Why is the SNP so pleased with the Scottish Parliament?

The SNP had been in government for six years when it released its White Paper on Scottish independence. It devoted barely one page of text, in a 670 page document, to the Scottish Parliament. It praised the parliament’s competence, effectiveness, and openness, describing it as a hub for participation, setting ‘an example within the UK on how a modern legislature should operate’ (Scottish Government, 2013: 355). It uses the phrase Scottish Parliament frequently, but devoted one line to ‘a government accountable to that parliament’.

This praise for Scottish political institutions contrasts with the criticism of UK politics by advocates for devolution in the 1990s. In the lead up to the referendum on Scottish devolution in 1997, the new Scottish Parliament was at the heart of debates on political reform. Elite support for devolution articulated by political parties, local governments, and ‘civil society’ groups - was built on the idea of a crisis of legitimation, linked to an image of top-down Westminster politics, the concentration of government power and marginalisation of Parliament and ‘civil society’. ‘Old Westminster’ provided a dated and ineffective form of democratic accountability (Scottish Constitutional Convention, 1995; Mitchell, 2000; Cairney and McGarvey, 2013: 11-13).

Crucially, the chance to produce major political reforms and institutional changes does not arise very often. It may only be prompted by a sense of crisis or the very infrequent opportunity, afforded by major constitutional change, to consider if bodies like the Scottish Parliament are equipped to take a greater role in Scottish politics. The SNP knew that independence offered one of those few opportunities, but sought to stress the value of continuity, even to the point of committing itself to maintain 129 MSPs (Scottish Government, 2013: 45).

What explains such a shift in the image of political institutions and a reluctance to reform them: success or failure?

One potential answer is that the political reforms under devolution were an unparalleled success: the Scottish Parliament is a venue for the representation of many social groups, and a hub for deliberation and popular participation, it shares power with the government in a non-trivial way, its committees operate in a business-like manner and contribute to the policy agenda while scrutinising government, and plenary debates combine public enlightenment with holding the government to account.

However, while devolution had an effect in some areas - it generally produced coalition and minority governments (with the exception of 2011-16), and increased the representation of women - it had a limited impact on ‘power sharing’ and accountability. The Scottish system remains part of the ‘Westminster family’, with a traditional focus on the accountability of ministers to the public via Parliament (Cairney and Johnston, 2014), and a tendency to situate the vast majority of key resources (such as staffing) in government. The Scottish Parliament also shares with Westminster the sense that it struggles to hold the government, and wider public sector, to account. Its committees have a very limited time, small clerking teams, and access to a small parliamentary research team, to help oversee a public sector with ‘approximately half a million employees spending a budget of around £30 billion’ (Cairney, 2015: 219-20). It remains a powerful body at the heart of accountability on paper, but not in
practice (Cairney, 2011: 56). Indeed, there are three main signs of the surprisingly low or diminishing role of the Scottish Parliament in relation to the Scottish Government.

First, a significant period of SNP minority government (2007-11) showed that the parliament generally remained peripheral to the policy process, even in such a best-case scenario when the SNP needed to cooperate with other parties to pass legislation and its budget. Early experiences of Labour-Liberal Democrat coalition government (1999-2007) had suggested that a parliamentary majority tipped the balance firmly in favour of government, prompting descriptions of the parliament as a venue to rubber stamp government policy, with limited ability to oppose policies, little time to scrutinise legislation effectively, and few resources to set the agenda with inquiries or ambitious member or committee-driven bills (Arter, 2004). The ‘legacy’ reports of committees blamed the volume of government legislation for the lack of time to conduct any other business (Cairney, 2011: 45). Yet, minority government only helped shift the balance to a small extent. From 2007, committees had more time but less inclination to conduct inquiries, and few non-executive bills addressed substantive policy issues. The government remained central to policymaking, and the parliament continued to make minimal impact beyond a small number of areas, albeit in cases of high import: discouraging a bill on a referendum on independence, vetoing a minimum unit price on alcohol (the SNP achieved both legislative aims during majority government), and undermining council tax reform (2011: 56).

Second, the SNP signalled a further shift away from a reliance on Westminster-style democratic accountability (through periodic elections and more regular reports by ministers to the Scottish Parliament). It reinforced a Scottish Government emphasis on other forms of accountability: institutional, through performance management measures applied to the chief executives of public bodies, such as elected local authorities and unelected agencies and quangos; the shared ‘ownership’ of policy choices, such as when policymakers work with stakeholders to produce a policy that both support; and, user based notions of accountability, when a public body considers its added value to service users, or public bodies and users ‘co-produce’ and share responsibility for the outcomes. Further, the Scottish Government (2007; 2014) has maintained a National Performance Framework (NPF), placing new emphasis on a very broad strategic vision to be realised by actors in the public and non-governmental sectors, via mechanisms such as ‘community planning partnerships’ (CPPs) and ‘single outcome agreements’ (SOAs). These initiatives place more responsibility for policy delivery in the hands of local authorities and oblige them to develop policy in partnership with many public bodies and non-governmental stakeholders.

Without a Scottish Parliament response, these developments have the potential to further undermine its role. It already lacks the ability to gather information independently of government. While it can oblige Scottish ministers to attend meetings to provide information, it does not get enough information about what is going on locally. Scotland lacks the top-down performance management system that we associate with the UK Government, and a greater focus on long term local outcomes removes an important and regular source of information on public sector performance. Local authorities push back against calls for information, arguing that they have their own elections and mandates. More administrative devolution exacerbates
this tension between elected local and national bodies and, when unelected bodies are given more powers, between democratic and institutional accountability.

For example, CPPs are not directly accountable to anyone. Instead, local authorities have their own claim for legitimacy, through their accountability to local populations via elections. They are also expected to cooperate, in a meaningful way (such as by pursuing jointly resourced projects, money and staff), with public bodies accountable directly to the Scottish Government. Local authorities work in partnership with other bodies rather than directing their activities or holding them to account. The Scottish Government may direct many of the public bodies within CPPs, but also signal a ‘hands-off’ approach to encourage local level partnerships. In this scenario, local authorities are responsible to their electorates for their contribution, public bodies are accountable to ministers, and stakeholders report to their members or profession. Consequently, the role of the parliament has become unclear, and its ability to engage in meaningful scrutiny by holding ministers to account for policy delivery and outcomes (rather than a broad policy framework) is hard to find.

Third, these difficulties are already apparent under the original devolution settlement, and further constitutional changes give more powers to Scottish ministers without a proportional rise in parliamentary resources to oversee their activities. The report of the ‘Smith Commission’ (2014) recommended the further devolution of powers without considering properly its impact on accountability to the Scottish Parliament (Cairney, 2014). As well as devolving more powers, it encouraged the shared ownership of many policy areas (including taxation, social security spending, and energy policy) between Scottish and UK ministers without establishing how Holyrood and Westminster could coordinate ministerial oversight to make sure that ministers don’t simply ‘pass the buck’. Following ‘Brexit’, the Scottish Government (2016) has requested the further devolution of powers in ‘Europeanised’ areas such as agricultural and environmental policies (and in areas of UK responsibility, such as immigration) without proposing parliamentary reform. Further, in an independent Scotland, the SNP expected the same Scottish Parliament, which struggles to hold the government to account now, to oversee the complete range of governmental responsibilities.

In this context, a second potential answer is that the SNP is content to maintain its relationship with a parliament with limited powers. This is the classic response of a political party with a realistic chance of being in minority or majority government after each Holyrood election.

Conclusion: the future relationship between the SNP and the Scottish Parliament

If so, is there any realistic prospect of parliamentary reform while the SNP remains such a dominant figure in Scottish politics? The signs are not encouraging. From 2011-16, the Scottish Parliament’s Presiding Officer Tricia Marwick engaged in what appeared to be a dispiriting process of minimal change in the rules and procedures of the parliament. Marwick (2015) proposed the election of committee convenors (as in Westminster) and the introduction of a smaller number of larger committees, to give them a greater sense of independence and more capacity for scrutiny and inquiry. Yet, even these limited plans met with majority opposition. Marwick’s successor as Presiding Officer, Ken Mackintosh, also initiated a review of the parliament (the Commission on Parliamentary reform, 2016), but as an ‘MOT’ exercise rather than a signal of the need for major change.
Consequently, it is difficult to envisage major institutional reforms in the SNP era. The most concerted period of political reform in the modern Scottish political era took place when Scottish Labour dominated Scottish politics and felt strong pressure to justify the introduction of a Scottish Parliament during a period of public scepticism about the introduction of more elected politicians, and public concern about the massive cost of the Scottish Parliament building. The SNP is more interested in constitutional change as an end in itself, and sees no reason to link this project to potentially disruptive political reforms and potentially expensive institutional change.

References


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1 For which I played an advisory role – but this chapter contains my views, written before the Commission produced its report.