

## Devolution – A Balance after Ten Years

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The debate about devolution – or home-rule as it was called in the 19<sup>th</sup> century – in the United Kingdom is more than a century old. The issue has been raised at different times, by different actors, with different intentions and with different outcomes. The current debate, which started at the end of the 1980s has eventually resulted in a legislative programme enacted by the then newly elected Labour Party in 1997. This legislation entailed powerful regional parliaments for Scotland and Northern Ireland, a less powerful assembly for Wales, an assembly and a mayor for London and the prospect of regional parliaments in England, “if there were demand for it” (DETR 1997, 1). By 1999 – and thus 10 years ago – the idea of devolution was for the first time (with the exception of the ill-fated Northern Irish Parliament 1921-72, 1974 and 1982-86) put into practice.

From the very outset the significance of this project had been obvious. Already in 1999, the eminent political scientist of Oxford University, Vernon Bogdanor (1999, 1) called devolution “the most radical constitutional change this country has seen since the Great Reform Act of 1832”. And indeed, ten years on, political and academic observers have to concede that the new institutional structures have brought about profound changes both with regard to how politics works within the UK but also with regard to public policy outcomes. In the last ten years we have witnessed:

- the introduction of new electoral systems alien to the British tradition of First-Past-the-Post plurality voting as used at Westminster,
- the creation of new forms of governments (not one of the devolved governments so far has been a one-party majority government),
- new forms of intergovernmental relations (these new governments have to deal with each other somehow, and as it is often the case in the UK, they define the rules of this game along the way),
- and, last but not least, the divergence with regard to public policy (most notably in Scotland’s insistence to scrap tuition fees and to give elderly free personal care)
- Whether for good or bad, the machinery of British politics has changed, and the policy output is certainly affected by this change.

However, the basic government motive behind the devolution programme was certainly less about effective government and good policies than it was about saving the Union. Devolution was established as a flexible and creative solution to the strains that had become visible in this Union. It was, as former Labour shadow Secretary for Scotland, George Robertson, has famously put it, meant to “kill nationalism stone dead”. Well, the jury on this prediction is still out. Yet with nationalist parties now in all three devolved governments (Northern Ireland, Wales and Scot-

land), Tam Dalyell's scenario that devolution may indeed be the slippery slope to the break-up of the United Kingdom could perhaps claim just as much credibility. As both the SNP government's National Conversation and the Calman Commission on Scottish Devolution show, devolution might have achieved a lot, what it has not been able to do though, is to stifle the debate about the constitutional future of the United Kingdom.

Thus, the aim of this volume is two-fold. First of all, we want to take stock of the last ten years. How can we conceptualise this newly emerging territorial order of the UK? How does it work and what are its central characteristics?

This may seem a pretty straightforward task, yet it is hardly banal. The new territorial order of the UK (just like the old) is anything but a coherent system. Even though it was established during a short range of time, it is piecemeal in character. It is highly asymmetric and it works quite differently in different places.

Secondly we also want to address the question of the future of the UK. As social scientists we will not engage in concrete predictions and hypothetical scenarios of Britain in 10 years time. Nevertheless, the analysis of current problems and debates leads automatically to questions like: How sustainable is the current model? Where might challenges for this model come from? Into which direction are current trends and developments pointing? After all, as Ron Davis, one of the architects of devolution in Wales, famously – and quite correctly – pointed out: devolution is a process rather than an event.

As the two tasks of taking stock and revealing ongoing developments are highly intertwined, they do not constitute separate parts of the book. Instead, both types of questions have found their way into individual contributions, with some focussing more on the first and others on the latter task.

With the institutionalisation of devolution, academic literature on the phenomenon has not only become more extensive, it has also changed. While the devolution debates (the political as well as the academic) in the 1970s necessarily circled around the question of feasibility and viability, today we have studies and analyses of its actual working. Since its establishment various research projects have been analysing the structures and developments of devolution. At the beginning academics had their difficulties to come to terms with, i.e. to conceptualise, the new realities (cf. Mitchell 2001). Too often these attempts remained constricted within the traditions of British constitutional studies, confined to a predominantly descriptive approach and to an exclusively British context (cf. Mitchell 2001, Flinders 2009).

However, more recent accounts offer valuable comparative insights and theoretically innovative approaches. Thus, ten years after the establishment of the first devolved institutions, a first meaningful balance of the workings, the problems and the prospects of devolution seems possible

and appropriate. In this volume we have assembled well-known experts in their fields as well as some young scholars in order to provide us with such a balance. However, this is neither a textbook on nor a history of devolution. No attempts are made at a comprehensive representation or a general account of the new territorial order of the UK. Instead authors were asked to focus on specific issues they find relevant in order to reveal the characteristics of this new order.

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. However, these images are the only ones we can get, as neither will the devolution process stand still, nor will we ever get ahead of the game and take a picture from the front. The following articles should thus not be taken as the finite story of the devolution process. Instead, they have to be looked at as snapshots. Each of them may cast new light on different aspects. It is only by looking at them together, that we might get a broader picture of devolution and a deeper insight into the working and the significance of the United Kingdom's new territorial order. This is what this book is about.

Our portrait of devolution is divided into two distinct parts. The first one is concerned with the new constitutional order that has been established, the new politics pursued therein and the spill-over effects that have occurred from these institutional changes. Contributions in this section start from a UK perspective dealing with the changes that have affected the state wide political order and its major political actors. By contrast, the second part focuses on the constituent parts of the UK. Contributions deal with the particular problems and prospects of England, Scotland, Wales and Northern Ireland within the new devolution settlement.

The first chapter takes an explicitly comparative perspective. In his contribution *Wilfried Swenden* discusses the UK's perceived exceptionalism by contrasting the basic features of its territorial order with that of other multi-national and multi-level systems (Spain and Belgium being his favourite examples). Among the many particular features of territorial management in the UK Swenden concentrates on the preference for granting its constituent parts rather generous measures of "self-rule" over a model providing for a meaningful scope of "shared-rule" between them. His comparative glance at other multi-level systems suggests that this is not only a very rare but also a quite dangerous strategy. In fact, according to Swenden, this may indeed become the Achilles' heel of the British Union.

The next two chapters are dealing in more detail with the question of how this "shared rule" actually works in those areas where there is provision for it. Before devolution, "shared rule" had occurred only in the form of *intra-governmental* relations. Scottish, Welsh or Northern Irish interests in the management of the UK as a whole had been channelled via the territorial ministries of the UK government and its respective Secretaries of

State. Since the establishment of devolved parliaments with their own executives distinct from the British government, the UK has to operate for the first time a system of *inter*-governmental relations (IGR).

However, the UK being the UK, the institutionalization of this new system has remained rather weak. Furthermore, as *Michael Ott* argues in his paper, even the few and weak formal institutions that do exist, have hardly been utilized. Due to the congruence of partisan majorities (with Labour being the dominant force in all governments except for the Northern Irish) the newly established formal structures of inter-governmental relations were largely sidelined in favour of intra-party mechanisms. This not only meant that decision-making in “shared rule” questions remained an internal matter of the Labour party. Ott also claims that the power relations within Labour actually gave the central Labour party at Westminster control over the working of IGR in the UK. As the formal IGR structures have remained widely untested, it is still an open question, whether they are capable of managing serious inter-party conflict.

This is the starting point of *James Mitchell's* contribution. Borrowing concepts from the theory of federalism he distinguishes a dual and an interdependent model of devolution. The dualist conception of devolution is emphasized by the autonomist demands of the Scottish self-government movement that brought devolution into being as well as by the formal distribution of legislative competencies, which (as we know from Swenden's contribution) is informed by ideas of self-rule rather than shared rule. In practice, however, devolution seems to conform to different models depending on sectors, policies and concrete circumstances. One challenge to the dualist conception clearly came from the changes of government in the devolved administrations of Scotland and Wales. With a Labour government in London pitted against nationalist parties in Edinburgh, Cardiff and Belfast, the public policies that do fall into the interdependent model may be pursued in a cooperative or uncooperative form. According to Mitchell, the latter tends to be reported more often in the media while it is actually the former that is far more frequent. Another, perhaps counterintuitive, finding is that it is not necessarily the lack of congruency between governing parties that make IGR more difficult and conflictuous. Instead, Mitchell argues that context is the key explanatory variable and thus the current economic and fiscal crisis will provide the real test for devolution.

The final chapter in the first section of this book is concerned with the institutional spillover that has resulted from the devolution reforms, namely the way political parties have adapted to it. In his contribution *Klaus Detterbeck* starts from two different theoretical models of how exactly this adaptation process is likely to occur: rational choice institutionalism and historical institutionalism. While rational choice institutionalism would predict a rapid decentralization of political parties in response to the new constitutional structures, historical institutionalism emphasizes

the retarding role of party traditions, organizations and constitutional preferences. In his empirical analysis of the three state-wide parties in the UK, the Labour Party, the Conservative Party and the Liberal Democrats, Detterbeck finds evidence for both models. Indeed, parties have given more autonomy to their substate units (especially the Conservatives), yet only little efforts have been made to strengthen their weight with respect to shared rule at the central party level. However, after just ten years the spill-over is far from completed.

The second section starts with a chapter on the largest constituent unit of the UK: England. Here, *Michael Kenny, Guy Lodge and Katie Schmuecker* take a look at three distinct yet interrelated questions. The first one is concerned with the constitutional anomaly created by asymmetric devolution which leaves the largest unit without its own representative body. Apart from this conventional English question, which has been raised – yet not solved – quite often, they deal with the question of English governance, i.e. the problem of a highly centralised country with large regional disparities, as well as with questions resulting from a rising national identity in England. These English questions, as Kenny et al. argue, have not yet seriously challenged the Union, but there are scenarios in which this might be the case. The prospects of a more politicized Englishness are real, and need to be addressed.

In Scotland the politicization of national identity is hardly new. However, as *Michael Keating* argues in his essay, Scottish identity politics might have undermined the long established unionist consensus, yet it has so far failed to produce a nationalist consensus as replacement. On an institutional level this is reflected in the ongoing debate over the constitutional options of devolved parliament v. independent state. Despite the formal and perhaps status differences that do exist between these options, the difference with regard to the capacity for collective policy making is only minimal. And indeed this insight is somehow grasped by ordinary citizens who often fail to clearly distinguish between the two. The obsession of the political elite with the constitutional question on the other hand, is perceived by Keating as one reason, why there is a conspicuous lack of effort to build a viable socio-economic project for Scotland as a small nation in an expanding international market.

In contrast to Scotland, people in Wales have long been rather sceptical, if not outright hostile to the idea of devolution. However, today we can find solid and stable support for this constitutional option. In their analysis *Richard Wyn Jones and Roger Scully* trace back public opinion on the issue to the mid-1960s and delineate this quite extraordinary shift. The question they pose is, how to explain this change in public opinion. Looking at the theoretically most plausible answers, the authors make it very clear that neither interest-based approaches (suggesting the perception of policy consequences as major cause) nor identity-based approaches (suggesting an increasing Welsh identity to be of central importance) can fully account

for such a development. It is only when considering notions of political trust and political mobilisation that we get a more accurate picture. One specific lesson to be learned from the Welsh case is thus that national identity might constitute a necessary condition for political autonomy demands, yet it is hardly a sufficient one.

The final chapter of this volume deals with the most troubled part of the UK, Northern Ireland. Paradoxically this is also the place, where, although the people never really demanded such a settlement, they got devolution long before Scotland and Wales. As *Roland Sturm* suggests Northern Ireland might thus be called a deviant case of devolution. In his analysis Sturm places the current devolution settlement in Northern Ireland based upon the Good Friday Agreement of 1998 (GFA) within its historical and theoretical context. Within the heated academic debate he takes a middle ground. Consociationalism, Sturm argues, is neither panacea nor trap. Instead, it has to be seen as a viable, if not perfect answer to a problem that has been waiting for an answer for too long. Perceiving Northern Ireland as the deviant case of devolution, it is the very survival of the GFA that has to be hailed as its greatest success.

In part this book is the result of a conference held by the German Association for the Study of British History and Politics at Mülheim an der Ruhr on 22-24 May 2009. The conference was financially supported by the *Fritz Thyssen Stiftung*. It also benefited greatly from the conceptual input of André Kaiser and Richard Stinshoff. Most chapters in this volume are revised versions of papers given at this conference. In order to fill some obvious gaps in our synopsis, though, two additional articles (Wilfried Swenden on comparing strategies for territorial management and Richard Wyn Jones and Roger Scully on Wales) were commissioned. I like to thank all authors for giving their best to work according to a tight schedule. Special thanks go to Susan Nitzsche and Melanie Kintz for proof reading and to Peter Neumann (all at Chemnitz University of Technology) for compiling the printer's copy.

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