

Has Scottish Devolution Been A Success?

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ABSTRACT

The paper introduces a new systematic assessment conceptual framework to evaluate Scottish devolution. In doing so it draws from various strands of literature including public policy, constitutional and territorial politics. It utilizes McConnell's (2010) framework and distinguish between process, programmatic and political success. It explores the various dimensions of the policy of devolution, highlighting that devolution is viewed as a success by both unionists and non-unionists with both working within the existing settlement as well as projecting alternative Scottish constitutional futures. This success may be transient and vulnerable for each sowing the seeds of potential failure as both view devolution as successful for different reasons. For both it has provided a platform for increasing Scottish self-governance. For unionists this process strengthens the union, while for non-unionists it sows the seeds for increasing autonomous and independent government.

INTRODUCTION

The advent in 1999 of the Scottish Parliament was the most fundamental constitutional change in the governing of Scotland for almost three hundred years. It was a recognition of the failure of a unitary form of unionism, advocated among others by Conservative governments at Westminster during the period 1979-1997, to satisfy political and civic demands for greater autonomy in the governance of Scotland (see Brown et al 1998; Finlay 2008; McGarvey and Cairney 2008; Mitchell, 2009; Keating 2010).

The old UK constitutional arrangement was failing in Scotland with government legitimacy increasingly questioned in the 1980s and 1990s. Thatcher believed there was 'no limit on the absolute sovereignty of the Westminster parliament, thus there was no need to consider Scottish distinctiveness' (Devine 2006: 606), whereas previously there had been an acceptance in both Conservative and Labour circles that Scotland should be accommodated within the union (Denver et al 2000: 13). The Conservative Party in Government combined a Thatcherite hard line unitary form of unionism, then a combination of exposition an exposition of the 'union dividend' for Scotland and a 'Talking Stock ' exercise, which resulted in some minor procedural tinkering. All of which failed to halt demands for home rule, which grew throughout the 1980s and 1990s. These aspirations were legitimated and popularised by the Scottish Constitutional Convention (1987-1995).

These demands were met following the election of the Blair Government in 1997. Scottish devolution was implemented remarkably smoothly (and

speedily). The Blair Government held a referendum in Autumn 1997, which overwhelmingly endorsed the proposals. The passage of the Scotland Act through Westminster proved straightforward – the first Scottish parliamentary elections were held in May 1999 and the Scottish Parliament convened (or reconvened, depending on your perspective) on 1 July 1999.

Post-devolution, the momentum in favour of some adjustment to the existing settlement has gathered pace since the SNP’s Scottish Parliamentary election victory in 2007. As McGarvey and Cairney note, ‘The current devolution settlement no longer appears (in the late John Smith’s oft-cited phrase), ‘the settled will of the Scottish people’ (2008: 255). The pro-Unionists established the Commission on Scottish Devolution in 2008; its report (Calman Commission, 2009) provided the basis for further transfers of power to the Scottish Parliament via the Scotland Bill. The Calman Report has been marshalled by pro-unionist forces as evidence that devolution was a more flexible form of Unionism that has succeeded where unitary Unionism had failed. However, following the landslide 2011 Scottish Parliamentary election victory by the SNP, its recommended adjustment to the 1999 devolution settlement appears conservative.

However, despite the SNP 2011 election success, opinion polls have consistently shown only minority support for Scottish independence (see table 1 below). The 2007 SNP minority Scottish Government-initiated ‘National Conversation’ was the vehicle for galvanising a counter-devolution movement. It culminated in a White Paper *Your Scotland, Your Voice* (Scottish Government, 2009) that formed the basis for a draft bill seeking to initiate a referendum. It included Scottish independence as one option in a multi-option referendum on the future governance of Scotland.

Table 1: Constitutional Preferences in Scotland 1997 – 2009

Year	Independence %	Devolution %	No Parliament %
1997	37	41	17
1999	28	58	10
2000	30	55	12
2001	27	60	9
2002	30	52	12

2003	26	55	13
2004	32	45	17
2005	35	44	14
2006	30	54	9
2007	24	62	9
2009	28	56	8

Source: Cairney, forthcoming. Note: independence = 'Scotland should be independent from UK and EU or separate from UK but part of EU, devolution = Scotland should remain part of UK with own parliament with some or no taxation powers, No parliament = Scotland should remain part of the UK without an elected Parliament.

This paper asks the simple question, has devolution been a policy success? In seeking to answer it should be acknowledged that success means different things for different political interests, it is – to a degree – a constructed term. 'Success' as a concept has many different standards. These could range from the basic, 'it is better than before' to the more defined, 'it has met policy goals'. The outcomes associated with any public policy can be wide and varied and usually contain varying degrees of shortfall and ambiguity. Different political interests tend to latch on to whichever of these suits in order to justify success (or failure), depending on whether it suits their underlying support (or opposition) to the policy.

We would suggest there are three key coalitions of interest with regard to Scottish devolution – UK unionist, Scottish unionist and Scottish non-unionist. This partially follows Keating (2009: 117) in suggesting that devolution has led to the redrawing of the constitutional fault lines in Scottish politics, marking the division between two broad camps. The old pre-devolution three-way division of Scottish politics – independence, devolution and centralisation has been reduced to two. One is a coalition of pro-Union supporters of devolution (mainly the Labour, Liberal Democrat and Conservative parties), coalescing around the view that Scottish devolution has succeeded in strengthening the Union. The previous Conservative hard-line non-devolved unionism has no credibility, and all parties in this camp have joined Labour in taking on the mantle of 'pragmatic nationalists' (Deacon and Sandry 2007: 97) in order to successfully challenge the SNP. Unionists see devolution as a pragmatic response and accommodation to distinct territorial interests within the union. A second camp comprises anti-

Union nationalists (primarily the Scottish National Party), perceiving Scottish devolution ultimately as a stepping-stone towards independence. From a nationalist perspective, Scottish devolution was designed as a sop to their independence policy that challenged the territorial integrity of the UK. However, they recognise that it does provide a platform for further increases in governing autonomy.

There are two points of convergence in all three camps. First, both agree that devolution was, in a sense, a response to policy failure – the old constitutional settlement was not working. Second, there is a general consensus between both that devolution *has* worked.

The success of devolution is a theme shared in various academic and political retrospectives that have been written. For example, Mitchell (2009) refers to it as a ‘great success’ that has ‘renewed faith in the political system’. The Institute of Government used Scottish devolution as one of its case studies for ‘successful policies of the last thirty years’. The Calman Commission (2009) outlines a similar analysis. Labour ‘has always tried to merchandise devolution as a political success’ (Ott 2009: 42). The UK Government refers to devolution as a ‘a remarkable and substantial success’ (UK Government 2009: 3)

The Scottish Conservative leader refers to the devolution settlement as part of ‘mainstream Scotland’ (whilst emphasising separatism was not); and the Liberal Democrat leader suggests the Scottish public are committed to having a strong Parliament within the UK. The SNP Government have referred to ‘the success of the Scottish Parliament’ (MacLeod 2009). According to opinion polls, the Scottish public would appear to think along similar lines. Indeed, such has been devolution’s success (in terms of embeddedness) that some pollsters have simply stopped asking the Scottish public if they want to revert to the pre-1999 settlement. In polls this option has attracted less than 10% since 2006 (see table 1). By contrast, devolution of powers to the Scottish Parliament has proved consistently popular in opinion polls. As table 1 above highlights devolution when set against independence or the pre-1999 arrangements, remains the most popular option. In short there has developed a degree of consensus amongst all parties and the public that Scottish devolution has been a success in constitutional terms. Such is its popularity all parties are agreed it should be a process rather than an event. Amongst Scotland’s five political parties represented in Holyrood there are no constitutional conservatives – all believe in some adjustment to the existing settlement.

Whilst there is convergence over the success of devolution, there still remains disagreement over Scotland’s constitutional future. The UK and Scottish pro-

Unionists favour strengthening and rolling forward devolution (albeit in an incremental conservative fashion) while the anti-Unionists see devolution as providing limited short-term success, but harbouring the long-term risk of failure, because the UK and Scottish self-determinism are ultimately incompatible

To date, assessments of the 'success', or otherwise, of Scottish devolution have been framed and shaped by these competing political perspectives, and devoid of systematic criteria for assessment. The time is now ripe for a more considered assessment. This article aims to assess the 'success' (or otherwise) of the Scottish devolution project. It does so in a way that not only uses common assessment criteria, but which helps capture competing constitutional perspectives on the issue. It utilises and adapts recent work on the complex nature of policy success (McConnell, 2010a, 2010b; Marsh and McConnell 2010) to help frame and guide the analysis. It accepts that, like most policies, devolution 'fall(s) somewhere between the extremes of unblemished success and abysmal failure' (McConnell 2010: 226).

The paper introduces a new systematic assessment conceptual framework to evaluate Scottish devolution. In doing so it draws from various strands of literature including public policy, constitutional and territorial politics. We will utilize McConnell's framework and distinguish between process, programmatic and political success. Process measures emphasise the democratic and policymaking channels through which the policy is funnelled and whether the policy successfully navigates itself through these channels securing support and legitimacy. Programmatic success refers more directly to the linkage between policy objectives and outcomes. Political success measures draw attention to the policy's impact on the government's popularity and chances of re-election.

It is, of course, difficult to be categorical when assessing the extent of success of an existing and on-going policy. As Brown and McLeish argue, 'If devolution is a journey, then it is hard to pinpoint a destination' (2007: 133). We are essentially examining a moving target - as Stolz argues:

Analysing the newly established structures is a bit like trying to capture a constantly moving object in a photograph. The resulting images might be blurred, out of focus and perhaps disengaged, as they are taken from various awkward angles. (2009: 8)

Even if a policy at a particular point is judged a success, that success may be temporal and transient. The analysis in this paper views devolution from the angles of process, policy and politics seeking to directly address the question of its success. In doing so, it will allow us to make more sense of the current constitutional settlement, its trajectory and the policymaking processes and politics that surround it. It is important to emphasise the focus is on the constitutional aspects of devolution – its impact on public policy outputs is discussed elsewhere (McGarvey and McConnell 2012).

DEVOLUTION

Devolution was part of a post 1997 agenda setting pathway of constitutional policy programmes that went a long way to defining (particularly in its early years) the approach of the Blair Government. The programmatic part of Scottish devolution assisted the electoral prospects and reputation of the Blair Government, focused and tackled the problem of the perceived democratic deficit in Scotland and acted as an early indication of the Blair Government non-conservative approach to the UK constitution.

The UK political system pre-devolution had a concentration of political and economic power in London. Viewed from London, the politics of Scotland were peripheral and parochial in comparison to the high politics of economic, foreign, security and defence policy. It was in the interest of those at the centre to ensure the periphery was largely self-governing. As John notes:

The duality of the system was a source of stability as both sides sought an accommodation with each other and because the centre did not have the willingness or the ability to impose uniform rules. A differentiated pattern of governance emerged, which was administered in a flexible manner based on adaptation to local circumstances. (John 2008: 4)

Legislative devolution was an extension to the ‘differentiated pattern of governance’.

In Scotland, devolution was instigated for both positive and negative reasons. A ‘negative consensus’ emerged based on the rejection of Thatcherism (Mitchell 1999: 33). It would prevent the imposition of policies from UK Government for which there was no popular support in Scotland (Mitchell and Bradbury 2004: 329). It would reform executive government in Scotland with the then Scottish Office widely perceived to be unresponsive to a distinct Scottish agenda. This would have, and has, prevented unpopular policies such as the poll tax, tuition fees and foundation hospitals from being

implemented in Scotland. As Mitchell and Bradbury argued, there remains 'a residual distrust of the market and trust in the public provision of welfare services' in Scotland (2004: 331). The suggestion is that the Scottish electorate is slightly more left of centre, though the evidence for this is not conclusive (see McGarvey and Cairney 2008: 85-6; McGarvey and McConnell 2012). More positively devolution was projected as an opportunity to tailor Scottish public policy processes and outputs to reflect Scottish preferences and conditions.

Keating (2010: 15-16) sums up devolution as a response to a set of inter-related questions:

- The democratic deficit – Scotland was ruled for eighteen years by a party with minority (and declining) status in Scotland.
- A rescaling of government and policy issues which was impacting on all states in Europe.
- The search for new forms of politics beyond those of Westminster.
- The breakdown of the existing model of territorial management in the UK allowed expression to an aspiration for more governing autonomy in Scotland.

Overall Scottish devolution is now firmly implanted as part of the institutional framework of the UK political system. It has allowed Scotland to develop its own autonomous framework of governance. One could suggest, for this reason alone, it has been a success. However, we would like to evaluate the policy in a more systematic fashion.

DEVELOPING CRITERIA FOR ASSESSING THE 'SUCCESS' OF SCOTTISH DEVOLUTION

Assessing the 'success' or otherwise' of policies, programmes and reforms is notoriously complex and contested. A considerable amount of policy and policy-related literature tackles the issue from a variety of angles. It includes public value (Rhodes, and Wanna, 2009; Benington and Moore, 2010;), policy evaluation (Taylor and Balloch 2005; Bovens et al. 2006; Vaessen and Leeuw, 2010) and political rationality (de Mesquita et al. 2003; Hindmoor 2006. Yet until recent work on the nature of 'policy success' (McConnell, 2010a, 2010b; Marsh and McConnell, 2010) criteria for assessment were remarkably ad hoc, and many thorny issues were marginalised or even ignored. The latter includes issues such as multiple and often competing benchmarks for success, levels of significance attached to shortfalls, success from whose perspective, variations and conflicts between outcomes (such as short-term success but long-term failure). In some respects, many of these issues can never be resolved. As Fischer (2003, p. 111) argues, writing within the interpretative tradition, no amount of tested and verifiable data will convince someone

opposed to travelling in the policy direction that the data implies. Yet it is possible to accommodate many such issues into a broader assessment of 'success' (rather than ignoring them) in order to get some sense of the policy and political tensions that surround reforms.

Here, we adapt recent work on the nature of policy success (McConnell 2010a, 2010b) in order to identify three sets of criteria that we can use to assess Scottish devolution, while accommodating competing Unionist and non-Unionist perspectives. These criteria can overlap and indeed compete (as we will see) but have analytical purchase if we treat them separately for the moment in order to guide the analysis.

Our intention is not to impose some narrow technical criteria by which all public policy processes and success can be evaluated. It is recognised that politics by its very nature can be chaotic, partisan and not lead to particularly rational outcomes. The problem with much public policy theorising is that it often neglects or downplays the real politick surrounding the processes of public policymaking (McConnell 2010: 220). For example, the policy cycle (or stages) heuristic in outlining a picture of policymaking involving discrete stages has a tendency to underplay the politics surrounding public policy processes. In a similar vein, while rational choice theory has undoubtedly contributed to our understanding of public policy processes, its discussion of decision-makers preference ranking in order to achieve a particular outcome ignores the fact that politicians often have many processes, programmes and political goals that they need to juggle (McConnell 2010: 223).

Our approach recognises that 'Policy success straddles objective facts and interpretations. Governments might achieve goals, but not everyone would perceive 'successes' because they do not support those goals and/or the values underpinning them' (McConnell 2010: 225). It recognises that the processes of policymaking and politics are entwined but not always the same. For example, good politics but bad policy is a common phrase in journalists' circles – it refers to successful politics but unsuccessful programmes (McConnell 2010: 227). Policy programmes are not always simple technical exercises with bundles of instruments to regulate, allocate, redistribute and so on. They also have a range of symbolic impacts such as leadership strength, decisiveness, legitimacy, determination and the like.

Our suggestion is that to get a better handle on the political and policymaking environment, a useful conceptual device is to conceive of policymakers striving to achieve various combinations of process, programme and political success, making trade offs between them while juggling feasibilities and risks (McConnell 2010: 234). Reviewing the success of any policy requires an exploration beyond the narrow techniques and assumptions of accountants

and economists. In the early years of policy analysis there was unwarranted faith in scientific rationality, and a lack of acknowledgement of the political realities of policymaking. Attention to political expectations and the intractable external world of policymaking are required for a rounded analysis of any policy. It requires a perspective that is broader than narrow economic and efficiency concerns and embraces and accounts for the wider political dynamics of policymaking. Moving beyond narrow technical analysis of public policy success will result in analysis of political factors and other variables. This will make such studies more useful to policymakers.

In the main, Scottish devolution has and in all likelihood will develop on the basis of developments in Scotland (though one cannot rule out 'the English Question' having an impact). Our analysis, although incorporating the UK unionist perspective is, in the main, focused on Scotland. It can be quite difficult to evaluate Scottish devolution from a UK perspective given that:

The continuing difficulty of devolution that there is no coherent approach at the centre, with no one who thinks about devolution in the round and no one to give strategic vision. (Hazell 2007: 19)

We proceed by demarcating three discrete aspects of potential public policy success: processes, policies and politics.

Success and Processes

Processes are central concerns of public policy scholars. The dimension of policy is an important and neglected feature of policy success (Marsh and McConnell 2010). They refer broadly to the ways in which problems are defined, options are examined, consultations conducted, decisions are taken, implemented and then evaluated. As scholars have shown, from Lindblom (1977) and Wildavsky (1987) through to Fischer (2009) and Howlett, (2010) processes are not mere technical procedures. They relate directly to issue of power, influence and indeed the long-term viability of political systems.

In liberal democracies, policy processes need to be constitutionally legitimate and attract strong civic support (or at least, no significant opposition), otherwise they are vulnerable to potentially damaging attack from those unprepared to accept what they perceive as unconstitutional policies or governing without consent (Wallner, 2008). Processes also need to be capable of producing legislative and extra-legislative coalitions for the purposes of introducing new policies/laws (Tsebelis 2002). Governments with no real policy/legislative capacity are unlikely to survive for long. In liberal democracies, processes also need mechanisms of accountability to ensure (or at least maintain the impression of) a strong measure of responsiveness (Dowdle, 2006). Finally, reforms to processes can certainly be aided when

they symbolise modernisation and innovation (Considine et al. 2009), such as new means of engaging stakeholders in policy formation. Of course, progressiveness may be counter-framed as 'untried' and 'risky', but nevertheless reforms promoted as 'modernisation', are often considered successful', precisely because they are 'new'.

On the basis of the foregoing, four criteria can be identified for 'process success'. They may be used to assess debates surrounding the success of otherwise of major constitutional reform. They are the extent to which reforms:

- Are legitimate in constitutional and civic terms.
- Can produce legislative coalitions capable of building policies and making laws.
- Enshrine mechanism of accountability in line with original aims.
- Symbolise modernisation and innovation.

Legitimacy

As evidenced by the 1997 Referendum success, devolution was a popular policy in Scotland. Devolution is a process success in that it solved the problem of political legitimacy for Government in Scotland. It was accepted by all three camps (UK and Scottish unionist and non-unionist) that the UK Government suffered from a democratic or legitimacy deficit in Scotland, and it is widely accepted that the creation of the Scottish Parliament has resolved it (Mitchell 2005: 33; McGarvey and Cairney 2008: 108). Changing the policy process was deemed necessary by all to ensure Scotland's different political priorities were reflected in its policies and the imposition of unpopular policies by a UK Government (lacking in Scottish support) such as the poll tax could be avoided.

The process of establishing the Scottish Parliament resulted in widespread stakeholder support (and thus legitimacy). The Scottish Constitutional Convention (1989 – 1995) in bringing together a wide range of interests in Scottish civic society developed the bones of the model of devolution subsequently introduced. It essentially brought together many of the institutional actors in what we have labelled the Scottish unionist camp. Out-with the Conservative Party in Scotland these proposals attracted almost universal approval and acceptance in Scottish civic society and amongst opposition political parties, as evidenced by the Labour, Nationalist and Liberal Democrat parties campaigning side-by-side during the 1997 Referendum Campaign. This was an important point (and a watershed in Scottish political history) – when the nationalists campaigned alongside the unionists. It was the first glimpse of the side-lining of hard-line non-devolved unionism from the mainstream of Scottish politics. The mainstream UK

unionist position had become 'devolution within the union' and this is a position on which there is consensus now among all UK unionist parties.

An important UK intervention was the insertion of a two-question referendum as a necessary hurdle before legislation could be introduced. This was introduced with important political considerations in mind. Firstly, a clear vote in favour of devolution would facilitate the smooth passage of the legislation through Parliament. A key lesson from the late 1970s was that it was problematic to introduce the legislation prior to a referendum. Secondly, a question on giving the Parliament tax-raising powers was important during the 1997 General Election campaign to negate the Scottish Conservative suggestions of a 'tartan tax' (widely perceived to have been electorally effective in 1992). The processing of the legislation (after the successful referendum) proved to be remarkably speedy and smooth, with very little opposition.

In the oft-cited phrase, 'devolution is a process rather than an event'. It is a process that all three camps have positively signed up to. A striking feature of the contemporary constitutional debate in the UK is that no one, beyond the political margins, questions the legitimacy of Scottish independence emerging as devolution's end product. The process of devolution has in a sense further legitimised the independence option and given the SNP a platform to campaign for it. Underlining the constitutional pragmatism in the UK even hard-line unionists Thatcher (1993) and Major (1993) both acknowledged (in the pre-devolution period) that Scotland could not be kept in the union against its will (Keating 2009: 110). Devolution has not only been successful from a UK and Scottish unionist perspective in restoring legitimacy to Scotland's governing institutions, but also from the nationalist one in further legitimating their ultimate aim in the eyes of both the Scottish people and the UK political elite.

Legislative coalitions

Scottish devolution introduced a new electoral and political process that involved the multi-member proportional electoral system which is a hybrid of single member plurality and a regional list proportional electoral system. The system was designed to sure it would be very difficult for a single party to assume control of Parliament with List seats compensating for the non-proportionality of list seats gained.

There have now been three types of governing arrangement: coalition, minority and majority government. However, in each case the administrations have proved adept at governing by passing laws and developing policy. Indeed a striking feature of devolution has been both its internal and external stability. First Ministers may have come and gone but

every administration has lasted its full four-year term. Both unionist and nationalist camps have governed Scotland and created stable executive administrations.

Labour in government 1999-2007 (together with the Liberal Democrats) practised a transitional, conservative and unambitious form of devolved government. The concentration was on managing devolved affairs and not rocking the boat with Westminster. Stability - rather than vision and strategic direction - was the most apparent feature of Scottish governance.

However, the SNP's election victories in 2007 and 2011 have changed the face of Scottish politics and the terms of the constitutional debate. According to the 2007 Election Study, the SNP won because it convinced a sufficient number of voters that it was 'a credible party of government that offered a more positive and Scottish-oriented agenda than Labour' (Johns et al 2009: 229). The SNP in Government since 2007 has practised a subtle form of nationalism, which has less to do with the pursuit of outright statehood and more about expressing Scottish interests and distinctiveness within the union, while seeking to maximise the devolved powers of a Scottish Parliament. The 'national conversation' was an attempt to set the agenda and trajectory towards a new direction.

Enshrine mechanisms of accountability

Despite rhetorical claims, Scottish devolution has not produced nor was it part of any UK unionist comprehensive constitutional vision. The UK, although having a unitary constitutional authority, is an explicitly multinational state – there has always been a large degree of diversity across the various national civil societies (Brown and McLeish 2007: 137). There remains a gap (and it is widening rather than narrowing) between constitutional understandings in Scotland and Westminster. In Scotland popular rather than parliamentary sovereignty is emphasised. Scotland is viewed as a partner within the union with the capacity to negotiate its position, while at Westminster devolution is merely decentralization within a unitary state (Keating 2009: 125). This of course is rather problematic, as the British constitution tends to rely on 'shared expectations and understandings', given that 'there are no clearly established constitutional principles which can be derived from an authoritative source' (Graham and Prosser 1988: 7).

The Scottish Parliament's purpose was not merely to legitimise and determine the composition of the Scottish Government, it was also to scrutinise and hold it to account. The devolved arrangements were designed to solve Scotland's democratic and legitimacy deficit associated with the Scottish Office run Conservative years (1979-1997). The executive governance of Scotland is now directly accountable to the people of Scotland through its elected Parliament.

For both Scottish devolutionists and nationalists this gives expression to Scottish notions of popular sovereignty (to be contrasted with the traditional UK unionist recourse to parliamentary sovereignty). Whilst recognising the empirical reality of interdependence between the UK and Scottish Governments, devolution has undoubtedly enshrined more clear-cut and less convoluted lines of accountability with the latter more directly accountable to the Scottish people.

The standing orders of the Parliament placed much emphasis on an enhanced role of its committees. They combine the select and standing committee roles. In the words of John McAllion, the committees were to be, 'practical, principled and non-partisan.... political idealism made flesh and blood' (McAllion 1999). Factors such as party political 'business management', high turnover of members, inadequate resourcing and a lack of political will on the part of some members have meant that committees have not quite lived up to these high and unrealistic expectations.

Symbolize modernisation and innovation

As noted above, the Parliament and the devolution settlement was a key plank of the Blair Government's wider scheme of devolution and constitutional reform programme. The new Parliament Building Project (few would make any claim of public policy success for this) was in architecture and design and to be symbolic of a new modern Scotland. However, it was more the substance of politics which was to project modernization and innovation. The fanfare that preceded devolution was dominated by talk of a new politics, new democracy and a new dawn. As Mitchell outlined, 'The implicit assumption amongst home rulers was that new institutions would create new procedures which would break Scotland free of old-style, elitist, confrontational politics centred on the House of Commons' (2000: 605). Home rule campaigners in Scotland emphasised an alternative view of democracy and different view of the citizen than that which tends to inform UK politics.

This was based on the experience of an extended period of pluralistic policy deliberation. The Scottish Constitutional Convention (SCC) established in 1987 was a deliberative body designed to foster and popularize the idea of Scottish home rule. It included the Labour and Liberal Democrat parties as well as an extensive cross section of Scottish civic society including trade union, religious, local government, women's and ethnic minority groups. Its final report in 1995 is widely viewed as the starting point and basis for the Scotland Bill introduced in 1997. The experience of both the SCC and the subsequent referendum (where the SNP joined the Labour and Liberal Democrats in campaigning together) probably goes some way to

understanding the unrealistic expectations of a new more consensual style of politics emerging post-devolution.

When set against ideals associated with the Home Rule movement pre-1999 Scottish devolution does not appear a success. In the field of democracy and widening participation for example, home rule campaigners engineered a ridiculously high level of expectation in the run of to devolution. Rhetoric emphasizing 'new politics', 'a new dawn for Scottish democracy', 'consensus politics', 'the sharing of power', participatory democracy' and the like all contributed towards this. Notions of revitalized participatory and deliberative democracy have not been realised. As Trench notes, 'devolution has not succeeded – or not yet succeeded – in reconnecting voters with government' (Trench 2004: 3). However, as Mitchell observes, 'Much rhetoric surrounded the idea of 'new politics' but this was given little institutional form' (Mitchell 2010: 86).

Having said that, a lot of the rhetoric surrounding this period was idealistic with the Westminster caricatured as negative, partisan dominated and ineffective bogeyman and the new Scottish Parliament as some sort of 'all singing, all dancing' model of constructive consensual politics alternative. Scottish politics was never going to become a model of rational, participative, deliberative politics with opposing ideas cast aside in pursuit and rational and consensual outcomes. Judged against some of the more bombastic rhetoric regarding devolution as a cure for democratic ills it has been a miserable failure. However, to judge devolution against the ridiculously high and unrealistic expectations of home rule campaigners would be unfair - no political system on the scale of Scotland's could possibly achieve such an ideal.

The two most heralded innovations (at least in the early years of devolution) were the public petitions system and the introduction of a Scottish Civic Forum. The former is still in existence and does provide a gateway for individuals and groups seeking to influence the parliamentary agenda however it would be difficult to make a case for saying its impact on policymaking has been anything other than minimal. The latter is no longer in existence with its funding withdrawn after seven years. It is fair to say, the impact of new participatory mechanisms such as the civic assembly and the petitions committees has been more symbolic than real. Devolution has not solved disenchantment with political institutions; political parties remain in decline (although the SNP have enjoyed something of a membership revival post devolution – see Mitchell et al 2011: 42). Democracy post-devolution is still reflective of the old style of politics as much as the new.

The Scottish Parliament - for all the rhetoric of new politics - is essentially rooted to a Westminster inspired model of democracy – ‘the devolved institutions exhibit the pull of their genealogical roots. In part this may reflect the failure to break properly with the Westminster model.’ (Mitchell 2010: 87). The emphasis is on accountable and representative executive government. The powers of the Scottish Parliament essentially mirror the devolved administrative competencies of the old Scottish Office; the role of the civil service remains largely untouched. The electoral system reflected a political accommodation between the pre-1999 unionist devolutionists, Scottish Labour Party and Scottish Liberal Democrats. As Jack McConnell, the previous Labour First Minister, admitted one of its purposes was to deprive the SNP of outright political power in Scotland (It, of course, failed to do this in 2011).

In summary, Scotland has gradually over the past 5 years or so freed itself from the old and rather narrow and polarised debate that sees constitutional politics as a choice between the existing devolution settlement and outright independence. Indeed there is convincing evidence that the gap between unionism and nationalism is narrowing to such an extent that it is better to conceptualise a continuum of constitutional choices ranging from minimal adjustment (the Calman Commission proposals) to fiscal autonomy (or ‘devolution max’/independence lite’ as it is increasingly referred to). Despite its failure to deliver on unrealistically high expectation, Scottish devolution has been utilised by both Scottish and UK Governments as an example of political innovation and modernisation (Scotland Office 1992). Both unionist and the non-unionist camp have ‘talked up’ devolution for their own party political propaganda.

Success and Policies

The scope of what governments can do in policy making/law making terms is vast. They use multiple combinations of policy instruments, ranging from doing nothing other than leaving problems to be resolved by markets/families/ communities, through to varying degrees of intervention involving revenue raising and spending, regulation and direct public provision (Hood and Margetts, 2007; Howlett, 2010). Policy instruments are not mere technical solutions to societal problems. They mask ideological debates on role of the state vs. the market and have contexts ranging from the specific configurations of policy communities, through to matters of economic affordability.

Over the past 40 years or so, policy scholars have come to realise that from the perspective of governments, policies need to be implemented, more or less as intended. If they are not, problems can remain un-tackled and governmental

legitimacy can become difficult to sustain (Pressman and Wildavsky, 1984; Hill and Hupe, 2009). Policies also need broadly to do what they set out to do, from reduce costs to improve services. Of course, many policies can survive with some shortfalls, especially when governments focus on what has been achieved. Nevertheless, the production of desired outcomes is something that all governments would wish to achieve. Indeed, beyond specific outcomes themselves, is the issue of who benefits from these outcomes. Benefit may rest with target groups (such as purchasers of alcohol, smokers, or small businesses) although policies may also produce unexpected benefits for other groups.

Based on the above, three criteria can be used for assessing the 'success' of otherwise of policies. They are:

- Implementation in line with objectives.
- Production of desired outcomes.
- Benefit for particular groups/individuals.

It is necessary to assess success in programmatic terms by differentiating between pro-Union supporters of devolution and anti-Union nationalists. Over the period of devolution each group have been policymakers at UK and Scottish levels and sought to influence both elite and public evaluations of devolution's success.

Implementation in line with objectives

Expectations and objectives are difficult to pin down as criteria for success in the realm of Scottish constitutional politics. As stated above, devolution helped restore constitutional order, stability and political accountability by tackling the legitimacy deficit executive government in Scotland was suffering from. However, as noted above, judged against expectations regarding innovative democracy, devolution could not be judged as success.

However, its implementation has been relatively smooth and it bedded down quickly. From a unionist perspective, it has re-legitimized the Scottish political system within the framework of the union with the rest of the UK. However, it has not in the oft-repeated (and famously ill-judged) phrase of former Secretary of State for Scotland, George Robertson 'killed nationalism stone dead'. The constitutional issue remains at the forefront of the Scottish political agenda as much as ever. Judged against this 'uber-unionist' yardstick devolution has failed. However, few other devolutionists were making such optimistic predictions the basis of which is difficult to detect given that in other European countries with devolved parliaments, nationalist parties have tended to thrive rather than disappear (MacShane 2011).

The SNP have accepted and worked within the parameters of the existing devolution settlement since they secured the levers of power in 2007. Their participation in the 'Yes, Yes' coalition during the 1997 referendum campaign was a precursor to their gradualist pragmatic approach to devolution. They have utilized devolution as a first step towards a greater degree of governing autonomy for Scotland.

One could argue it is only in 2007 that the full potential of devolution began to be realised as you had a political party free from the shackles and pressures for conformity of its UK 'big brother' counterpart. Recognising the non-conducive parliamentary arithmetic (it had 47 of 129 MSPs) in 2007 the SNP set about a strategy of popularising the constitutional debate (and importantly keeping it on the agenda) by establishing a national conversation with the Scottish people. In response the Scottish unionists (with agreement from UK unionist interests) set up their own Commission to examine options or adjustment to the existing devolution settlement. What these processes highlight is that devolution in Scotland is likely to be an evolutionary process. Its success in establishing a working model of Scottish governing autonomy is reflected in the fact that *all* of Scotland's political parties are now committed to extending it.

Production of desired outcomes

The decision to devolve authority had minimal impact in terms of the authority, style and operation of wider UK Government and Parliament. It was relatively easily accommodated in terms of Parliamentary process as well as government and civil service operations. However, it is difficult to detect if the leadership of the UK Government thought very deeply or strategically about the medium to long-term impact of devolution in Scotland. The UK Government itself acknowledge that

What is lacking is any one department which is clearly charged with taking a holistic view of the infrastructure of government across the United Kingdom and the constitutional and policy issues involved (UK Government 2009b)

Philip Norton, has suggested that Tony Blair's 'eyes just glaze(d) over' when the issue of the constitution came up. It is widely accepted that he had little choice but to accept Scottish devolution due to the legacy of his predecessor and demands from his party in Scotland (see Blair 2010). As Norton suggests:

It has been said of Christopher Columbus that when he set sail, he did not know where he was going; that when he got there, he did not know where he was; and when he got back, he did not know where he had

been. Tony Blair appeared to adopt Columbus' approach, though without the benefit of finding a new world. (Norton 2007: 269)

However, if we accept that the desired outcome is a governing arrangement that retains Scotland's place in the union (Bogdanor 2009: 94) then it remains successful. Even with the SNP in Government for five years, Scotland remains in the union.

However, if we look at desired outcomes from a nationalist perspective, developments could also be viewed positively. Post 1999 Scotland has implemented divergent policies in areas such as university tuition fees, care for elderly, and teacher's pay which, while affordable in the short to medium term raise questions regarding feasibility within a settlement which contains no serious revenue-raising powers for devolved institutions. These issues raise questions concerning fiscal dependence and autonomy. These are questions the SNP have placed on the electoral agenda since the first post-devolution UK General Election in 2001. Although the 'transition from an administrative department and territorial lobby to a policy-making machine has been slow' (Keating 2010: 261), the SNP have sought to utilise the machinery of government to steer the course of issues into its favoured policy direction.

Benefit for particular groups/individuals

Various constitutional, procedural and policy innovations associated with devolution such as the new electoral system, the equal opportunities agenda and procedural innovations in policymaking have tended to be viewed favourably of various interests as well as the public in general in Scotland.

Devolution has broadened the pool of politicians with gender equality having an impact (particularly in the Labour Party). Each session has had an intake of MPs with females accounting for roughly 35-40%, which would place the Scottish Parliament high on any gender representative league table. However, much of the evidence points towards similar characteristics in terms of class, ethnicity, education and age in the Scottish Parliament as the House of Commons. It is in no sense a microcosm of wider Scottish society and its members tend to be recruited from the same narrow middle class base of politics facilitating professions such as teachers, lecturers, lawyers and party/trade union researchers (see Shephard et al 2001; Keating and Cairney 2006).

Although often projected as progressive, politics and policy change in Scotland in the post-devolution period has been rather conservative. What progressive politics amounts to in Scotland has never been adequately defined. In the early period there was a lot of rhetoric about notions of social

justice and inclusion driving forward the agenda. A cursory review of key policies such as the McCrone Enquiry, personal care for the elderly, free prescriptions and university tuition fees would tend to suggest that the beneficiaries of post-devolution policymaking and fiscal redistribution have been the middle class of Scotland, rather than the socially excluded (see McGarvey and McConnell 2012).

Success and Politics

Policies have broader political repercussions. While we accept that 'politics' is a universal phenomenon that occurs across the range of human activities (from families to international regimes), for analytically pragmatic purposes here, we focus on politics as referring to the impact on governments and governing regimes. Clearly, therefore, policies can enhance electoral prospects and reputations - even if only in the short-term. A policy which damages a government's electoral credibility (such as the Iraq war in the UK) is hardly 'successful' *from that perspective*. Policies may also make the business of governing more manageable, or example those policies allow an issue (perhaps a 'wicked issue', see Head, 2008) to be kept low on the agenda via 'placebo' policies which do more for creating the impression of tackling a problem than actually addressing the problem (Gustafson 1983; McConnell 2010). More broadly, policies can also contribute towards the sustaining of government's broad ideological and policy trajectories. For example the post-2010 Coalition Government and its spending cutbacks are compatible with a broader vision of less state intervention and higher personal responsibility in David Cameron's vision of a 'Big Society'.

On this basis, can identify three main criteria for assessing the 'political' success of constitutional reforms. They are

- Enhancing electoral prospects/ reputation of governing parties and leaders
- Easing the pressures on government by making issues manageable
- Sustaining the broad values and direction of government, particularly in relation to particular constitutional positions.

Enhancing Electoral Prospects

Devolution seems to be a remarkable policy in that it has a wide ownership in both the UK and Scotland and a case could be made for saying it enhanced the electoral prospects for the UK party that introduced it and all of Scotland's political parties! For the first two terms Labour were established as the senior coalition partner. It has allowed the SNP to achieve elected office for the first time in their history, transforming from a perennially campaigning party to a professionalised party of government. It gave the

Liberal Democrats the opportunity to govern (as the junior coalition partner) for two terms. Devolution even allowed the Scottish Conservatives to build up a case of parliamentarians again in Scotland after their MPs were wiped out in 1997. It is possible to identify devolution benefits for all of these parties.

It was of symbolic importance in projecting an image of a Labour Party in Scotland (and a UK Government) as responsive to Scottish needs. However, for Scottish Labour that benefit has proved short term. It has been dislodged as Scotland's 'establishment party' – it 'won' (in terms of number of seats) every Scottish General and Parliamentary election from the 1960s until 2007. The party is presently conducting its own internal review into its dismal showing in 2011. It is difficult not to concur with Brown and McLeish's assessment that, 'the party that delivered devolution has not come to terms with its consequences' (Brown and McLeish 2007: xvi). Its tight grip on its MSPs and its internal politics undoubtedly 'reduced the liberating potential of devolution' (Keating 2010a: 260) between 1999 and 2007. Equating devolution with evolution has not come naturally for Westminster based members of the Scottish Labour Party.

The SNP although disappointed with its support in 1999 and 2003 has gradually built up its organisation, membership base and level of professionalism that led to victories in 2007 and 2011 (see Mitchell et al 2011). Although opinion poll evidence has never consistently indicated any widespread majoritarian desire to break the union with the rest of the UK, the SNP can point to surveys that 'do show a rather large measure of indifference (to the Union) and a belief that it will end at sometime in the future, evidence of its rather contingent nature' (Keating 2009: 114).

Nationalists would also point towards the disappearance of hard-line unionism from both UK and Scottish political discourse post-devolution. No mainstream party in the UK or Scotland favours a reversal of devolution and the abolition of the Scottish Parliament. Devolution's entrenchment in Scottish political life is an indicator of its success. Unionism as a political doctrine has weakened over recent decades in Scotland (see Keating 2010b), partly explaining the collapse in support for the Conservatives. Keating (2009: 116) identifies three key reasons. First, Scottish identity has become stronger whilst British identity has weakened (but not disappeared). Second, the symbols of Britishness in state institutions, political parties, trade unions and other bodies have been weakened as integrating and socializing forces. Third, instrumental judgements regarding the value of, and need for, the union in terms of security, economic development and social cohesion have changed. As Michael Portillo suggested in conversation on BBC's *This Week* in 2006, it is to the Conservative's political advantage if Scotland 'is not part of the

affair' and that the assumption of the union being sacrosanct 'is not an assumption I make any more' (MacIntyre 2011).

Making Issues Manageable

The devolution settlements in Scotland, Wales and Ireland reflect the unprincipled nature of the UK constitution and the asymmetrical entity that is the UK – the Government's approach is reflective of both the histories and contemporary circumstances' of each part. In a way each is designed to manage tensions around issues of nationality and identity in Ireland, Scotland and Wales. The UK unionist 'centre' (Westminster and Whitehall) has utilised devolution to manage politics in the 'periphery'. To a degree it has succeeded.

Despite predictions of intergovernmental conflict (particularly since the election of the SNP Government in 2007) intergovernmental relations between the UK and Scottish Governments have, in the main, been remarkably smooth. The fact that Scottish civil servants remain members of the UK Home Civil Service may be a facilitating factor here. It is civil servants behind the scenes administrative discussion, negotiation and agreement that take place under the radar smoothing the relationship. However, there have also been political factors at play. When the pro-devolution unionists controlled the Scottish Government (1999-2007) the UK and Scottish Labour Party remained 'on message' with policy uniformity (or at least significant convergence) managed by respective ministers in both Governments. Contrary to expectations, the SNP-Labour and SNP – Con/Lib Dem relationship has not been particularly fractious either.

A key factor in the lack of intergovernmental conflict has been the on-going usage of the Barnett formula to determine increments and decrements to the Scottish block grant transferred from the Treasury. This arrangement, originally introduced on a temporary basis in anticipation of devolution in the late 1970s, survives today. It essentially de-politicises the issue of intergovernmental fiscal transfer and prevents highly politically charged budgetary negotiations taking place on an annual basis. It keeps 'the 'big' (and potentially most contentious) questions of funding off the political agenda' (McGarvey and Cairney 2008: 181). Despite being attacked by a wide range of politician and commentators for being unfair (e.g. McLean and McMillan 2003; Chapman 2007), and often criticized by both pro-and anti-unionist camps it remains in place today principally for this reason.

However, as noted above, whilst making the issue of Scottish identity and nationalism 'manageable', devolution has changed the terms of the constitutional debate. In the 1980s and 1990s it was the status quo versus devolution (as succinctly encapsulated by the 1997 referendum), with independence at the margins of the debate. Today, both a return to the past

(i.e. pre 1999 settlement) nor the status quo are serious options in the Scottish constitutional debate. It has moved on, at great speed post-devolution. Every major political party in Scotland favours further devolution and the debate is regarding its extent ranging in a continuum from a modest extension of the existing settlement (the Calman Commission's proposals) to independence.

What is striking is both both pro-union and the anti-unionist camp have been (and still are) committed to 'making devolution work' for their own ends. Scottish pro-unionists are seeking a stable settlement within the UK that will allow them to compete effectively with the SNP in Scotland. UK unionists have an interest in stable relations to hold the union together. The SNP, lacking majority support for outright independence (as it is commonly understood), is seeking to channel devolution in a more autonomous direction

Sustaining the broad values and direction of government

Devolution was, of course, a key pillar of the wider reform programme of the Blair Government which retrospective histories are likely to pinpoint as one of its defining features. Labour's (1997-2010) programme of reform has contributed towards a significant democratisation of constitutional issues in UK politics. However, the democratisation of the constitutional issue in Scotland pre-dates the Blair Administration's constitutional reform programme. Since the emergence of the SNP as a credible electoral force in the late 1960s, constitutional issues have formed part of the mainstream political agenda of Scottish politics. The constitutional issue in Scotland has been and is dominated by issues of political party stances, parliamentary arithmetic and referendums. It sits alongside bread-and-butter issues such as the economy, law and order, education and health on the 'normal' agenda of Scottish politics.

Scottish devolution was (and is) reflective of the long-standing pragmatic feature of the UK constitution – flexibility. It was established as an instrumental public policy that served to solve a perceived political need in Scotland. It was a policy whose agenda setting, deliberation, formulation were largely confined to Scotland. It would have been very difficult for the Blair Government to dishonour Labour's longstanding commitment to set up a Scottish Parliament in Edinburgh without risking the party's dominant political position in Scotland. The Scottish Constitutional Convention presented a dilemma for actors in government, opposition and beyond, by strengthening the critique of the dominant constitutional tradition in the UK (Marsh and Hall 2007: 2). Although part of a wider programme of UK constitutional change, it would be beyond logic to assert it was the assertion of some wider constitutional ideals. In the words of John Smith it was 'the

settled will' of the Scottish people and a commitment that the Blair led Labour Party inherited.

The concept of the UK as a unitary state is an alien one to the constitutional debate in Scotland. The sovereignty of Scotland is taken to lie with the Scottish people and any interpretation suggesting it rests in the UK Parliament is based around English constitutional convention and public law. That said, in a way all of Scotland's political parties have become locked into what might be called a 'cautious gradualism' as regards devolution – the territorial balance of power has been largely static since 1999. Mitchell and Bradbury suggest,

One may argue that the development of devolution in its various settings simply echoes long standing pragmatic features of UK constitutional development: flexible and instrumentalist in its response to perceived empirical needs rather than formal and generative in its assertion of ideals. (2004: 345)

We have to be careful not to get external factors – such as declining faith in politicians and politics – mixed up in the evaluation. There is no evidence that the Scottish Parliament suffers from more of this than other institutions – indeed Scots seem to have more faith in devolution given the numbers wishing to extend it (Keating 2010: 260).

Policy Success?

To conclude, analysis of Scottish devolution as a policy success is not simple and straightforward for various reasons. First, it does not conform to a 'standard' public policy that has clear identifiable targets and outcomes to be met. Second, evaluations inevitably reflect partisan interests and values as regards the constitutional issue. Third, the devolution 'project' has been ascribed multiple objectives by different interests – addressing the power imbalance in the UK political system, addressing the legitimacy/democratic deficit of Scottish politics, heralding a new politics which (depending on who you listen to) has a focus on social justice and inclusion, renewed democratic participation, preserving the Union and others.

Stolz (2009: 7) suggests that although Scottish devolution has 'achieved a lot'; it has not stifled the debate about the constitutional future of the United Kingdom. Social scientist should never, of course, engage in futurology and make concrete predictions about the future. However, there exists a consensus in Scotland in favour of an adjustment of the existing settlement. Whilst a majority of Scots may still be committed to the Union and anti-independence, unionism has been on the defensive. Cameron's 'conciliatory, responsive Unionism' (Hassan 2011b) is a world away from pre-devolution

Tory unionism, and the unionist fundamentalism still found in elements of the UK Conservative and Labour Parties. Much Scottish support for the union with the rest of the UK remains contingent rather than absolute, and dependent on Scottish interests being secured within the union. A greater degree of fiscal and governing autonomy seems inevitable, it is merely the extent of it that is presently being debated.

This paper has adopted a 'Process, policy and politics' approach in evaluating the success of devolution. The process of making public policy usually involves some degree of deliberative engagement with interests which as well as managing or resolving controversies may solve problems as regards policy design. The process dimension of policymaking captures all the stages or 'cycle' of policymaking. The policy or programme part captures the range of tools available in public policy. The politics of policymaking draws attention to the electioneering and symbolic dimensions of policymaking.

There is a continuum of policy success that is summarised below:

- *Outright Success.* A Government does what it set out, opposition is virtually non-existent and support is near universal. Such a policy would signify the attaining of legitimacy; involve extensive consultation with the marshalling of a suitable coalition of interests and the garnering on-going support. The policy may be symbolic of innovation and influence, enhance electoral prospects and reflect Government control of the policy agenda. Needless to say such policies are rare and more reflective of an 'ideal type', difficult to achieve in the real world of politics and policymaking.
- *Resilient success.* More likely though is policies that achieve what could be termed resilient success. These policies are more rooted in 'the art of the possible'.
- *Conflicted success.* Also more likely are policies that involve what could be termed conflicted success. This occurs when the policy process and outcome may not reflect what was intended due to factors such as delays, shortfalls and cost overruns (the Scottish Parliament Building project could be cited here!). It may be that the politics surrounding such policies remain conflicted, in part a product of competing values.
- *Precarious success.* Such policies are tinkering on the edge of failure.
- *Failure.* A policy does not achieve its goals, and opposition is near universal.

It is difficult to give clinical judgement, particularly in the field of constitutional policy and politics. However, it is fair to say devolution is now institutionalised within the UK system of government; there are no longer debates about viability and feasibility. The process, policy and politics framework is designed that highlight that success and failure need not be mutually exclusive. We have identified three broad camps. The UK and Scottish unionist camps although claiming Scottish devolution as a policy success must worry about its vulnerability. With the devolution genie out of the bottle, Scotland appears to be following a unique political trajectory, destination unknown - though it should be noted devolution appears to have had minimal impact on feelings of constitutional preference according to opinion poll data (Cairney, forthcoming chapter 7). The non-unionist camp appears to view devolution as a transient success, a process that could lead to an ever-looser union in the UK. Despite their electoral success in 2007 and 2011, the election of SNP Governments has not led to rising support for independence.

A point to emphasise is that judgement of policy success inevitably has to be *post hoc*. As noted above, devolution is something of a moving target and we are viewing it from the vantage point of 2011. An alternative (more long term) perspective could view Scottish devolution as a classic 'quick fix' process success. It is a policy that whilst gaining short and medium term approval might simply store up vulnerabilities for programme and political outcomes down the line. Devolution may contain within itself the seeds of instability, tending to produce a dynamic of demand for every increasing autonomy, whilst removing capacity for integration and public policy initiative at UK level.

Whilst this paper identifies three distinct camps regards Scottish devolution. There are signs that devolution is narrowing the gap between them. Both the fundamentalist wing of the SNP and the hard-line unionists in the Conservative Party have been marginalised in Scottish politics today (Mitchell 2009: 68). The debate in 2011 is about the appropriate adjustment to the existing devolution settlement. Abolishing the Parliament is not a realistic option - the Conservatives do not want to be portrayed as anti-devolution and anti-Scottish. John Major has even gone as far as advocating what has been labelled as devolution max or independence lite in the Scottish press - devolve all responsibilities except foreign policy, defence and management of the economy and giving Scotland wider tax-raising powers (Torrance 2011).

The SNP appear to be in the process of diluting their proposals for outright independence, seeking a form of independence more realistic and relevant in an interdependent world (MacAskill 2004). For Hassan (2011a), 'The SNP's soul, its sense of utopia, is the idea of Scottish statehood, the reaffirmation of a

Scottish sense of the public realm, space, institutions and nationhood'. This need not be equated with the outright creation of a Scottish sovereign state, which in any case may not be a politically viable option given public opinion. As Keating observes, 'Public opinion has become detached from the union but not attached to the nationalist alternative' (2009: 122). The SNP recognise this reality and appear willing to settle for less than outright independence. The White Paper they published on Scotland's constitutional future (Scottish Government 2009) was pragmatic and open-minded about future constitutional options. A degree of haziness has emerged over what 'independence' or 'devolution max' might look like and whether they may be one and the same thing in the minds of SNP leaders (but notably not activists).

Devolution to Scotland may well be like Britain's membership of the EU in reverse. The Treaty of Rome refers to 'an ever closer union' of EU member states, and the development of the EU has been reflective of this aspiration. The union between Scotland and the rest of the UK has, since 1999, been more akin to what James Mitchell refers to as 'an ever looser union' (See *The Economist* 2011). Such an arrangement is in tune with the aspirations of both unionist and nationalist camps – it is the extent of the 'looseness' that is the issue. As Hassan argues:

Scottish politics ... has in many respects begun to transcend the simple Unionist versus nationalism binary mentality. In Scotland, despite much of the rhetoric, Unionism and nationalism don't sit as two antagonistic, separate tribes at war with each other as in Northern Ireland. (2011b)

The EU and its development has 'broken the myth of absolute national sovereignty and introduced a new form of politics and policy-making, based on negotiation and compromise' (Keating 2009: 125). In continental Europe there is more willingness to separate the concepts of state, nation and sovereignty. Many nationalist movements (including the SNP) in Europe have increasingly questioned whether sovereignty has the same meaning as it used to in the modern interdependent world. The SNP talk of shared and fluid sovereignty with varying degrees of union and co-operation. Doctrines of shared and divided sovereignty exist in political and legal theory in other parts of Europe (Keating 2009: 123). The trend across Europe is for states to decentralise and Europeanise at the same time (Keating 2010: 262). Keating (2006) talks of:

We are not moving to a world without states but to a complex political order with multiple sites of sovereignty, authority and symmetrical constitutional arrangements. The political order is new but at the same

time old, as traditions of diffused authority and shared sovereignty before the rise of the nation-state are rediscovered and rehabilitated.

Keating suggests that what matters is not 'not sovereignty but gaining the powers needed to sustain a national community and to mount a social and economic project in a complex and interdependent world' (Keating 2006: 9). He has argued that Scotland's recent institutional past in which politics, culture and economic development have for political reasons been kept in separate compartments has inhibited its development as a mature polity giving birth to distinctive social relations and collective action. The SNP today appear to be more concerned about maximising autonomy and influence than garnering the trappings of sovereignty. It talks of social union, economic union, cultural union and constitutional union. As Keating suggests, 'A semi-independent Scotland is difficult but not impossible to imagine' (2009: 124).

Although often depicted as separatists seeking to move Scotland towards economic and political isolation, the SNP see the future of devolution involving an extension of Scottish freedoms and autonomy. The UK's written constitution allows invention, its empirical genius being that it can be made up in response to events. Building on the success of Scottish devolution, it is how these new aspirations are accommodated within the union that is likely to form the next chapter of the story of devolution.

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