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3 The process of devolution in the UK

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Introduction

In the UK, the process of devolution has a long history. It goes back to 1886, when the Liberal leader William Gladstone proposed the Home Rule for Ireland. Devolution challenges the culture of the unitary nature of the British State and the supremacy of Parliament, as power is handed over from central government to national parliaments and assemblies: ‘Devolution may be defined as consisting of three elements: the transfer to a subordinate elected body, on a geographical basis, of functions at present exercised by ministers and Parliament’ (Bogdanor, 2001: 2).

Northern Ireland experienced devolution (Home Rule) in 1921 which lasted until 1972, when it was prorogued and later abolished by the British Government. Scottish historical national identity had been acknowledged since the voluntary union of the crowns in 1603. Scotland had separate local government and education systems, an established Church, local press and its own banknotes. The Scottish Office and the Scottish Secretary were instituted in 1885, dealing with matters related to health, police and judicial affairs, prisons and regional development (O'Neill, 2000: 1). Unlike Scotland, Wales was not granted any special legislation or any administrative status. However, the diversity of Welsh culture was acknowledged in the demand for official recognition of Welsh as an indigenous language.

In the late 1960s, Scottish and Welsh nationalist movements expressed a growing concern over the need to obtain recognition of distinctive identities and the opportunity to be in charge of their economic interests (Jones, 2001: 269), even though Welsh nationalism was more concerned with ‘the defence and preservation of a cultural way of life than with political independence’ (Bogdanor, 2001: 7). In 1968 a Royal Commission, chaired by Lord Kilbrandon was set up in order to analyse ‘the functions of the central legislature and government in relation to the several countries, nations and regions of the United Kingdom’ (Bogdanor, 2001: 270). The report of the Commission, issued in 1973, was regarded as a signal event (O’Neill, 2000: 72) as it proposed qualified devolved governments for Scotland and Wales through elected assemblies.
However, the subsequent devolution bill issued in 1979 (Scotland and Wales Bill) devised an asymmetric devolution, as it proposed greater home rule for Scotland than for Wales. Both countries were supposed to elect assemblies by a 'first past the post' system, but Westminster retained the power to legislate on any devolved matter. Scotland had some legislative competence and executive discretion over devolved Scottish Office functions, i.e. local government, social policy and infrastructural matters. Wales, instead, was granted a local government-style committee. Neither of the two assemblies had fiscal competence. The arrangements set up in the Scotland and Wales Bill aimed predominantly at conciliating Scottish and Welsh public opinion (Mitchell, 2002: 246). The referendum held in Scotland and Wales in 1979 showed that there was insufficient support for devolution. In Scotland a narrow majority, but not enough to beat the weighted majority required by Parliament, was in favour of devolution. In Wales, a strong majority voted against devolution. Several reasons for explaining the outcome of the 1979 referendum were identified. A key factor was the division within the Labour party, as many Labour politicians considered the problem of reconciling equality of social rights with the mechanisms of devolution. Other Labour party members were not happy about challenging the unity of the state (Mitchell, 2002: 246). During the 1980s, under the Conservative government, the emphasis was laid on the strength of a unitary government and the importance of parliamentary sovereignty, dismissing the potential importance of a diversity of institutions: 'Sub-national identity was discounted as misplaced sentimentality, an obsolescent provincialism, and devolution was staunchly resisted as another tier added to already overblown bureaucracy' (O'Neill, 2000: 73).

During the 1980s and 1990s the level of conviction and the extent of support towards constitutional change grew significantly. In Scotland, the Labour party had strengthened its support for devolution, proposing a Scottish Parliament elected through some form of proportional representation, with a wider remit than the one proposed in the 1970s. The Campaign for a Scottish Assembly set up a cross party committee, representing a coalition of interests from different groups of civil society (local authorities, churches, trade unions, academia, environmentalists and the business community), which issued a 'Claim of Right for Scotland' demanding a parliament with full powers (Mitchell, 2002: 248–249). In Wales, the debate on devolution was conducted in a similar way to Scotland, but it moved with a different pace and with a subtly different spirit. The arguments in favour of devolution did not attract the same support as in Scotland, as there was more ambivalence about political identity (O'Neill, 2000: 76).

The differences between the Scottish, Welsh and Northern Irish support towards devolution are also shown by the results of the referendums held in 1997 and 1998 as shown in Table 3.1.

Scotland and Northern Ireland manifested a stronger support towards devolution than Wales, with a much higher percentage turn out in Northern Ireland.
Table 3.1 Devolution referendums

<table>
<thead>
<tr>
<th></th>
<th>Northern Ireland</th>
<th>Scotland</th>
<th>Wales</th>
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<tbody>
<tr>
<td>Pro devolution</td>
<td>71.1%</td>
<td>74.3%</td>
<td>50.3%</td>
</tr>
<tr>
<td>Pro tax-raising power</td>
<td>–</td>
<td>63.5%</td>
<td>–</td>
</tr>
<tr>
<td>Turn out</td>
<td>81.1%</td>
<td>60.4%</td>
<td>59%</td>
</tr>
<tr>
<td>Referendum date</td>
<td>1998</td>
<td>1997</td>
<td>1997</td>
</tr>
</tbody>
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Source: Data compiled from Bogdanor, 2001.

In the following sections the development of the devolution process in Scotland, Northern Ireland and Wales, and its characteristics will be analysed.

Devolution in Northern Ireland

The Home Rule experience

Between 1921 and 1972 Northern Ireland experienced a form of devolution, as the six counties of Ulster which remained within the UK had Home Rule. This form of devolution, however, cannot be compared easily with the current form for two main reasons. First, the establishment of a separate parliament was a measure taken by the British government in order to try to solve the Irish problem. Thus, the devolved parliament was not created for answering claims and needs of separation from the union. On the contrary, it was accepted, after a long and controversial process, as a measure to prevent the absorption of Northern Ireland into the Irish Free State. Second, the conflict between the Protestant unionist community, which aimed to maintain connections with the UK, and the Catholic nationalist community, which instead favoured a union with the rest of Ireland, played a major role in shaping the process towards devolution and its characteristics (Bogdanor, 2001: 55–56). Because of the pressures created by the above-mentioned conflict, there was a strong determination to make devolution work. In addition, the Unionist party had a permanent majority in the Belfast parliament, therefore the work of the devolved government was not threatened by a strong opposition (Bogdanor, 2001: 69).

The Northern Ireland Parliament in Belfast was set up in a way that replicated Westminster. It was conferred a general grant of legislative power, which was subjected to specific limitations, on matters like relations with foreign countries, defence and external trade, where responsibility was retained by Westminster. In terms of fiscal matters, the legislation envisaged that the two parts of Ireland could be self-sufficient fiscal units. It was believed that Northern Ireland could have been provided with its own revenue, which would be used to finance services. However, the percentage of transferred taxation was very small (less than 20 per cent of total taxation), and related only to minor taxes. Given this, Northern Ireland had to rely heavily on
reserved taxation in order to provide services with an equivalent level of quality to the rest of the UK.

By the end of the 1970s its financial allocation was determined according to needs and not revenue, thus the financial arrangements changed form being revenue-based to being expenditure-based. In this situation, the budget for Northern Ireland was effectively determined by Westminster and needed its approval, after being negotiated between the Northern Ireland Ministry of Finance and the Treasury. This meant that there was a tight control on the allocation of resources. Their use was subject to severe scrutiny in order to ensure that ‘it was not being used by Northern Ireland to secure for herself a higher level of service than that to which she was entitled’ (Bogdanor, 2001: 86). Thus, financial accountability was held towards the Treasury in London and not towards Northern Ireland citizens. The budget was decided behind closed doors without any involvement of members of the Belfast parliament. In this way Northern Ireland did not have any financial autonomy, as the taxing power and spending power were divided, the first resided in London and the latter in Belfast, with an additional negative effect of weakening the correlation between expenditure and revenue.

The Home Rule system was brought to an end in 1972 because British MPs and ministers did not consider Stormont able to deal with the outbreak and intensification of violence from 1968 onwards. Thus, from 1972 until 1999 Northern Ireland was largely under British direct rule, which was supposed to be a temporary solution. As a matter of fact, under this arrangement it was felt that there was not enough attention to policies related to Northern Ireland, with a lack of accountability of the parties involved.

**The Belfast Agreement**

A significant deficiency of the direct rule resided in the fact that political parties had ‘all the advantages of political activity with none of the disadvantages of responsibility’ (Bogdanor, 2001: 99). The establishment of direct rule was meant to be a short-term measure by the British government. Devolution should have followed shortly. However, despite several attempts to introduce it, between 1972 and 1997, in the form of an independent assembly, and with the formation of a power-sharing executive, it was not until 1994 that significant measures towards devolution were to be taken.

When the IRA announced a cease-fire in August 1994, Sinn Féin was able to participate in the political debate. Multi-party talks started in 1996 between the elected representatives of the political parties culminating in the signing of the Belfast (or Good Friday) Agreement in 1998. This Agreement was approved by a referendum, held in May 1998, with a turnout of 81.1 per cent, of which 71.1 per cent voted in favour of devolution, and 28.9 per cent voted against. The Agreement proposed the election of 108 members to the Assembly by a single transferable vote for a fixed-term period of four years. The Assembly was devolved powers in the following areas:
Among the devolved areas there is no provision for tax-raising power, as opposed to the Scottish Parliament. The most important characteristic of devolution as designed by the Agreement is the concept of power-sharing. This principle, recognised as an institutional novelty of the Agreement (O'Leary, 2002: 284), shapes the way in which the Executive is formed, and determines the voting procedures for taking ‘key decisions’. The Executive is led by a dyarchy: the First Minister and the Deputy First Minister are elected jointly by the Assembly through a specific form of cross-community support (Bogdanor, 2001: 106): a ‘parallel consent procedure’ (O'Leary, 2002: 284). This means that there has to be the support of a majority of parties, a majority of the designated unionists and of the designated nationalists voting (Bogdanor, 2001: 106).

In this way, each community (unionists and nationalists) would have the ability to nominate a candidate for one of these positions that was acceptable to the other community. The First Minister and the Deputy First Minister hold office together, thus the resignation of one of the two implies the loss of the office for the other. In addition, they are semi-presidential figures because the Assembly cannot remove them. Both hold the same functions – symbolic and external representation – and have identical powers, leading and organising the activity of the ‘Executive Committee’ of ministers (O'Leary, 2002: 285). The advantage of this system resides in the incentives provided to each party in claiming their right to ministries. The dyarchy was designed for linking the representatives of the two communities together in order to obtain a consensus that would push towards an overall common policy, despite the absence of a pre-negotiated government programme. The disadvantage is due to the fact that the dyarchy necessitates the collaboration and cooperation of the First and the Deputy First Ministers and also of their respective majorities in order to function properly. This cooperation has proved to be very difficult to achieve and maintain (Bradbury and Mitchell, 2001: 268). According to O'Leary (2002: 286) two reasons have made the dual premiership an unstable device: a) the unreliability of the Unionist community in favour of the devolution process; b) the efficacy of the resignation weapon available to the First and the Deputy First Ministers.

The First and the Deputy First Ministers do not nominate the members of the ‘Executive Committee’. These members are selected by party leaders in accordance with the number of seats that each party has acquired in
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The proportion to their strength in the Assembly. This mechanism was devised in order to ensure that any party has the opportunity of being part of the government. As a consequence, the executive is formed by a voluntary coalition, as parties can decide not to take part in it (O'Leary, 2002: 286).

Another important characteristic of the Northern Ireland Assembly, related to the principle of power sharing, is the existence of two forms of qualified majority voting applied when voting for 'key decisions': the choice of the First and Deputy First Ministers, dismissal from office, budgetary procedure, standing orders, election of the Assembly's Presiding Officer (Speaker), the programme for government, and policy issues defined as 'key' (Meehan, 1999: 20; Wilford, 2000: 580). Each member of the Legislative Assembly has to identify him/herself either as a 'Unionist', a 'Nationalist', or 'Other'. This process of self-labelling is necessary for the application of the test of cross-community support when voting for the 'key decisions' mentioned above, which have to be designated in advance. The cross-community support is obtained by what is called parallel consent – a majority of those members present and voting, including a majority of the unionists and nationalists present and voting. Those who designated themselves as 'Other' do not count. This mechanism of cross-community support has been considered controversial, because it protects the interests of the nationalists and the unionists, disregarding completely those members qualified as 'Others' (Meehan, 1999: 20). However, it has been designed in order to guarantee ministerial autonomy, avoiding the situation of transforming departments into 'party fiefdoms' (Wilford, 2000: 581), and to strengthen the model of partnership.

Within the Assembly, 'Statutory Committees' are created in order to provide a stronger and more focused power to the Assembly members in exercising the policy advice roles and their scrutiny powers over the work of the executive. These committees have the primary function of advising and assisting in the policy formulation of each of the departments with which they are associated. They also have the power to initiate primary legislation, thus sharing this power with the Executive Committee. Each of these Statutory Committees has eleven members. The Business Committee formally designates these members, although in reality the party whips allocate them according to a proportional principle.

Devolution in Scotland

The pre-devolution arrangements

Despite the fact that the Act of Union promulgated in 1707 abolished the separate parliaments for Scotland and England, Scotland retained many distinctive features, specifically a separate legal and administrative system, which reinforced the need for the Westminster Parliament to consider Scotland's specific needs. In addition, the assimilation of Scotland within the
UK was made more difficult by the influence of the Home Rule settlement in Northern Ireland, which kept Scottish nationalist feeling alive.

In 1885 the Scottish Office was established and this can be considered an initial form of devolution. The Office, held by the Secretary of State for Scotland, begun with hardly any functions and it was a department of the UK government. However, over time it acquired an increasing number of responsibilities for issues such as health, justice, education, agriculture, fisheries and farming, which in England and Wales were handled by nine or ten Whitehall departments. Until 1999 the statutory functions of the Scottish Office were administered by five main departments. The role of the Secretary of State for Scotland fulfilled two criteria: 1) it was recognised as a governmental device that ensured the handling of Scottish affairs in Scotland; 2) it guaranteed that the specific needs of Scotland were taken into consideration in policy making and legislation. However, any attempt to introduce or initiate policies that might have serious implications for the ‘English’ departments would be overruled by the UK government, thus setting the boundaries of the autonomy enjoyed by the Secretary of State for Scotland. According to Bogdanor (2001: 114) the role of the Scottish Office in the most recent years, before devolution, became less the one of a proponent of separate Scottish initiatives determined by different needs, and more one of an advocate for drawing increasing financial resources.

With the introduction of the population-based Barnett formula, which regulates the provision of financial resources from the Treasury towards Scotland, there has been less scope for the Secretary of State to do this. This has somehow undermined the position of the Secretary of State. In addition, there have been claims that the Scottish Office was held less accountable than the other English governmental departments. These claims were based on a number of points. First of all the Secretary of State had to divide his time between Westminster and Scottish Office duties, leaving very little time for exercising control over the implementation of decisions. Second, there was a problem of the overloading of the Scottish Executive as a result of the wide range of responsibilities attributed to the Scottish Office. More and more decisions were actually taken by civil servants rather than by the ministers. And finally, there was very little scrutiny of the activity of the Scottish Office in Westminster, as the time dedicated to enquiring over the Scottish Office’s functions was set at once a month.

The pre-devolution special arrangements for the conduct of the Scottish business in the House of Commons did reinforce the idea of a Scottish political distinctiveness. The political arrangement for the Scottish affairs in Westminster reflected an anomalous situation. In fact there was a separate legal system and separate arrangements for governmental matters, but there was not a separate legislature and therefore not a separate electorate to which the Scottish executive was to be held accountable (Bogdanor, 2001: 117). During the 1970s, the dissatisfaction with the arrangements for dealing with Scottish affairs needed a different solution and devolution was advocated as
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A democratic solution, which would have provided adequate institutions for preserving and representing Scottish interest and needs.

Similarly to what was happening in Northern Ireland, at the end of the nineteenth century and throughout the twentieth century, there was a claim by nationalistic movements for a Scottish home rule. The propositions for Scottish home rule were presented to the House of Commons on several occasions but they were never successfully approved. During the second half of the twentieth century, the Scottish Nationalist Party grew in strength and support, mostly as a party that could give voice to the Scottish identity. During the 1970s the argument towards the recognition of Scottish independence was fostered by the discovery of oil in the North Sea and by the UK joining the European Community. The discovery of oil brought about the argument that Scotland should have been in charge of the decisions on how to use and exploit this natural resource. The entrance of the UK in the European Community raised the preoccupation of the distance between Scotland and the European centre of decision making (Brussels) with the view expressed that Scottish issues would become even more peripheral than in Westminster.

In 1979 a referendum was held on proposals by the government for establishing a Scottish Assembly, but these proposals did not obtain sufficient electoral support. However, the pressure for constitutional change increased during the 1980s and 1990s pushed by a growing sense of Scottish identity, and feelings of difference (Brown, 2000: 543). The political system was considered inadequate in representing Scottish needs in Whitehall. In the meantime, all over Europe there was a growing debate on the principle of 'subsidiarity' and the need to bring political decision-makers closer to their community (Brown, 2000: 543). Thus, in 1989 the Scottish Constitutional Convention was established in order to frame a detailed plan for devolution. This plan included proposals for a Scottish Parliament directly elected by the Scottish electorate, holding wide legislative powers. Representatives of the Scottish civic society, including some of the political parties, formed this convention. The Scottish Constitutional Convention’s Report, issued in 1995, was used as a model and starting point for further proposals on devolution, which were presented to the UK government in 1997. As already highlighted, these proposals were tested in the referendum held in September 1997, where the electorate showed a strong support in favour of devolution. The proposals for devolution were formalised in the Scotland Act 1998, following which the Scottish Parliament officially started in July 1999.

The shape of the ‘new parliament’

The Scottish Parliament represents the principal institution (Mitchell, 2000: 606). The two distinctive features of the Scottish Parliament are the electoral system and its internal working. Regarding the first point, the electoral system proposed by the Convention was considered a model for representing a
significant change in the political culture. The electoral system had to represent
the consensual nature, which was considered a fundamental model for the
parliament itself, and had to provide a greater proportionality with the fol­
lowing benefits (Mitchell, 2000: 607):

- it would relate the number of seats for the different parties to the number
  of votes expressed for them;
- it ensures an equal representation of men and women, encouraging fair
  representation of minorities;
- it guarantees adequate representation of less populated areas;
- it maintains a link between members and their constituency;
- it is simple to understand;
- it would guarantee the electorate a significant power.

The outcome of the elections held in May 1999 was a parliament consisting
of 129 seats to which members were elected combining the traditional ‘first
past the post’ system with a form of proportional representation. Seventy­
three members were elected in single-member constituencies, which were
based on the pre-existing Westminster boundaries. Fifty-six members were
elected in accordance with the proportional representation system called the
Additional Member System, seven for each of the eight regions used in the

The Scotland Act designed a Scottish Parliament with considerable author­
ity. Matters that are devolved include:

- health and social work
- education and training
- local government and housing
- justice and police
- agriculture, forestry and fisheries
- the environment
- tourism, sport and heritage
- economic development and internal transport.

The Scottish Parliament has full legislative competence. This comprises
primary legislative power across a wide range of domestic policy areas and
potentially the power to legislate in any non-reserved area of policy, and
secondary legislation. It maintains the Scottish Office’s responsibility for
funding a wide range of services in Scotland and for overseeing other public
bodies, including local governments and quangos (Bradbury and Mitchell,
2001: 268). In order to exercise this power the Scottish Parliament manages a
budget of around £22 billion, which is spent among the devolved areas, listed
above. Differently from the other devolved Assemblies, the Scottish Parlia­
ment is also given the power to vary income tax by up to three pence in a
pound. However, the exercise of this power is subject to strong political
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debate. Furthermore, the Parliament has control over local authority taxation in Scotland, and can raise revenue by charging fees for certain public services.

Regarding the second innovative characteristic of the Scottish Parliament, the Convention aimed to model a parliament that was to be significantly different from the Westminster model (Mitchell, 2000: 606). The John Wheatley Centre, the Scottish think tank later renamed as the Centre for Scottish Public Policy, commissioned a draft of standing orders to be submitted to the Constitutional Convention. The authors of the document, ‘To Make the Parliament of Scotland a Model for Democracy’, claimed the necessity to abandon the Westminster model and the importance of trying to invent and adapt procedures and working practices better suited to and arising from Scotland’s more democratic civic tradition (Brown, 2000: 545). The work done by the Convention was followed up by the Consultative Steering Group (CSG) appointed in 1997 by the Secretary for State for Scotland. The CSG was asked to develop proposals for the practical operation of the new parliament (Scottish Office). The Minister for Devolution chaired it, and 12 members, who included representatives from the four major Scottish parties, local authorities, academic, business and civic groups and interests, formed it. In 1999 the CSG published the report ‘Shaping Scotland’s Parliament’, which included a comprehensive design for the working of the parliament. Four main principles that had to inform the operations of the new parliament were identified (Scottish Office):

- **Power-sharing**: the Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive.
- **Accountability**: the Scottish Executive should be accountable to the Scottish Parliament and the Parliament and the Executive should be accountable to the people of Scotland.
- **Access and participation**: the Scottish Parliament should be accessible, open, responsive and develop procedures that make possible a participative approach to the development, consideration and scrutiny of policy and legislation.
- **Equal opportunities**: the Scottish Parliament in its operation and its appointments should recognise the need to promote equal opportunities for all.

Following the application of these principles, a comprehensive committee system has been established. There are seventeen committees divided into eight mandatory committees (Europe, Equal Opportunities, Finance, Audit, Procedures, Standards, Public Petitions, and Subordinate Legislation) and nine subject committees that mirror the departments within the Executive. The membership of the committees reflects the political balance of parliament itself, thus avoiding the leadership of one single party, and the committees’ conveners usually do not belong to the governing parties. This arrangement
was designed to guarantee a potential dynamic relationship between the executive and the parliamentary committees, even more so when the convener of a committee is from a non-executive party (Brown, 2000: 552). In order to apply the principle of power sharing, and to ensure greater accountability, committees have the power to initiate legislation, to scrutinise and monitor government legislation, and to conduct enquiries and take evidence from Ministers and civil servants (Brown, 2000; Mitchell, 2000). In order to comply with the principle of openness and greater access and participation, committees have been recommended to exercise their power of consultation with members of the civic society and to meet outside Edinburgh. Thus, this novel role for committees, both as policy makers assisting the Executive and scrutinisers of the actions of the Executive, has been considered as a key distinctive feature (Bradbury and Mitchell, 2001: 268).

Before devolution, the UK Parliament usually considered only one or two Scottish Bills each session. In the first legislative period 22 Bills have become Acts (http://scottish.parliament.uk), dealing with important issues such as housing, the creation of national parks, regulating issues relating to adults with incapacity. The ability to legislate on specific Scottish issues has been considered an important achievement of the new institution, which would not have been achieved without devolution (Scotland Office). In addition, individual members can introduce bills, and backbench members have had a greater opportunity for success than in the Westminster Parliament, in fact in the first legislative period, a number of Member's Bills had been introduced, six of which have been passed.

Devolution in Wales

The pre-devolution arrangements

Wales became part of the UK in the sixteenth century, and it was treated as if it were part of England, making it more difficult for the Welsh people to maintain their identity: ‘For Wales, unlike Scotland, did not enjoy those independent institutions, which not only ensured separate treatment, but, more crucially, preserved the memory of independent statehood’ (Bogdanor, 2001: 144).

Similarly to Northern Ireland and Scotland, nationalistic movements began towards the end of the nineteenth century. Their claims were principally concerned with reaching equality with England more than obtaining separation from the UK. The ferment for Irish Home Rule did provide a stimulus to the development of Welsh nationalist movements, as it had in Scotland. However, home rule in Wales was not considered an issue to be pursued as there was no desire for separation from the UK (Bogdanor, 2001: 147).

During the last twenty years of the nineteenth century, the Welsh liberals were trying to establish recognition of Welsh cultural aspirations and religious uniqueness, more than arguing for a Welsh Parliament. Indeed, unlike
Scotland, which had its own institutions in which the Scottish identity was formally recognised by the establishment of the Scottish Office, in Wales there were not specific political institutions. In the 1900s there had been a series of reforms, which aimed to decentralise administration. This process slowly created a Welsh distinctiveness, which therefore was not the result of strong nationalistic pressures, but it was a political decision taken at central level (in Whitehall and Westminster). The process of decentralisation concerned three areas: education, national insurance and agriculture. In 1907 a Welsh Department of the Board of Education was established. The creation of the Welsh Department was considered beneficial because it would have helped in providing 'a unified approach to the educational problems of each individual authority so that, at any one time, officials of the Welsh Department were able to see the whole range of educational services provided in a particular area' (Bogdanor, 2001: 157).

The Department had the power to transfer funds between primary and secondary education, and also to promote education in the Welsh language.

In 1911, following Lloyd George's National Insurance Act, separate national commissions were established in Northern Ireland, Scotland and Wales. The creation of the commissions was a successful project of decentralisation. In 1912, following the establishment of the Scottish Board of Agriculture, the office of Agricultural Commissioner for Wales, and the Advisory Council for Wales were set up. It was felt that a department dealing with these issues in Whitehall would not have been able to understand and deal with specific Welsh matters. This process of administrative decentralisation continued steadily and by the second half of the 1900s seventeen departments had decentralised administrative units in Wales. This process of decentralisation was not considered a form of devolution, with the government in London initiating it only for pragmatic reasons. In 1951 the first Minister for Welsh Affairs was appointed. He had no executive powers, nor a departmental apparatus. His powers were restricted to being accountable to the House of Commons for the effects of government policy and action, established in the annual White Paper on Wales, and leading the debate on the Welsh Day.

The first Secretary of State for Wales was established in 1964, following the Labour party's election victory. The powers held by the Secretary were fairly limited. He only had executive powers over the role of the Minister of Housing and Local Government and over roads. In addition, the Secretary was to take part in the policy-formulation process for the economic plans for Wales, and he was granted the powers of supervising the execution of the national policy within Wales by the other departments. The executive powers of the Secretary of State for Wales gradually expanded and by the 1970s its range of responsibilities became almost as broad as the ones held by the Scottish Office (Bogdanor, 2001: 160).

Similar to the Scottish Office, the boundaries of responsibility and abilities to exercise executive powers by the Secretary of State for Wales were limited by the rules of Whitehall. Welsh needs could be met only as long as their
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claims were not to clash against policies set by the government in London. While the Scottish Secretary was able, to a certain extent, to contend for a separate and different Scottish legislation, the Welsh Office, due to the fact that Wales, unlike Scotland, did not have a separate legal system, exercised mostly a function of modifying the policy set by Whitehall in order to take into consideration Welsh needs and differences.

The criticisms of the Welsh Office were similar to the ones already examined for the Scottish Office. Griffiths (1999: 794) argues that in Wales different policies, through public expenditure, were implemented, as the result of two factors. First, territorial ministers had the option, in terms of financial resources and autonomy, of undertaking their own policies. Second, they were operating in a political culture considered to be more consensual than the one in England. However, the same author concludes that ‘the level of Welsh autonomy was not appreciably greater at the end of the twentieth century than it was at its beginning’ (Griffiths, 1999: 805). Thus, whilst the Welsh Office was responsible for several areas, it was considered to operate as an ‘outpost of the central administration’ (McAllister, 1999: 635). McAllister also criticises the process of administrative devolution towards the Welsh Office practised by the British government ‘The Welsh Office’s incremental and disjoined accrual of powers and responsibilities over the past thirty-five years meant a lack of strategy for coherent national policy-making’ (McAllister, 1999: 635).

In addition, there was concern over the possibility that the more responsibilities the Welsh Secretary was attributed, the more decisions would have been made by civil servants. This implies the lack of a popular mandate, a ‘democratic deficit’ (McAllister, 1999: 635), which needed to be addressed. The problem of ‘democratic deficit’ was amplified by the fact that there was little time dedicated in the House of Commons to scrutinising the work of the Welsh Office. In fact, the Welsh question time usually lasted for an hour every month. Thus, the Welsh Office, as well as the Scottish Office, was regarded as unaccountable. This democratic deficit raised the issue of why Wales should be held accountable to Westminster when dealing with Welsh local issues. The creation of a directly elected assembly would allow developing and implementing policy differentiation with a legislative body that could be held accountable for it (Griffiths, 1999: 805). In 1979 the Scotland and Wales Bill proposed to apply home rule in Wales as well as in Scotland, as already examined. However, the Bill proposed an asymmetric form of devolution for Wales. While in Scotland the devolved assembly was to be given some executive powers over devolved Scottish Office responsibilities, in Wales the Bill established only local-government style committees. However, there was little support for devolution with only one in four voting in favour in the referendum (O’Neill, 2000: 73; McAllister, 1999: 636).

During the 1980s the debate on home rule echoed that in Scotland, concessions towards the recognition of a Welsh identity were made through the creation of the Welsh Language Board, and the Welsh Development Agency. However, there was still not very strong support for devolution. According to
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O'Neill this was a reflection 'of deep ambivalence about political identity', and of the appreciation of a close integration of Wales with England (O'Neill, 2000: 76). Laffin and Thomas (2000: 558) identify three key segments of Wales: a Welsh-speaking Wales, a 'Welsh' Wales, which is centred on the most important old industrial areas, and an English Wales. To the extent that these segments exist, then different identities have difficulties in coexisting and they impinge upon the life and debates of Welsh politics.

The Wales Act 1998

The process of shaping the Welsh Assembly was characterised by the need to build a civic and political consciousness about its importance and about the Assembly's potential democratic benefits. Because of the lack of a strong support towards devolution, the idea of a Welsh Assembly was a fragile one, which needed to build up a 'sense of legitimacy' (Laffin and Thomas, 2000: 573). The historical background of separateness and the geographical and economic entwinement with England restrained the development of a strong sense of Welsh identity.

During the 1990s, an organised campaign for devolution emerged, but there was not official support from the political parties, and the campaigners did not have a strong public image or significant financial resources. The Campaign for a Welsh Assembly was established in 1987, advocating the economic benefits of a potential assembly. Its work continued in the 1990s. In 1993 it changed its name to The Parliament for Wales Campaign, trying to establish a convention similar to the one established in Scotland at that time, bringing together members of the different political parties in favour of a directly elected assembly. In July 1997, the Government published a White Paper, A Voice for Wales, which outlined proposals for devolution in Wales. These proposals were endorsed in the referendum of 18 September 1997. Subsequently, Parliament passed the Government of Wales Act 1998, which enabled the transfer of the devolved powers and responsibilities from the Secretary of State for Wales to the Assembly to take place on 1 July 1999.

After the 1997 Westminster elections, the Secretary of State for Wales set up the National Assembly Advisory Group, with the task of preparing guidance for the Standing Orders of the Assembly. The establishment of the National Advisory Group had deeper meaning and role than just setting up a proposal-working group. It was meant to strengthen a pro-devolution consensus among the political parties and the civil society (cultural and business groups) (Laffin and Thomas, 2000: 561). Fourteen members constituted the group. There were representatives of the four main political parties, of the groups campaigning for equal opportunities, local government, business, trade unions and a representative from the voluntary sector. This broad representation was once more an attempt to provide the future Assembly with the necessary legitimacy and recognition and also a way of reinforcing the principle of 'inclusiveness', which is a hallmark of the new institution. The
way in which the group operated was based on the need to work towards shared objectives. Subgroups were established, which were working on subjects such as legislative procedures, bilingualism, equal opportunity and issues related to open access (Laffin and Thomas, 2000: 562). The document that resulted from this cross-party group designed the operational practices of the new institution, and it was discussed with public meetings held across Wales in order to reach a wide consensus.

In contrast from Scotland, in setting up the operational framework for the National Assembly, the group was concerned mostly with the creation of a framework that would allow the Assembly to be as flexible as possible in determining its methods of working (McAllister, 1999: 640), and it was less concerned about conceiving an Assembly as different as possible from the Westminster model. However, there was an aspiration to design a Welsh Assembly based on a different model from both Westminster and local government. Key members of the Welsh political elite and also senior Welsh civil servants aspired to a different model, ‘a sharp break with the traditions of a hidebound, anachronistic Westminster Parliament’ (Laffin and Thomas, 2000: 559). The work of the group was then continued by the Standing Orders Commission, which presented a report where the procedures for the Assembly’s operation were established. Similarly to the operation of the Scottish Parliament, the key elements of the new institutions were openness and accountability.

The Government of Wales Act established a membership of sixty members, elected for four years. The elections for the first Assembly were held on 6 May 1999 and each voter had two votes. The first vote is used to elect a local or constituency Member in the same way as MPs are elected to the House of Commons. Forty Assembly Members are elected on this ‘first past the post’ basis, one from each constituency in Wales. The second vote is used to elect twenty additional Members, on a regional basis, according to the Additional Member System. Thus, in Wales as well as in Scotland there was attention to guarantee proportional representation of political parties, reflecting to some extent the share of the vote political parties received. There are five electoral regions, based on the European Parliamentary Constituencies created in 1994, and each region returns four Members to the Assembly.

The National Assembly for Wales is considered to be a ‘unique institution within the United Kingdom’ (Laffin and Thomas, 2000: 557). The peculiarity of the Welsh institutions is to be found in the arrangements devised for the Assembly’s political executive. As already pointed out earlier, the executive style proposed for Wales was to be based on the local government model of subject committees. This proposition had been modified, and a hybrid system, which combines the Westminster cabinet model with the committee structure, was agreed. Similar to Westminster there is a cabinet, but there is also a system of multi-functional committees, which does not resemble the Westminster model. This model came about after debate among the members of the National Advisory Group. They considered the committee model as
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inconvenient and inefficient because it could hold back the decision-making processes. At the same time they expressed concern over the cabinet model, as a way of centralising too much power in the hands of the First Minister, therefore undermining the key principles of power-sharing and inclusiveness. On the other hand, the cabinet model was appreciated because of its potential for delivering a more rapid decision-making process and for guaranteeing focused responsibility among the members of the executive (Laffin and Thomas, 2000: 567).

Unlike Scotland, each area of responsibility of the Assembly for policymaking is defined in the Transfer Order. This arrangement has been considered a potential constraint of the powers of the Welsh Assembly (McAllister, 1999: 643), compared to the Scottish model. It also raises concerns about the nature and the extent of the powers held by the Assembly, as the implication of this limitation of role and responsibilities might imply ‘responsibility without power’ (McAllister, 2000: 595). The Assembly does not have the power of issuing primary legislation, but it is able to modify legislation in order to adapt it to specific Welsh needs. It does not have tax-varying powers, again distinguishing it from Scotland.

The Cabinet is the main decision-making body within the Assembly. Members of the Cabinet carry out most of the Assembly’s functions by authority of the Assembly as a whole.

The Government of Wales Act requires the Assembly to elect a First Minister to serve as the leader of the Cabinet and the political leader of the Assembly. The First Minister in turn appoints eight Ministers (also called Secretaries), who make up the remainder of the Cabinet. Six Ministers are responsible for particular areas of policy decided by the First Minister, covering the following portfolios:

- Economic Development
- Agriculture and Rural Development
- Local Government
- Environment and Planning
- Health and Social Services
- Pre-16 and Post-16 Education.

Additionally, two members of the Cabinet – the Business Minister and the Finance Minister are concerned with managing the Assembly’s business and finances respectively. All Ministers, and the Cabinet as a whole, are accountable to the Assembly. They have to answer oral and written questions from Assembly Members and (with the exception of the Business Minister and the Finance Minister) are also members of, and accountable to, the relevant subject committees.

Assembly members from all parties are able to express their opinions as to how each subject area should be dealt with by the executive. They do this mostly through subject committees, which cover the following areas:
The subject committees, which cover the ministers' portfolios, have the power to develop policies and to scrutinise what the Assembly does. Members are elected to work on the subject committees so that the balance of political groups in the Assembly is reflected, as far as possible, in the membership of each committee. The committees' membership varies from seven up to eleven members. The ministers are also members of these committees, but they do not chair them. Chairs of the subject committees are from the opposition party, sometime selected from minority parties, in order to guarantee the principle of inclusivity. This arrangement is considered to be an important novelty and a departure from the Westminster model (Laffin and Thomas, 2000: 557). The establishment of the subject committees is intended to counteract the power of the executive. They are not decision-making institutions, but they are able to scrutinise the executive's operations, calling civil servants to answer questions in open sessions. The subject committees would also have an important contributive role in dealing with significant secondary legislation, developing new policies, overseeing public appointments and also participating in the discussion on setting the budgetary priorities. These roles of the subject committees, which differentiate them substantially from the Westminster subject committees, are considered crucial for the transparency of the executive work. In addition, they allow all members to actively participate in the activities of the Assembly.

Other important committees, in addition to the subject committees, include for example: Audit Committee; Business Committee; Equality of Opportunity Committee; European Affairs Committee; Legislation Committee; Children's Commissioner Appointment Advisory Committee; Planning Decision Committee. Among these ones, the Business Committee, composed of the Presiding Officer and representatives of the Cabinet and of the minority parties, has the important function of organising the operations of the Assembly. The committees dealing with European issues and equal opportunities were suggested by the National Advisory Group in order to guarantee that significant issues, which would affect several subject areas, are treated in a coherent way.

In addition to the subject committees, and the other committees mentioned above, the Act established the creation of regional committees, which do not exist in the other devolved institutions. They are advisory bodies designed to enhance consultation and representation, which would establish closer links between historically different and geographically separated parts of the
country. The regional committees represent the needs and interests of their localities and they convey issues of local concern to the full Assembly and to the subject committees. There are four regional committees, which are made up of members from the relevant constituency and electoral region. According to Laffin and Thomas (2000: 571) they were established to dissipate anxieties about strong domination from the political centre.

The arrangements devised for the Welsh Assembly have raised the question of whether the subject committees can combine effectively the function of scrutinising the executive work while at the same time participating in policy development. Laffin and Thomas (2000: 575) observe that on the one hand the function of scrutiny is bound to create tensions between the Assembly and the executive, and therefore between committees and Assembly Secretaries. On the other hand, the function of policy development needs the establishment of a co-operative environment in order to secure agreement between members.

**Conclusion**

The path leading to devolution cannot be considered a stable and homogeneous process across Northern Ireland, Scotland and Wales. As described in the previous sections, the instances that brought about devolution are different for each polity. These differences reflect past experiences, historical ambitions and political interplay (Meehan, 1999: 19).

The different strengths and perceptions of national identity in Scotland and Wales is reflected in the process of designing devolution and the new institutions. According to Laffin and Thomas (2000: 574) an important distinction between the Welsh and the Scottish design process has to be attributed to the duration of the coalition-building procedure. In Scotland it developed over a longer time span than in Wales, since the devolution scheme started to be constructed by the Constitutional Convention.

Devolution has been defined as an ‘asymmetrical constitutional architecture’ (O’Neill, 2000: 78), in which Scotland and Northern Ireland benefit from wider legislative powers than does Wales. In Wales, the limited legislative competencies are a direct consequence of these asymmetrical arrangements, and make the Welsh arrangements the most fragile of the three devolved polities. This asymmetry could have a positive effect in trying to push the political entity that enjoys less independence to imitate the ‘more devolved’ institutions. However, these differences in legislative arrangements can prove to be difficult to manage (O’Neill, 2000: 78).

The asymmetrical nature of devolution affects the financial arrangements as well as the boundaries of legislative competencies. Tax-raising powers are strictly regulated by the legislation that introduced devolution. Wales and Northern Ireland do not have any discretion on tax raising. Scotland has been granted tax-varying powers to top up the resources transferred from the Treasury. This arrangement has stirred debates on whether ‘a parliament
without taxation’ is somehow a reduced institution (Meehan, 1999: 26). In Wales the absence of tax-varying power is in accordance with the legislative arrangements by which primary legislation has not been transferred from Westminster. In Northern Ireland, despite the Assembly being granted the power of issuing primary legislation, tax-varying powers were somehow ‘regarded as unnecessary or, as a too radical departure from uniformity within the UK’ (Meehan, 1999: 26). In this way the Secretaries of State retain an important power, as they are the ‘principal paymasters to the devolved administrations’: ‘The perception of London holding the purse strings, thereby exerting an implicit, even an overt, veto over spending, could easily become another source of friction, since the fiscal arrangements of the union state remain largely intact’ (O’Neill, 2000: 84).

Despite these different frameworks and powers, there is no doubt that devolution represents a ‘large constitutional upheaval’ (Bradbury and Mitchell, 2001: 257), and also an important process that has brought into the British political system significant innovations. The most significant ones are related to the new values that the new institutions carry, and their potential consequences. The introduction of power-sharing, inclusiveness, participation and accountability as fundamental principles, underlies the existence of the new parliament/assemblies. The principles of inclusiveness and power-sharing had found a practical application even prior to the establishment of the new parliament/assemblies. They led to the modification of the electoral system, in Scotland and Wales, through the Additional Members System (AMS), which introduced an element of proportional representation. The introduction of a system of proportional representation has been an important ‘historic departure’ (McAllister, 1999: 642), pioneered in the first Welsh and Scottish elections (McAllister, 2000: 592).

An important question resides in the way in which the principle of accountability is going to be applied. The different nature of the devolution process, and the diverse instances that brought about devolution in Northern Ireland, Scotland and Wales might influence the way in which accountability is achieved and pursued in each devolved institution.

Notes

1 The Secretaries of States for Scotland and for Wales were abolished in June 2003. These roles may have been considered superfluous as devolution bedded down from then until 2007. However, these Offices have not totally disappeared as they have become ‘attached’ to the Transport Secretary (for Scotland) and to the new Leader of Commons (for Wales).

2 British governments made provision by law on devolution three times: in 1973, 1975 and 1982, which failed as a government by agreement between the different parties involved was not achieved.

3 According to Wilford (2000: 578) the Agreement is built according to the key feature of ‘consociationalism’, which consists of the following key characteristics: cross-community power-sharing; proportionality rule; segmental autonomy; and
mutual veto. These are designed to enable political governance in a divided society and where majority rule is not tenable.

4 Or, alternatively, by a weighted majority of 60 per cent members present and voting, including at least 40 per cent of unionists present and voting, and 40 per cent of nationalists present and voting.

5 The Barnett formula (Research Paper 01/108, 2001, http://www.parliament.uk) is a non-statutory mechanism used by the UK government for apportioning public expenditure based on population share and not need. It aims to ensure that changes to programmes in England are reflected in equivalent changes in the budgets of the devolved institutions.

6 As Bogdanor recounts, between 1890 and 1914, propositions for Scottish Home Rule appeared thirteen times in front of the House of Commons.

7 The CGS was not the only group working on the development of the new parliament. In 1998 the Financial Issues Advisory Group (FIAG) set the Secretary of State for Scotland the task of proposing rules, procedures, standing orders and legislation for the handling of financial issues by the Scottish Parliament.

References


