have the resources to engage in a more meaningful way, at least compared to a parliament and collection of established groups which maintain a constant presence and develop knowledge of the details of policies over time. These bodies represent a form of institutional memory in a way that ad hoc campaigns would not.

The second relates to governance reforms which focus primarily on the relationship between elected local authorities, a wide range of unelected public bodies and service users. There is some potential to establish a form of legitimacy through local elections but, as things stand, local authorities are expected to work in (perhaps equal) partnership with unelected bodies—not hold them to account. Unelected public bodies remain accountable via Scottish ministers. There is also some scope to develop a form of user-driven public service accountability, but separate from the electoral process and with an unclear sense of how that process fits into the wider picture.

The third relates to potential parliamentary reform. Until very recently, the Scottish Parliament had not responded significantly
to governance trends and a shift to outcomes-focused policy-making. Its procedures and activities focused traditionally on inputs to the political system. Its main role is to scrutinise draft Scottish government legislation as it is introduced. In general, this scrutiny has a very narrow focus, with a limited emphasis on pre- or post-legislative scrutiny. It has the potential to change its role. It can shift its activities towards a focus on Scottish government policy in broader terms, through the work of inquiries and its finance and audit functions. So far, it has used these powers rarely; yet it has shown, via the Finance Committee’s recent focus on ‘prevention’ and its new focus on outcomes-based measures of Scottish government and public sector performance, that it can engage in a much broader examination of policy.

In short, I argue that there is an alarming disconnect between two Scottish political processes. In the first, political parties engage in rather adversarial, Westminster-style debates when preparing for, and competing in, elections. This process gets the most public attention: we are entertained by the theatre and generally expect opposition parties to criticise the government, as part of the process of holding them to account. There is almost no other way to ensure public deliberation. In the second, the Scottish government sets priorities and the public sector delivers policy, generally out of the public and parliamentary spotlight. Parties don’t produce effective scrutiny of the government in parliament, there are few other means to ensure accountability and further shifts towards institutional accountability, combined with localism, make it harder for interest groups to engage. This disconnect will be made worse by the further devolution of power to Scotland and the further development of governance reforms. Yet very few people are paying attention. All eyes are on further devolution, but who is paying attention to the need for greater democratic accountability to accompany greater Scottish government responsibility?

Notes