

Chapter 11

Assessing Scottish Democracy¹

The coming of a Scottish Parliament will usher in a way of politics that is radically different from the rituals of Westminster: more participative, more creative, less needlessly confrontational. (Scottish Constitutional Convention (SCC), 1995)

As noted in Chapter 2 the SCC Final Report (1995), the Yes-Yes 1997 Referendum campaign and the Consultative Steering Group Report (1999) all emphasized an aspiration of a new style of democracy and politics in Scotland. ‘New politics’ suggests a style of politics which is not only consensual, but also involves the participation of more individuals and groups. A central feature is the inclusion of hitherto excluded sections of society. While the most prominent example of this movement was to ensure that more women were elected to the Scottish Parliament, a broader aim was to ensure greater participation among groups held to be excluded from political participation in the past. Ethnic minorities are mentioned explicitly by the SCC, but there is also an implicit suggestion that this focus extends as broadly as possible to, for example, people with disabilities, young people, and rural populations relatively distant from the capital city.

Social partnerships: An institutional arrangement designed to bring together a sense of co-operation between a wide variety of societal groups.

Consensus conferences: The bringing together of representatives of different and opposing perspectives in a forum of discussion and deliberation.

Citizen juries: A small sample of a population designed to fairly represent the perspectives of the wider community, which hears evidence on a political issue, deliberates and drafts recommendations for a governing body.

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For the architects of the devolved institutions, it would not be enough that the Scottish Parliament was *open* and accessible to this wide array of disenfranchised populations. It would also become a hub for processes which *reach out* to ‘civil society’ in a way never seen in Westminster. A wide number of processes were mooted in the run up to (and following) devolution, including **social partnerships**, **consensus conferences**, **citizen juries**, opinion polling and internet-based forums (many of these initiatives were also mooted at UK level by Gordon Brown when he became Prime Minister in 2007). However, the three main innovations which received the most political weight are:

- The move to extend microcosmic representation, or the representativeness of MSPs in terms of their social background. While the SCC focus is primarily on gender, we may expect representation to extend to ethnicity, age and occupation.

Civic Forum: Established with Scottish Executive funding in 1999 to bring together civic interests in a deliberative body. Funding was withdrawn in 2006 and the forum disappeared.

- The development of the Scottish **Civic Forum** and the petitions process of the Scottish Parliament as a means for direct participation, or at least an alternative means of involvement in the political process.
- A new and improved consultation process between the Scottish Government, Scottish Parliament and a wide range of representative organizations in the community, voluntary sector, professions and business. This inclusion of hitherto excluded sections of society would come at the expense of the ‘usual suspects’, or the larger and better resourced groups which tend to dominate consultation time with government.

The aim of this chapter is therefore to review the theory and practice of these developments. It compares the reality of post-devolution politics with the pre-1999 discourse and aspirations.

Democracy

‘Democracy’, is one of the most used but also most vague and least understood terms in political science. In a broad sense, democracy is designed as a solution to the problem of reaching collective decisions without resort to violence. Introductory descriptions of

democracy often begin with Abraham Lincoln's famous phrase, 'Government of the people, by the people, and for the people' (Gettysburg Address, 1863). However, this does not make clear who 'the people' are, how they should rule and how far this popular rule should (and realistically could) extend. Athenian democracy is often used as a classic example of not only direct participation, but also participation to ensure the collective rather than individual good (see Heywood, 2007, chap. 4). As Dahl notes, 'In the Greek vision of democracy, politics is a natural social activity not sharply separated from the rest of life ... Rather political life is only an extension of, and harmonious with, oneself' (1989: 18). Yet, the major drawback is exposed when we see that only the select few (male) citizens qualified as active and entitled to vote (see Heywood, 2007).

Representative democracy: 'Indirect' democracy whereby citizens decide who should represent them in an elected chamber rather than participate directly.

Deliberative democracy: Decision-making through reasoned and open discussion among the citizenry as a whole.

Participatory democracy: Decision-making with a focus on the direct participation of citizens.

Scotland is a liberal democracy, which suggests that it has a system of regular and competitive elections and that the decision-making power of elected representatives is subject to the rule of law. Liberal democracy also suggests a certain minimum level of civil rights and the protection of the 'minority' against the majority'. However, even with this additional definition, the term is still vague and subject to debate about how best to achieve these broad aims. Therefore, not surprisingly, the SCC and CSG appear to invoke four or even five different types- **representative democracy** (including microcosmic representation), **deliberative democracy**, **participatory democracy** and pluralist democracy - when pursuing a more effective style of politics.

Representative democracy

In a modern context, direct democracy at a national level would involve too many participants with too little time to devote to politics, and insufficient knowledge to apply to

the wide range of responsibilities of the modern state. The main alternative is representative or indirect democracy in which popular sovereignty is expressed through regular elections of representatives acting on their behalf. To Schumpeter, 'the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote' (1943: 269). While these representatives may not receive a direct mandate from the populations they represent (particularly given the heterogeneity of views within such populations), they would be responsive to their wishes in anticipation of a future electoral response. The basis for the SCC's push for devolution was that the Scottish electorate had lost this control over its representatives since it did not get the government that it voted for and could not vote that government out. A Scottish Parliament would therefore address to a large extent the 'democratic deficit' in Scottish politics.

Microcosmic representation

This idea of improving representative democracy would be extended by microcosmic representation, or the ability of MSPs to represent directly the social background of Scotland's population. The assumption here is that if elected members do not resemble the populations they are there to represent, then certain under-represented populations will be further marginalized within society. In Westminster, we can identify long-standing under-representation of women, ethnic minorities and working classes which may suggest that certain issues important to these groups may struggle to reach Parliament's agenda, however well-intentioned its elected members may be.

There are two main points to note from this type of discussion. First, there are practical limits to the pursuit of 'perfect' representation, since there is an almost infinite number of ways that we can characterize social background, while the more we divide then the more divisive the process may be. Indeed, we could argue the opposite case to the ideal of microcosmic representation - that the more an elected member feels a mandate from a particular section of society (which forms a small part of his/her constituency), then the less likely a Parliament can function as a collective body. Second, in the SCC discussion we find that concrete discussions of microcosmic representation are only present in the discussions of *gender* equality, with discussions regarding ethnicity, disability and age less prominent.

Participatory democracy

In part, the limited focus on representation is based on the argument that Scottish-based elections alone would not solve the democratic deficit. Rather, Scotland has, ‘consistently declared through the ballot box the wish for an approach to public policy which accords more closely with its collective and community traditions’ (SCC, 1995). In other words, devolution will be accompanied by the ability of a much wider section of the population to extend its participation beyond electing representatives, to making a direct and significant contribution to public decision making. The main innovations to this end were the development of a Scottish Civic Forum, in which a self-selecting cross-section of the population would come together to set the agenda for, or evaluate, public policies, and a petitions process which would be open to all, with a very low threshold for participation. Yet, it is interesting to note that the proposals stopped short of a more ‘radical’ form of direct democracy that ‘collective and community traditions’ may suggest. In other words, rather than advocating, for example, the widespread use of referendums which bind decision-makers, the architects of devolution opted for forums and procedures which feed into traditional forms of participation and support representative government.

Box 11.1 Referendums in a comparative perspective

To suggest that the lack of Switzerland-style referendums is a flaw of the Scottish democratic process is misleading for a number of reasons. First, as with Catalonia and Quebec, the regional-constitutional issue is an impetus to hold referendums at the nation state level. Second, devolution has increased the potential for referendums to take place (although the most likely referendum on independence will be difficult to achieve). This (combined with other measures) marks a small step towards countries such as the USA which have limited direct, democracy at the federal level, but a proliferation of referendums and initiatives at the state level. Third, most European countries err towards representative government as the default position, with referendums only triggered by government, president or parliament. In only five countries can a referendum be triggered by public initiative and in most cases there is a participation threshold which limits policy change, For example, in Italy the requirement of a 50% turnout has meant that no referendum has been successful since 1995. Finally, it difficult to justify the argument that one form of democracy is superior to another. For

example, in Germany referendums have ‘undemocratic overtones’ following their use during the Nazi era, while France’s pre-1945 referendums were, ‘seen as dubiously democratic, being used by authoritarian rulers to legitimize their positions (Gallagher *et al.*, 2006: 373-6).

Deliberative democracy

Tyranny of the majority: A term used in discussing systems of democracy where the decisions of the majority do not respect minority rights.

These new types of participation contribute to an aim of deliberative democracy, in which there is reasoned discussion among a wide and active population in a setting where all participants have equal status, rather than discussions behind closed doors among a small number of elite decision-makers. Thus, the focus of deliberative democracy is not only to extend policy-relevant discussions beyond a small core executive, but also to ensure that direct and indirect democracy is more than just a show of hands or popular strength. Collective outcomes are not determined merely by the **tyranny of the majority**, but by means of extensive arguments offered by and to participants affected by policy decisions. The pursuit of reasoned argument suggests that preferences can be changed instead of just aggregated, with the end result a form of consensus not achievable through traditional forms of democracy.

However, again, there are two main points to note about this process. First, there is no reason to assume that deliberation will extend beyond a small band of elites with the knowledge, time and resources to transform the preferences of others, particularly since there will still be a requirement for gatekeepers and experts to monitor the rules of engagement and decide what is relevant to discussions. Indeed, the use of institutions as the face for this type of deliberation may *legitimize* elite forms of power and suggest that there is more engagement among the population than exists. Second, we should be wary about ascribing too much importance to this process in terms of the SCC aims. While it advocated a civic forum to further deliberation, history proved that there was little political weight placed behind other forms of deliberative democracy such as citizens’ juries and deliberative polling (which are now more in vogue at the UK level). Indeed, perhaps its main hope was that this deliberative process would be fostered mainly in the committee system of the Scottish Parliament.

Pluralist democracy

One problem with representative democracy is that even if we reduce the geographical boundaries (from the UK to Scotland), we are still faced with low electoral turnouts and a voting population with often limited knowledge of the policies of parties and candidates. An effective alternative form of participation (or, more likely, indirect influence) for individuals is through interest groups (Jordan and Stevenson, 2000). Indeed, the SCC sees a role for interest groups engaging directly with the Scottish Government and Scottish Parliament. However, it rejects the idea that this consultation will take place with the ‘usual suspects’, or the biggest and best resourced interest groups who already have close ties. This push for broader consultation is associated with a monitoring role performed by Scottish Parliament committees who may oblige the Scottish Government to consult far and wide until they are satisfied that all groups have ‘had their say’. Yet, as discussed below, this is to assume (wrongly) that the barriers to consultation are relatively high in the UK. Further, as Jordan and Stevenson (2000: 181) argue, there is something wrong with the idea that we must *privilege* the role of previously ‘excluded’ or disorganized groups: ‘If the small groups are re-labelled as “not popular” the arguments sound less compelling.’

New politics and strawmen

A common theme throughout these discussions of new forms of democracy is a contrast with ‘old Westminster’. As Chapter 1 discussed, it soon becomes clear that this view of Westminster is based on a caricature of UK politics which is adversarial, dominated by vested interests, and based on an electoral system which funnels all political power to the centre, excluding the majority of the population from the decision-making process. Yet, ironically, the discussions of the SCC and CSG have also been criticized on a similar basis, with the aims described as naive and not paying enough attention to political realities such as the role of parties, the logic of consultation with large, organized interest groups and the logic of executive government (see Box 11.2).

Jordan and Stevenson (2000) are critical of the tone of the SCC and CSG and argue it is damaging to the image of well-established forms of democracy. In other words, if too many claims are made for participative democracy and the need for a new approach is based on

critique of representative democracy, faith is inevitably lost in both. The SCC uses popular cynicism around party politics as a justification for direct participatory democracy. Yet, the real problem in Scotland was the legitimacy deficit arising from the fact that the electorate voted for one party but got another, with the result a, ‘lack of a political and parliamentary majority to reflect Scottish political views’ (2000: 184). This was solved by devolution itself (and a proportional electoral system), while bringing the ballot box closer to home ensures that public opinion is reflected more in the actions of the Scottish Government. Further claims of improved democracy may therefore only have raised expectations unrealistically and undermined faith in a type of democracy *improved* by the process of devolution.

Box 11.2 New politics and democracy: criticisms

Criticisms of the notion of new politics include:

- While it may have been relatively easy to reach agreement on mechanisms for governance and participation, it would be naïve to assume that ‘consensus’ could be reached through deliberation. Hard choices will always have to be made in the face of dissent in some quarters since there will always be winners and losers. A ‘rational’ approach is therefore unrealistic.
- The pre-devolution ‘consensus’ in Scotland was exaggerated by a common opposition to a Conservative government and a growing awareness of the democratic deficit.
- ‘Consensus’ may only be achieved by stifling debate and restricting discussion to vested interests conveniently dubbed ‘civil society’.
- There has been no demonstration that changing political processes increases participation.
- There is no justification for misplaced loyalty towards small/excluded groups. Indeed, there is the potential for new bias towards very small but reasonably organized groups (or even individuals) and against inactive citizens. For example, civic forum meetings may be dominated by a small, conservative and unrepresentative group of people as a result of low participation among the general public. The question then becomes: is this better than a mass electorate choosing representatives?

- Not all of the aims of new politics will be compatible and, for example, devolving decisions to a civic forum or equivalent may increase participation at the expense of traditional forms of accountability through elections,

As a whole, one is left with the impression that the architects of devolution were trying to provide all things to all people. As a result (as Chapter 1 suggests), this myriad of hopes and dreams may have included elements which are either incompatible with each other, or in which one aspect receives more priority than another. For example, in terms of microcosmic representation, this may suggest that the focus on gender will mean that broader social aspirations are pursued with less vigour. Similarly, while there may be a focus on participation and deliberation, this is within the context of a fairly traditional starting point, with the Government there to govern and the Parliament to provide scrutiny, with its role as a hub for a range of new organizations forced to compete with its ‘day job’.

Old politics: Refers to the adversarial, partisan political culture at Westminster.

It may therefore be better to view the SCC aims in the same way we would view a manifesto. As such, it focuses on the positives of new developments - a *more* representative Scottish Parliament, *less* partisanship, *more* public involvement - and uses **old politics** as a form of departure, even if there is implicit acknowledgement that parties will have a legitimate right to compete and that consultation will inevitably take place most with the biggest and most organized, active and informed groups. We should also remember the historical context and the legacy of the ‘failed’ referendum in 1979. A significant driver for the SCC was to address the feeling (particularly among Labour MPs) in the 1970s that too many constitutional and procedural questions had been left unanswered before the referendum. The SCC may also have had to contend with a general cynicism about politics and the need to articulate the benefits of producing more politicians.

It is in this light that we can assess the practical effects of Scotland’s new democratic processes. New politics involves not only the participation of more people and groups, but also a style of politics which is more consensual and less adversarial. This will be fostered by a more open and accessible parliament, a mechanism to allow people to petition parliament, a forum for public deliberation and a statutory requirement for the Government to consult

widely before legislating. This sentiment is furthered by the CSG. People find it difficult to influence legislation, with consultation ineffective and policies only becoming public following the publication of legislation. The CSG therefore recommends the greater use of draft Bills which are still open to change and a Scottish Parliament committee role in ensuring wide consultation. In this context of more limited aspirations, it may be more realistic to look for marginal (but still significant) changes caused by the initial expectations surrounding new politics and the willingness of new Scottish institutions and MSPs to uphold these values. In this sense, the identification of partisanship, an imperfect petitions system or consultation with the 'usual suspects' does not undermine fully the appearance of 'new politics'. The question, rather, may be: how different is Scotland's politics? Or, how much change has there been? We can explore this in the following sections:

1. Microcosmic representation - is the social background of MSPs representative of the Scottish population?
2. How much new participation has been fostered by the Scottish Civic Forum?
3. What difference has the provision of a clear petitions system made?
4. Is the consultation process for interest groups open and accessible?

Microcosmic representation

Gender, ethnicity and disability

The success of the SNP's Bashir Ahmad in 2007 marks the first ethnic minority candidate to be elected to the Scottish Parliament since devolution. The previous lack of representation *perhaps* reflects the old politics reluctance of parties to give ethnic-minority candidates winnable seats (although it will now take only one additional MSP to resemble the 1.4 per cent of ethnic minorities in the Scottish population). There have also been no instances of significant disabilities among the new crop of MSPs, despite a broad commitment to enhancing participation among these social groups. Therefore, a far better candidate for 'making a difference' following devolution is the level of representation of women. As Table 11.1 suggests, the proportion of women in the Scottish Parliament began at 37 per cent in 1999, rising to 40 per cent in 2003 but falling to 33 per cent in 2007. These proportions are

consistently higher than among Scottish MPs (and the rest of the UK) in Westminster. Indeed, at its peak in 2003, the 40 per cent in Holyrood was well over double the 15 per cent Scottish female representation in Westminster.

Table 11.1 *Male and female elected members in Holyrood and Westminster, 1997-2007*

	<i>Scottish Parliament</i>			<i>Scottish MPs</i>			<i>MPs rest of UK</i>	
	<i>1999</i>	<i>2003</i>	<i>2007</i>	<i>1997</i>	<i>2001</i>	<i>2005</i>	<i>2001</i>	<i>2005</i>
Women	37%	40%	33%	17%	15%	15%	18%	20%
Men	63%	60%	67%	83%	85%	85%	82%	80%
Number	129	129	129	72	72	59	587	587

However, there are also significant differences by party, with much of the advance since devolution explained by the high number of women among the Scottish Parliamentary Labour Group. Labour was the party which made the clearest commitment towards gender parity in candidate selection (perhaps as much in reflection of UK party policy as Labour's experience in the SCC) and it achieved this with twinned constituencies rather than with the help of proportional representation (in which gender would alternate on the regional candidate list under the Mixed Member Proportional System). As Table 11.2 shows, the initial figure of 37 per cent in the whole Parliament owed much to the number of Labour MSPs and, to a lesser extent, a higher than average proportion of women (43%) in the SNP (then the second largest party).

In the other two main parties, the number of women was (and remains) relatively low. Perhaps ironically for the Liberal Democrats so involved in the SCC, 12 per cent is lower than its 16 per cent UK average, and since from 1999 to 2007 it did not propose one female minister within the coalition, this contributed to relatively low female representation in government (around 25%). For the Conservatives (which had the only female leader before Wendy Alexander became the leader of Labour in 2007), 29 per cent is much higher than the 9 per cent of Westminster MPs in 2005 (see Keating and Cairney, 2006). In 2003, the overall proportion of 40 per cent resulted from a rise in Labour to 56 per cent, while the drop to 36 per cent among the SNP was offset by a reduction in its overall numbers. In 2007 the SNP

had a much bigger impact. While it became the largest party with 47 seats, the proportion of women in its ranks fell to 25 per cent. Therefore, while Labour maintained gender parity, its dwindling numbers meant that the overall proportion of women in Holyrood dropped to one-third, the lowest level since devolution.

Table 11.2 Male and female elected members in Holyrood by party, 1999-2007

	<i>Labour</i>			<i>SNP</i>			<i>Conservative</i>			<i>Liberal Democrat</i>		
	<i>1999</i>	<i>2003</i>	<i>2007</i>	<i>1999</i>	<i>2003</i>	<i>2007</i>	<i>1999</i>	<i>2003</i>	<i>2007</i>	<i>1999</i>	<i>2003</i>	<i>2007</i>
Women	50%	56%	50%	43%	36%	25%	17%	22%	29%	12%	12%	12%
Men	50%	44%	50%	57%	64%	75%	83%	78%	71%	88%	88%	88%
Number	56	50	46	35	27	47	18	18	17	17	17	16

Social class and occupation

Politics-facilitating professions: Professions which help a candidate secure election and/or perform the role of an MP.

As Keating and Cairney (2006) suggest, there were countervailing pressures on recruitment by class and occupation in Scotland. While there was a general commitment to broaden recruitment and create a more open political class more representative of the country as a whole, there was also a strong trend within Britain and Western Europe to narrow recruitment to the professional middle classes and those occupations that lend themselves easily to political life (for a fuller discussion of these ‘**politics-facilitating**’ professions see Box 11.3 and Cairney, 2007a). The evidence suggests that the latter influence is more important (particularly among women), with recruitment to the Scottish Parliament accelerating postwar trends away from the working classes and towards the professional (including lawyers and teachers) and politics-facilitating (including party workers and trade-union officials) occupations. For example, Shephard *et al.* (2001: 96) report that 19 per cent of Scottish MPs in 1997 had some experience in blue-collar or industrial work, compared to less than 2 per cent of MSPs in 1999. Keating and Cairney (2006:46) show this effect on Scottish Labour in particular, with blue and white-collar backgrounds accounting for 42 per cent of Scottish MPs from 1945-70, falling to 10 per cent in 2005 compared to 2 per cent of MSPs in 2003 (despite these occupations accounting for almost half of the Scottish population).

In the other direction, Scottish MP professional backgrounds rose from 36 per cent in 1945-70 to 46 per cent in 2005 compared to 56 per cent of MSPs in 2003, while politics-facilitating backgrounds rose from 15 per cent to 29 per cent and 32 per cent respectively. This bias towards professional and politics-facilitating occupations is reflected in the other main parties. There are perhaps only two significant differences. The first is that a ‘professional’ background for Labour MSPs is much more likely to refer to public sector occupations such as social work, teaching and nursing (perhaps in reflection of devolved responsibilities) than the other parties which draw more from the private sector. The second is that Scottish Labour made a concerted effort to reduce candidate selection from local government, which is increasingly seen elsewhere in the UK and Europe as part of a career

path towards higher office. Scottish Labour bucked this trend to an extent, with less than 45 per cent serving previously as councillors compared to over 60 per cent in Westminster and the Welsh Assembly (Keating and Cairney, 2006).

Box 11.3 Politics ‘facilitating’ professions

The typical career path of European MPs includes securing a university degree, a prominent position within a political party, election to local or regional government and entry into a ‘politics-facilitating’ occupation. This refers to a job which helps a candidate secure election and/or perform the role of an MR. Traditionally this refers to ‘professional’ or ‘brokerage’ occupations such as lawyers and teachers who have communication and advocacy skills that transfer easily into the political arena. More recently, it refers to ‘instrumental’ occupations, such as party worker or MP assistant, which are seen as a more direct ‘stepping-stone’ to elected office. Criticism is often made that the recruitment of politicians from such a narrow range of occupations inhibits their capacity to truly represent (see Cairney, 2007a).

Education

In Westminster it was almost traditional for MPs to have received an education from an independent school followed by three years at Oxford or Cambridge University (see Keating and Cairney, 2006). This is still the case for Conservative MPs elected in 2005, with 58 per cent educated privately and 45 per cent graduates of Oxbridge. Devolution therefore makes a difference, with only one of 18 MSPs (in 2003) educated at Oxbridge and one-third educated privately. There are similarities with the Liberal Democrats, although the private school (35%) and Oxbridge (18%) contingent, while lower than the UK (45% and 37%), is higher than the rates for Scottish MPs (27% and 9%). The SNP also had unrepresentative levels of private schooling among its MSPs in 2003 (11%). For Labour MSPs, the numbers are significantly lower. For Scottish Labour MPs (10%) and the rest of the Parliamentary Labour Party (PLP) (21%), the figures for private education are much higher than the 3.5 per cent of the population in Scotland and 6 per cent in England. For Labour MSPs, the figure of 4 per cent is almost representative, while there were no Oxbridge graduates (compared to 2.5% of Scottish MPs and 21% in the rest of the PLP). Therefore, taken as a whole, MSPs are less likely than MPs to have been educated privately or at Oxbridge. Yet, only Labour MSPs

come close to resembling these levels in the Scottish population. Further, all four main parties enjoy incredibly high rates of higher education overall. While the participation rate among the Scottish population (45-50%) is high compared to the rest of the UK, it cannot compete with the 80-90 per cent levels among MSPs (which is also higher than MPs in the UK).

Age

When elected in 1999, MSPs were more representative of the Scottish population than Scottish MPs (see Shephard *et al.*, 2001). For example, the figure of 30 per cent in the population aged 20-39 was almost met by MSPs (29%) but not MPs (10%). The average age of MSPs (45) was also significantly lower than MPs (50). Yet if we look at the average age when MPs *were first elected*, this falls to around 40 (2001: 89). These figures still hold in 2005, with more MPs (in Scotland and the rest of the UK) aged over 50 (64% compared to 52%) but far fewer MPs aged over 50 when first elected (13% compared to 35%). In 2007, the proportion of MSPs under 40 has fallen to 13 per cent, while MSPs in their 60s has risen to 16.3 per cent (compared to 5.5% in 1999 - see SPICE, 2007: 66). This suggests that the level of youthful representativeness in the Scottish Parliament was only a temporary result of the new Parliament

Therefore, the differences in Scotland regarding microcosmic representation relate primarily to gender. While there are more women, fewer 'usual suspects' from local government, and fewer MSPs from private schools, MSPs are more likely than MPs to be white, middle-aged, middle-class, and university-educated with a professional or 'politics-facilitating' background. The resemblance between MSPs and the Scottish population therefore depends on where we look and which party we examine. Indeed, without the social background of Scottish Labour MSPs, the difference made by devolution may have been negligible.

Quite how this relates to the conduct of MSPs and the issues they pursue in the Scottish Parliament is open to question. There are few convincing demonstrations of the links between social background and policy outcomes (although there is more on gender - see Childs, 2004).

The Scottish Civic Forum (SCF)

Of course, if Scottish citizens had concerns about their MSP representing their views indirectly, they could go along to a civic forum meeting and express them in person (see Box 11.4 for an outline of the functions of the SCF). There are two main points to note about the SCF. The first is that its practices embodied the spirit of the original SCC aims; however, the second point is that it no longer exists!

Box 11.4 Functions of the Scottish Civic Forum

- provided information about Scottish Government consultations and how to respond;
- ran regular events to give people the opportunity to influence government through the forum;
- provided a range of facilities such as crèches, lip-speakers and interpreters to make sure that there were fewer obstacles to participation, and
- introduced regional coordinators in 2003 to make sure that the Scottish population as a whole could be represented.

Scottish Council for Voluntary Organizations (SCVO): A national umbrella body which represents the voluntary sector.

The SCF began life in 1999 with Scottish Executive funding of approximately £100,000 per year. This was cut by 50 per cent in 2005 and then completely abolished in 2006. Following a decision by the Scottish Parliament Corporate Body not to replace the funding, the SCF closed. This is perhaps the best sign of its perceived importance among the main political institutions, but was this impression matched elsewhere? Certainly, the more established interest groups did not rate it as an avenue for influence. Most groups either suggested that the forum was a ‘talking shop’ or that they did not want their influence diluted as part of a wider body, since every voice was deemed to be equal within that forum. Therefore, approximately 40 per cent of the membership used the forum minimally, since they had more direct avenues of influence through organizations such as the Scottish Trade Union Congress (STUC), the **Scottish Council for Voluntary Organizations (SCVO)** and

the Convention for Scottish Local Authorities (COSLA) or the ability to engage with the Scottish Government directly.

The remaining 60 per cent was made up of professions which struggle for access within their own organizations (for example, local branches of larger organizations), community groups and interested individuals (who tended to be retired from work). This is not surprising since the forum was in part set up to provide a venue for less well-established but active populations. Yet, there are also signs that participation was not particularly high among these groups. An interview with the SCF's director in 2004 confirms this picture, suggesting that even though regional coordinators were making local meetings better, it was, 'difficult to get 50 people in a room'. Indeed, to achieve around 15 in a regional meeting required a lot of effort from regional coordinators, calling likely participants to remind them of meetings and often *transporting* people to meetings. Therefore, even by taking to extreme these practical measures to reduce the barriers to participation, the SCF did not succeed in increasing public participation significantly.

A similar picture can be painted regarding the links the SCF enjoyed with the Scottish Parliament and Scottish Government. Links with Scottish Parliament were sporadic and often undermined by political party partisanship. Although list MSPs were often more likely to be involved, and some individual MSPs expressed interest in using the SCF to reach out and experiment with consultation, the numbers of MSPs attending meetings was minimal. While links with the Scottish Executive were more frequent, and the Executive commissioned specific work as part of consultation exercises, there were clear cultural differences in expectations for these exercises. The Scottish Executive wanted a relatively short feedback report with analysis, but the SCF was committed to recording *all* views, with little editing to ensure that every voice was heard (or at least recorded). As a result, the overall success of the SCF was difficult to identify. Its influence on policy was difficult to see and feedback from participants who traditionally felt politically excluded was difficult to gather.

Public petitions

Like the civic forum, the petitions process was designed to be an improvement on old Westminster practices, which were complex with no demonstrable end result: 'another

example of Westminster's perceived remoteness and lack of connection to ordinary citizens' (Lynch and Birrell, 2001: 1-2). To address this, petitions were part of a wider process of 'linking the Scottish Parliament to the people'. Unlike the civic forum, the petitions process is much more likely to be judged a success. Anyone taking a tour of the Scottish Parliament with MSPs will soon hear that, 'it is the jewel in our crown'. There is also evidence of high rates of participation, with 964 petitions initiated from 1999-2006 (Carman, 2006), while the electronic submission system is admired and emulated by a number of other legislatures (Arter, 2004a: 22). However, there are four questions that we need to ask about petitions, to see if these levels of prestige and participation translate to something beyond a symbolic difference with the UK:

- Who proposes them?
- How are they dealt with?
- What are the constraints to their influence?
- Is there a tangible effect on public policy?

Who proposes them? International experience suggests that petitions are most likely to be used effectively as part of a wider lobbying strategy by established groups and business interests rather than the previously disenfranchised. To an extent we can see this from Lynch and Birrell's (2001: 8) analysis of the first two years of the Scottish Parliament, since around 40 per cent of petitions were proposed by interest groups and businesses. Yet, as they suggest, these groups (bar the odd exception such as the National Farmers' Union) seem to be less well-established and so their activities conform much more to the idea of community pressure. There is also little evidence that large business groups are lobbying this way. This picture is reinforced by Carman's (2006) analysis of the first seven years. Individuals account for 53 per cent of all petitions proposed, while community group petitions (18%) outnumber those of more established interest groups (15%) and businesses (3%). A less welcome statistic relates to the number of petitions proposed by the same individuals, with five people accounting for 11 per cent of all petitions. Further, 47 per cent of all petitions have only one signature and the median is two! This is put into perspective by a single e-petition which generated 1.5 million signatures in the UK to oppose road charging. There is also a clear bias

in petition initiation towards older, male, middle-class, university-educated and politically active individuals (Carman, 2006). Therefore, while the low levels of business and pressure group activity suggests that the process is used largely by the population it was intended to reach, the analysis of individuals does not demonstrate that it is any more successful at reaching out to previously excluded groups than the civic forum.

How are they dealt with? In its first year the Public Petitions Committee (PPC) acted like an intermediary, merely collecting the petitions and sending them onto the relevant subject committees (or directly to the Scottish Executive). As Lynch and Birrell (2001: 4) suggest, this process was helped by the fact that members of the petitions committee were also members of many of the subject committees they referred the petitions to. This ensured that many were followed up in subsequent meetings, while the two-way process was reinforced by MSPs attending PPC meetings and expressing interest in particular areas (although since 2004 MSPs are no longer allowed to propose petitions). In its second year the PPC became more conscious of its options. As the Procedures Committee (2003) discusses:

Was the PPC simply a post-box, reflexively feeding petitions where appropriate to subject committees for consideration, or was it able to take a more active initial role itself in looking critically at petitions? The PPC view had settled on the latter, with the result that 57 per cent of petitions referred to subject committees in the first year of the Parliament, but only 17 per cent in the second.

What are the constraints to their influence? The more active gatekeeper role performed by the PPC and its staff (including the ability to filter frivolous claims by serial petitioners), combined with the lack of a mechanism to appeal a decision made by the PPC, has led Carman (2006) to suggest that the process is not as open and transparent as the CSG envisaged. There has also been a range of practical problems in the operation of the petitions system - finding time in subject committees to debate the issues and make recommendations, territorial disputes between the PPC and subject committees when the petition is handed over, a lack of PPC resources to travel and investigate petitions, the time lag between the initiation of a petition and its presentation to decision-makers, the lack of time given to petitioners addressing the PPC (often only three minutes plus questions), and the insufficient level of public knowledge of petitions.

What is the tangible effect of petitions? If our focus is on satisfaction with the process itself, then the evidence is promising. When interviewed, most petitioners report that they are generally happy with process (Carman, 2006), which supports the idea that the petitions process is there to deepen a power-sharing relationship between ‘the people’ and Parliament and further participative democracy (the problem of serial petitioning notwithstanding) (Arter, 2004). However, if we are looking for examples where petitions have gone on to set the political agenda and then make an identifiable difference to public policy decisions, we may be more disappointed. Certainly, the constraints outlined above suggest that petitions are as likely to reach their final destination as sperm in the fallopian tubes. Lynch and Birrell (2001) give examples of their impact, suggesting that ‘reactive’ petitions supplemented other forms of pressure on an issue. However, it is notable that the examples given - such as petitions against removing provisions on the ‘promotion of homosexuality’ in schools (section 28/2a) and opposing housing-stock transfer in Glasgow (which fed into Scottish Parliament committee inquiries) - were not successful in reversing policy decisions. In other cases - such as free personal care, Hepatitis C compensation, fuel poverty, the Borders Rail Campaign and policy on telecommunications masts - the petitions may have set the ball rolling for parliamentary consideration (Lynch and Birrell, 2001: 12; the Procedures Committee, 2003, also gives the example of community opposition to the spread of sewerage sludge).

Perhaps the most telling example of the practical public policy effect is Carman’s (2006) discussion of building regulations regarding hot-water supplies (the aim of the petition was to ensure the widespread use of thermostatic valves after high profile cases of children being scalded). Carman’s interview with PPC convener Michael McMahon suggests that the petition was such a success that he and the Presiding Officer arranged for a document marking the occasion to be framed and displayed in the Scottish Parliament. Yet, this reaction also betrays how unusual it is for a petition to have this effect. Further, Carman’s discussion suggests that the petition was one of a number of factors in the final decision. His list of other contenders for most successful petitions reinforces the limitations to the process, with the big winners including the introduction of prayers before parliamentary meetings, the guarantee of debates on certain issues, and several examples where the outcome *coincides* with the aim of the petition. The Procedures Committee itself suggests that we should not expect too much

from petitions, since their role was limited from the start. They are most effective as a means to set the agenda; raising issues and hoping that they receive enough attention from decision-makers (indeed, Carman suggests that many petitioners feel successful if their topic reaches this stage).

Interest groups and participation

A much more direct form of participation is through interest groups. The hopes, associated with new politics, for an improved pluralist democracy referred to widespread consultation between the Scottish Government and a broader range of groups, with less time spent talking to the ‘usual suspects’ and more with previously excluded groups. Access for groups would be more frequent and of a better quality than in the past; the consultation process would be more open, perhaps with a clearer link between group effort and the end result. But how do we go about assessing the fulfilment of these aims? The most direct way is to talk to a wide range of interest groups and ask them to assess their experiences since devolution (and, if possible, to compare them with pre-1999 consultations). Box 11.5 reports the key findings of research conducted within the first two years of devolution.

Box 11.5 Interest groups: the post-devolution experience

- Devolution caused a profound shift of group focus, with many Scottish groups increasing their policy capacity and UK groups increasing the resource of their Scottish arms.
- Groups have a positive image of the Scottish Parliament and Scottish Government and choose to ‘hedge their bets’ and influence both.
- Both the Scottish Parliament (MSPs and committees) and the Scottish Government (ministers and civil servants) are much easier to access, with fewer resources required by groups to engage and a greater willingness of decision-makers to consult.
- Groups enjoy regular dialogue with MSPs and civil servants.
- The terms of engagement have changed, from the lobbying and complaining which characterized engagement with the Scottish Office, to substantive debate and engagement on policy issues with the Scottish Government.

- Networks have also developed between groups with similar interests - such as the ‘gang of 5’ business groups (including the CBI and Chambers of Commerce) - and more common ground has been found between a range of economic and social groups around Scottish Government themes such as social inclusion.

See Keating and Stevenson (2001) and Keating (2005) for further details.

It suggests that the experience of interest groups is broadly (although not completely) in line with the hopes associated with new politics. Groups are generally positive about devolution, feel engaged and listened to, and benefit from their proximity to decision-makers. Therefore, devolution has marked a profound and enduring shift in the fortunes of interest groups trying to influence Scottish policy (similar conclusions are also reported by groups in Wales). Interest groups report better relations than they experienced before devolution, and most suggest that their lobbying experiences are superior to those enjoyed at the UK Government level.

However, there are several arguments which may qualify this rosy picture. The first point (made by Jordan and discussed to an extent in Jordan and Stevenson, 2000) is that since many of the groups interviewed were associated with the devolution movement, they would be very unlikely to report that devolution did not make a difference (in other words, ‘they would say that, wouldn’t they?’). The second suggests that these new consultation arrangements may be borne out of necessity rather than choice. The Scottish Government suffers from a relative lack of policy capacity in comparison to the UK Government. The legacy of the Scottish Office is a civil service engaged in policy implementation rather than policy formulation. It lacked capacity following devolution and relied heavily on outside interests for information and advice. As Keating (2005a: 106) suggests, this factor combined with a smaller political arena (with closer personal contacts and easier coordination) explains high levels of participation.

Third, *interest-group* devolution may explain why Scottish groups are so enthusiastic about relationships with government. They are comparing their influence now with their lack of influence before devolution (as relatively neglected regional offices), rather than the influence their *UK counterparts* enjoyed (50% of groups lobbying in Scotland fall into this

category - see Keating, 2005a: 65). Similarly, independent groups are comparing their access as Scottish groups in devolved territories with their previous UK experience of competition with groups who had more resources and better access to UK decision-makers (22% are Scottish organizations and a further 19% from a Scottish region; the remaining 9% are UK or international organizations with no Scottish office). Devolution may therefore be as much about reducing competition as opening channels of access. Or, groups may find that an issue that was crowded out by other agendas in the UK may receive greater prominence in Scotland according to its policy conditions. This may affect, for example, farming, timber, fishing and meat industries which make a greater contribution to the Scottish economy (although of course the issue of the Scottish Government's influence in these areas is another matter).

Fourth, as Jordan and Stevenson (2000) suggest, comparisons are often based on a skewed idea of group-government relations in the UK. Yet, the barriers to entry have always been low and since devolution we have seen a profound shift in the use of information technology to manage consultations. Consultation lists are large and groups are generally included if they ask. The process on this scale therefore becomes 'cosmetic'; a 'trawling exercise' with low-level civil-service involvement (Grant, 2000). Maloney *et al.* (1994: 32) distinguished between 'peripheral insider' groups (engaged but not influential in the process) with core or specialist insiders who enjoy more frequent and fruitful contact with government. This is relevant to Scotland where groups report better access but, 'claim that it is still too early to tell whether the consultation process offers them any real influence' (Keating and Stevenson, 2001). In more recent interviews, respondents are still reticent on the link between access and influence, suggesting that it is 'easy to speak to the civil service but not to change things'. Often, groups will also report the higher likelihood that civil servants will act as gatekeepers to ministers, particularly if the issue is no longer on the Scottish Government's agenda.

Fifth, we are rarely comparing like-with-like when we study the top level of government in each country. In Scotland the interest-group population is relatively small, allowing senior ministers and civil servants the ability personally to manage policy communities. In England the terrain is vast and the scope of government is divided into more manageable sub-sectors at lower levels of government (or government agencies). It is at this lower level of

government that London-based groups are more likely to express satisfaction with their participation.

Sixth, it is the size of the interest-group population in England which exaggerates the appearance of 'top-down' policy-making which excludes many groups. There are fewer 'winners' and more 'losers' to highlight their exclusion or lack of influence. In Scotland, while groups may feel more included there is still a process of winning and losing. In part, this relates to the irony of capacity: although devolution presents the best opportunity to exchange resources for influence, many groups may not have the capacity to exploit it. Much depends on the status of groups before devolution, with independent groups reporting fewer problems compared to devolved arms of UK organizations with insufficient organizational devolution. Some may have one member of staff with no research capacity. So, for example, the biggest winner is often local government (and its associated professional groups) which is relatively well-resourced and a crucial player in the implementation of policy. Or, there are dominant groups within particular policy areas, such as the Educational Institute for Scotland or the British Medical Association (Box 11.6).

Seventh, in Scotland and the UK there is the same logic to regular consultation with the 'usual suspects'. These groups have resources (expertise, representation, advice) valuable to government. In Scotland there is a growing acknowledgement by groups and government on this point. After an initial flurry of activity, groups have become more selective in their approach to consultation responses, while governments are increasingly aware of the greater need to consult those most affected by, and involved in, the implementation of policy. A good example of this process is when some groups talk about pre-consultation, or even in some cases what might be clumsily called pre-pre-consultation! In other words, some groups are contacted before the consultation goes out to the general public. Others are asked to form working groups to advise the Scottish Government on what the consultation should look like. Therefore the consultation may eventually be wide but by the time the questions are asked of the public, many answers have already been provided.

Finally, interviews with such a large number of groups will throw up a range of responses to the same questions. In particular, many groups report fluctuating fortunes according to the agenda of the Scottish Government at any particular time. For example,

many business groups were initially opposed to devolution and it took them some time to develop a meaningful relationship with the Scottish Government. This was particularly the case for groups representing landowners and seen as the 'old guard' with close links to previous Conservative Governments. In contrast, social groups and trade unions already had a good relationship with government following the election of Labour in 1997. These groups were supportive of devolution and were able to build on relationships immediately. There was also a strong social policy agenda immediately following devolution. This meant that social and voluntary groups were more likely to seek and gain access. Then, from 2003-07, there was a significant shift of focus to the importance of the economy perhaps at the expense of social issues. Labour's punitive focus on crime also had the potential to undermine, or at least detract attention from, the initial focus on social inclusion (for example, homelessness groups worried that the focus on anti-social behaviour undermined the security of housing tenancies). As a result, business groups felt more influential in this second term and some social groups felt marginalized following the shift.

Box 11.6 Pluralism and the usual suspects

Although most groups may report better links with the Scottish Government, the 'usual suspects' may still be consulted most. We can see this in a range of policy areas. In compulsory education, there is less group competition than we find in England. The Educational Institute for Scotland is by far the biggest union with 58,000 members (its closest 'rival', the Scottish Secondary Teachers' Association has 8,000) and head-teacher organizations do not have the status enjoyed in England. This means that the EIS dominates professional representation in pay negotiations since 'seats at the table' are allocated by size. In health, the British Medical Association and Royal College of Nursing are consulted routinely, while the remainder of the health profession struggles for systematic inclusion (via the Allied Health Professions). In issues relating to local government, although individual professions are represented, COSLA is by far the most consulted. In issues related to business, the 'big 5' (Confederation of British Industry, Institute of Directors, Chambers of Commerce, Scottish Financial Enterprise, Scottish Council for Development and Industry) formed a group which excluded the Federation of Small Businesses. In issues related to the environment, Friends of the Earth is realistic about its influence as long as environmental policy shares a department with agriculture. Further, since the drafting of legislation requires

expertise, the Law Society of Scotland and Faculty of Advocates are called upon more than most. Yet, it is still appropriate to describe the Scottish system as pluralistic: (a) because no group dominates one policy area to the exclusion of all others; and (b) this large range of elites competing for governmental attention and public policy resources ensures that no group dominates the policy-process as a whole. Of course, this also suggests that this brand of pluralism is not synonymous with equality of access and power. Rather, it is 'elitism's close cousin' (Moran, 2005: 16).

Conclusion

The hopes associated with new politics relate to a number of concepts relevant to the study of democracy, and this chapter shows that the fulfilment of these aims has varied.

Representative democracy - devolution solved the 'democratic deficit' in which the Scottish population voted for one party but got another. There is now a greater sense in Scotland of a link between electoral response and governmental responsiveness (particularly following the election result in 2007 which resulted in minority government rather than a coalition with a larger majority). However, the SCC focus on better forms of democracy may have contributed to a reduced faith in indirect representation.

Microcosmic representation - the main success of devolution has been a significant gain in the representation of women within the Scottish Parliament. There were also some signs of a move away from a career path from local to national government and lower levels of private education than in the UK. However, as a whole, MSPs are just as likely as MPs to be white, middle-aged, middle-class, and university educated with a professional background.

Deliberative democracy - the Scottish Civic Forum was the main plank of attempts to develop new means to determine collective outcomes (by extensive arguments offered by and to participants affected by policy decisions). However, the project struggled to gain popular support and folded after six years following a loss of funding.

Participative democracy - the public petitions process was further developed as a means for a limited form of direct democracy which reflected Scotland's 'collective and community traditions'. It is also held in high regard by MSPs and participants are generally satisfied with

their experience. However, there are few examples of petitions which go on to have a direct policy impact. Rather, the aim of petitions is to set the agenda and hope that other organizations respond to the issues.

Pluralist democracy - perhaps the most direct route to decision-makers is by lobbying through an interest group, particularly since there is some evidence that the Scottish Government does not just consult with the 'usual suspects'. Most groups interviewed are satisfied with the consultation process, feel that decision-makers are accessible and that their opinions are listened to. However, the extent to which this results from a different culture rather than necessity or capacity is debatable. There is also mixed evidence regarding the extent to which the Scottish process differs from the UK.

The evidence suggests that the much criticized Westminster style of democracy should not be disregarded as an enduring influence. The architects of devolution emphasized a wide range of new forms of democracy, but from a starting point which is fairly traditional. Perhaps the image conjured up is a journey from London to the Scandinavian or Nordic consensual democracies, but by bus rather than plane. Scotland's democratic processes still rest on the centrality of the Scottish Government to public policy, while the primary role of the Scottish Parliament is to scrutinize government rather than act as a hub for new types of participation. Grander visions of the potential impact of new democratic processes have not been realized.

But what are we to make of this evidence? Mitchell suggests that, 'measured in terms of political power', participatory initiatives associated with the Scottish parliament 'appear more symbolic than effective' (2004: 39). This is difficult to dispute since, overall, the new mechanisms to ensure democracy in Scotland have had a marginal effect. Yet, a marginal effect can also be a significant effect. In other words, given that the power of the 'centre' is strong in almost every country, it would be unfair to hold Scotland up to a higher standard than anywhere else.

Further reading

On democracy in the UK see Weir and Beetham (1988); for arguments in favour of deliberative democracy see Cooke (2000); for a classic work on representative democracy see

Schumpeter (1943); for a contemporary discussion of representative democracy in the UK see Judge (1999); and for details of representation in Scotland post-devolution see Bennie *et al.* (2001), Shephard *et al.* (2001) and Keating and Cairney (2006). For defining works on pluralist democracy see Dahl (1961), (1971) and (1989). On participation, the defining UK empirical study is Parry *et al.* (1992). For details on the Scottish Civic Forum and civic democracy see Lindsay (2000, 2002), McTernan (2000), Paterson (2000a) and Scottish Civic Forum (2001). For details on the Petitions Committee see Cavanagh *et al.* (2000), Lynch and Birrell (2001) and Carman (2006).

Online sources

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Friends of the Earth Scotland <http://www.foe-scotland.org.uk>
Stonewall Scotland <http://www.stonewallvote.org.uk/scotintro.htm>
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