

LOCAL GOVERNMENT IN A DEVOLVED SCOTLAND

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THE CHANGING POLITICAL CONTEXT OF DEVOLUTION

Since the arrival of devolution on the political agenda in the 1970s, there has been an expectation that its introduction would inevitably lead to a reconsideration of the structure and functions of local government (Gunn 1977; Page 1979). Indeed, both the SNP and the Liberals committed themselves in electoral manifestos to transferring functions from local government to a Scottish Parliament, dismantling the big regions, and shaping local authorities around the former district councils. Even after the recent reorganisation, that anticipation of further structural change remains.

It is important, however, to recognise the dramatic change in the political context of constitutional reform since the 1970s. In 1973 Britain was in the twilight of the era of consensus politics. Very few foresaw the sustained radical challenge which the Thatcher years would bring to conventional social democratic consensus over the scope and functions of the State. Devolution in the 1970s was a political response to the perceived threat of nationalism by a government which did not believe in it (Dell 1991). After the third Conservative election victory of 1987, devolution became the route to escape Thatcherism, although to achieve this Thatcher herself would have to be defeated.

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In the post-war political consensus, there was a predisposition in favour of the provision of local public services. Arguments about the proper scale of such functions assumed that public provision would remain the norm. In the 1990s that no longer holds. Whilst Scots in the main remain collectivists, the Conservative party is a combination of libertarianism and pragmatism (Paterson 1996). In the New Right critique of political economy, local government is part of the problem, and it favours the fragmentation of powers, small scale authorities, and pluralistic competition for service provision (Boyne et al 1995). In terms of public finances, control and reduction of spending is a key strategy, even though New Right mechanisms for achieving it, such as the poll tax, have been spectacular failures.

In this essay, I consider the issues of structure and finance facing local government in a devolved Scotland. There are no predictions. Indeed, the hope is that by identifying such issues they will be addressed in a considered way in the event of public consent being given to the devolution proposals.

The Scottish Parliament will broadly assume responsibility for the functions currently in the domain of the Scottish Office. Unlike 1974, it will have some powers of public ownership, and very limited fiscal autonomy in the form of tax-varying powers. In that sense, the 1990s version is little different from its consensus 1970s model. It will be elected by proportional representation and is expected to create a 'new politics', although, in practice, new politics seldom emerge from such schemes. The devolution proposals of today leave the key issues of Scottish representation at Westminster, the role of the Scottish Secretary, and the reality of fiscal dependency unresolved.

However, it is important to note the differing basis of political authority which the Scottish Office and local government hold. The Scottish Office is a central government department responsible for policy making and resource allocation with the approval of Parliament through the legislative process. Local governments are multi-functional corporate bodies with responsibility for service delivery, and accountable for their discharge both to the Secretary of State through statute, and their publics through the electoral process. As such, they are part of a network of sub-central government, including quangos, which have such service delivery responsibilities. The Scottish Office delivers little directly, but relies on other public agencies to deliver services under its supervision.

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It is likely that local government itself will provide many of the politicians for the new Parliament, and thus local government, which counts for about 40% of Scottish public spending, will inevitably be a major concern for it.

Local government reform arrived unexpectedly on the political agenda in the aftermath of Mrs Thatcher's downfall. In the late 1980s, an internal Scottish Office report had concluded that a single-tier system based on around 20 authorities with a minimum population size of around 100,000 would be viable, requiring only minimal use of joint arrangements for service delivery (Boyne et al 1995). This approach was based on the 'managerial' model, in which municipal service delivery remained the norm.

In the 1990s, however, the 'public choice' model of the New Right came into favour, encapsulated in Nicholas Ridley's enabling authority which concerned itself with strategy, allocation and review, but contracted out service provision to a range of organisations (Ridley 1982). This approach was central to the Adam Smith Institute's advocacy of small local authorities with limited powers (ASI 1987). The contrast with the rationale of the reorganisation of 1973 is instructive. The Wheatley system sought to rationalise the fragmented, small-scale system of local authorities to provide economies of scale in service delivery, improve co-ordination, and enhance accountability by reducing the need for joint boards (Fairley 1995). By contrast, the 1996 reforms too sought to improve efficiency, accountability and co-ordination by reducing the number of authorities, but did so by reducing the scope of local government through the removal of powers, by eliminating a tier of local government, and by promoting multi-agency service provision with smaller scale authorities.

Small scale authorities had the added advantage to ministers of offering greater prospect of Conservative control. Comments on 'gerrymandering' were commonplace, and the phrase 'Tory safe-havens' emerged in journalistic analysis of the issue. Black (1995) lists a number of such examples in the new authorities - Stirling, Perth and Kinross, Kyle and Carrick and Eastwood; the failed attempt to merge Berwick and East Lothian; and in the transference of key wards from cities to the hinterland.

The final map was a compromise. The government wanted to deliver savings, and in practice that meant reducing the number of authorities - but particularly districts. The greatest savings were forecast for aggregating regions. They also wanted to increase their political power, and that required a number of small authorities which on economic grounds they would have

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rejected. The enabling authority model provided the economic rationale. The end result was 32 authorities of which 12 had populations smaller than 100,000.

The new system would provide for more local, more efficient and more accountable local government. In practice, it is questionable whether it meets any of these objectives. Political interests led to the division of Ayrshire, Renfrewshire and Central Region, all of which would have been more viable as unitary authorities. The creation of three new public boards, and a Strathclyde Passenger Transport Authority, effectively creates a multi-tier system of local government. The loss of aspects of roads and the Reporters service to the Scottish Office itself further erodes local democracy, and the Scottish Office at the same time strengthened its capping powers, its capital controls, and its provisions for competitive tendering. The financial assumptions underpinning the reforms were questionable, and the administrative costs appear not to have been reduced. The costs of corporate management remained stable at £50m (Midwinter 1996). It is difficult to see this new package as strengthening the autonomy and accountability of local government. Rather, as Jean McFadden (1995) has observed, local government has in many aspects been significantly weakened.

THE PROBLEM OF STRUCTURE

Not surprisingly, the devolution agenda in the 1990s has produced very little from politicians in anticipation of devolution, although the Shadow Scottish Secretary has denied claims that his party would take powers from local government, whilst adding that such issues were, nevertheless, matters for the parliament itself (Scotsman 19 November 1994). The Scottish Constitutional Convention has, however, produced a short paper, which anticipated the need for single-tier local government in the event of devolution, but provided no explanation for this judgement (SCC 1994). This document advocated a new partnership and an end to the present confrontational relationship. It advocated bringing health boards, local enterprise companies and new town development corporations under local government, according to the principle of subsidiarity whereby powers should reside with local government unless it could be demonstrated that the Scottish Parliament could perform them more effectively and at the same time retain accountability. It was non-committal in terms of units of local government, but saw it having a strategic role and thus requiring sufficient population and revenues to allow this.

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Finally, it favoured a property tax based on capital values, as this could broaden the tax base of local government. Ironically, given the limited tax powers it proposed for the Scottish Parliament, it concluded that

local authorities should raise a considerable share of their own resources. If this were the case, it would give them a degree of independence from the Scottish Parliament which would not be able to exercise control by simply turning the resources tap on or off.
(p.34)

The expectation that a Scottish Parliament would restructure local government has long been a conventional wisdom amongst devolutionists by removing a tier of local government (McCrone et al 1993) and by adopting a scrutiny role. In 1979 Stuart Page argued that

it is scarcely possible to visualise an effective and energetic Assembly which would be content to debate issues fundamental to the social and economic welfare of Scotland without calling into question the detailed policies of local authorities.
(p.184)

This makes the strong, and almost uncritical, support of local government for a devolved Parliament difficult to understand. Others such as Ian Lang have voiced the view that the Scottish Parliament would be a 'serious threat' to local government. (**Municipal Journal** 17 March 1995)

Sewel (1987) advocated single tier local government to improve public understanding and hence accountability based on 17 authorities. His consideration of efficiency was limited to a few services:

It is unlikely that all the proposed authorities would be of a sufficient size to carry out the functions of police, fire and water - functions where the autonomous decision-making powers of local authorities are limited. These functions may have to be administered through joint committees, or even at an all-Scottish level, through the Assembly. Such a change would be a small price to pay for a more coherent, appropriate and accountable structure of local government.
(p.11)

Sewel goes on to argue for vigilance against an Assembly adding to its own powers at the expense of local government. His prescriptions, of course, have

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in fact come to pass in terms of the current reformed system. Police and Fire are administered by joint boards, and water by appointed boards.

However, it is questionable whether under the present system or a devolved system, there is a model which would enhance the potential for improved efficiency, co-ordination and accountability, and would also enhance the distributive capacity of authorities. That is to base the authorities on the same boundaries as health boards, which are in effect the old regional/islands authorities except for Strathclyde. Passing power to a central parliament does not itself tackle 'accountability' problems, as it would undoubtedly decentralise the administration of such services and lead to a national agency, if not regional ones. Fifteen authorities would reduce the need for joint boards to Lothian and Borders, Highlands and Islands and Strathclyde, though even the latter area could be broken up and still leave sizeable units for police and fire.

The question of transferring health and economic development powers to local government is more complex. Health has always been regarded as a national service, and its transfer to local government would require the acceptance that policy variations would ensue. This needs much greater consideration than the Constitutional Convention gave it, and there is the problem of the medical profession's approach to inclusion in local government to consider. Tackling the 'democratic deficit' through devolution is by no means straightforward.

My own view is that, having made much of the growth of the unelected state, the dominant parties will have to address the issue of water and sewerage and police and fire services. These are in effect dominated by 'national standards' of provision already, and the European Community in the case of water and sewerage. One suspects that Labour would find it easier to deal with this by simply giving water and sewerage to existing local authorities for appointment to joint boards. This will not tackle the problem of accountability.

There is a need for real caution and consideration of whether further restructuring of local government is essential and desirable. Staff morale is low after the recent reorganisation, without facing the immediate uncertainty of a further change. Further transferring services to a Scottish Parliament would further remove key local services from community influence. Yet, to date, the single-tier system has only been achieved by reducing the scope of local government.

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Any further consideration of local government structure would at least take place without the ideological baggage of the enabling authority model. Municipal provision in fact remains the dominant form of service delivery (Midwinter 1995), and so the case for restructuring to enhance efficiency and accountability is in need of serious appraisal. Local authorities retain key roles in service provision, in education, social work, and public libraries, services for which there is now research evidence of economies of scale (Travers et al 1994; Midwinter and McVicar 1994, Midwinter and McGarvey 1995). It is therefore an issue the new Parliament should want to consider, particularly in the expectation of continuing public expenditure restraints. The evidence from such research in England is of diseconomies of scale in very small authorities (<200,000), and economies of scale in large authorities (>1 million population). Given the large number of small authorities in the new structure, it seems reasonable to suggest that some increase in unit costs may occur.

A further restructuring would be disruptive, but if it took the form of aggregating smaller authorities, less so than the difficulties faced in disaggregating the large regional authorities like Strathclyde. It was seen from the Government's reform proposals that a system based on a few large authorities would maximise administrative savings. It is certainly arguable that a system based broadly on the health board areas would have reduced administrative costs, increased benefits of scale in service delivery, and enhanced co-ordination with health services.

The Scottish Parliament would, however, have to be satisfied that major benefits in terms of cost and service delivery would accrue from such a change. Whatever the administrative rationality of such a step, the benefits ratio remains uncertain, and warrants investigation.

THE PROBLEM OF FINANCE

The Scottish Parliament will have marginal tax varying powers. It is difficult to see the power to reduce taxes being used, as it would undermine the arguments over Scotland's spending needs. The new parliament may well search for additional sources of revenue to allow it to meet its political aspirations to develop services. The obvious source for a Scottish Parliament would be the 'business rates' (or non-domestic rate as it is technically called). As the Constitutional Convention notes:

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The present government's operation of the Unified Business Rate means that Scottish businesses are the most highly taxed in the United Kingdom. In relation to the element of local government finance derived from non-domestic rates, there is a debate as to whether this power should rest with a new Scottish Parliament or be given back to local authorities.

(SCC 1995, p.34)

At the time of writing, Labour is committed to returning business rates to local government, thus increasing its fiscal autonomy as it will then raise around 41% of its income in local taxation. If the tax element of the referendum fails, or the Parliament suffers severe fiscal squeeze, that proposal would be ripe for reconsideration.

A more complex problem could arise over the financing of the Scottish assigned budget, from which local government will receive substantial grants. Proponents of this system expect the basis of equalisation to be reviewed:

The Convention's financial proposals will give the Scottish Parliament flexibility and independence. The principle of equalisation will continue with Scotland receiving a contribution from UK taxations based on a comparative assessment of its needs. This would start from the present position. The needs assessment will have to be reviewed on a regular basis with an initial assessment as soon as possible after the Parliament is established.

(Labour Party Scottish Council 1992, p.5)

There is an expectation that a new needs assessment study will be necessary to secure stable funding for devolution (Heald 1994). The principle of equalisation, through which different parts of the UK are entitled to broadly similar standards of public service, is well-established, though difficult to achieve in practice. In a system of devolution in which an assigned budget with a minimal power of income tax variation is the expected financial package, the basis on which the assigned budget is calculated is obviously crucial.

Problems of assessing needs have been recurring ones in local government finance. The current approach is to assess what authorities would need to spend to provide a similar standard of service with a similar degree of efficiency (Keating and Midwinter 1994). The concept of a 'standard' service

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is not unproblematic. In 1914 the possibility of paying out grants on a 'pounds per unit of service' basis was ruled out because

apart from the difficulty of finding suitable units in all cases, the system is open to the objection that the expenditure per unit depends upon many other factors besides the ability of the district, and that it varies from locality to locality within very wide limits. ... A series of units, as has been suggested, applicable to different sets of localities, would involve endless difficulties of inquiry and classification, and would probably in the end produce rather an appearance than a reality of fairness.
(Kempe 1914, p.22)

Indeed, the one recent attempt to examine this utilised the weighted population approach used for the NHS (Treasury 1979). This is worth considering at length.

The report was the result of a study Team set up in the Treasury which worked in consultation with appropriate spending departments, from 1976. In 1975, in the White Paper on devolution, the Government addressed the matter thus:

No neat formulas could be devised to produce fair shares for Scotland in varying circumstances for year to year. The task involves judgements of great complexity and political sensitivity.
(para 227)

This study confined itself to assessing the effects of objective factors outwith the direct control of the spending authorities, but not differences in 'policy and tradition'. It made it clear that:

The results are by no means final. The Departments who have carried out the study agree that the methods of assessment are a long way from providing a wholly definitive means of expressing the relative expenditure needs of the four countries. There is no right answer either ... for the individual programmes from which the assessment is built up.
(p.1)

They noted that the search for quantification was not always successful and there was a need to consider non-quantifiable information. The problem of defining standard policy also emerged. Whilst policies were broadly similar, differences could be observed.

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In practice, the definition and measurement of equalisation was impossible, and the outcomes qualified to reflect the inadequacy of the information and the resort to judgemental weightings. As the report concluded, the methodology was a long way from 'providing an ideal or unquestionable means of expressing relative needs', and that 'factors affecting relative expenditure needs for different services are more complex than the proposed formulas suggest'. (p.29) These are major qualifications. This study shows that Scotland's needs were 16% higher than England, whereas its expenditure was 28% higher (Heald 1990). Such a formula used for funding a devolved parliament would require substantial reduction in Scottish expenditure.

However, the key point is that needs assessments are fraught with imprecision, and open to political manipulation (Keating and Midwinter 1994). Political acceptability rather than fiscal equalisation is the key test of such formulae. At the moment, Heald has estimated the Scottish relativity in devolved services to be some 30% above the UK average.

Any move from the Barnett formula to a more systematic approach to needs assessment would intensify fiscal relations over an issue which Heald (1994) has already described as having become 'more overtly politicised' (p.171). He also expressed the expectation that a needs assessment study would probably suggest a reduction in Scottish spending.

This would have serious implications for the capacity of local government to maintain service levels if, as expected, any reduction in the assigned budget would be passed on to it. It should not be assumed that the present arrangements would survive a Labour Government, but there is a need for caution over reopening the Barnett formula:

Although it would be unwise to guess at the detailed actions of the Expenditure Needs Assessment Exercise, the Scottish Parliament would have to recognise the probability that the relative needs index would be lower than the actual relative. In such an eventuality, the design of the formula for a *concomitant reduction of block grant* (my emphasis) over a period of years would be a critical issue.
(Heald 1990, p.41)

I would certainly expect the first devolved parliament to revisit the continuing problem of local government finance, although I would expect many of the current financial controls such as capping to be removed by a change of government itself, irrespective of devolution. With the council tax,

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I would expect some reconsideration of the complex mode of intergovernmental fiscal relations between London, Edinburgh and local government. Governments find it easier to transfer painful decisions to other institutions rather than face them themselves. Grant reductions from the Treasury to Edinburgh and onwards to local government, given its considerable share of devolved expenditure, must be possible, particularly in the context of differing political control at Westminster and Edinburgh. The benefits to local government of devolution are unlikely to be fiscal. Rather, they will permit the mainstream Scottish consensus over public provision to prevail, which will end the conflict over the role and purpose of local government.

CONCLUSION

Devolution is presented as a means for decentralising political power and enhancing public accountability. Those who favour strong local government, however, cannot be fully convinced that devolution is a necessary precondition of more favourable policies towards local government. It would be sad if a measure intended to decentralise power should lead to further centralisation, but that is clearly a possibility which cannot be discounted. The real benefit is likely to be the capacity to reflect the mainstream Scottish consensus over public provision, and reduce much of the ideological hostility the present government displays towards local government. Local government's future remains uncertain.

Devolution, or simply a change of government, offer the prospect of addressing the current weaknesses in local government which led to the fiscal crisis of 1996. The first need is to increase local autonomy, and local accountability. This should be achieved by ending capping, the economic rationale for which was always suspect, and the requirement for competitive tendering. Secondly, there is a need to expand the tax base to remove the problem of the gearing effect, whereby small cuts in grant can lead to high local tax increases because of the high ratio of grant to taxation. This could be achieved by returning the business rate to local government, which too was a policy change of spurious economic rationale (Midwinter and Mair 1987). Finally, the new parliament should reinvent partnership in central-local fiscal relations. Too often local government is presented as the 'opposition' or the 'villain' by a central government on which it has become fiscally dependent.

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In practice, this will be less easy to achieve. Nothing in the Shadow Chancellor's pronouncements suggests any real easing of the financial problems of local government.

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